5–14–96
Vol. 61 No. 94
Pages 24205–24432

federal register

Tuesday
May 14, 1996

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.

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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1485

Agreements for the Development of Foreign Markets for Agricultural Commodities

AGENCY: Commodity Credit Corporation (CCC).

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation (CCC) is adopting as a final rule the provisions of the proposed rule published January 10, 1996, (61 FR 704) regarding implementation of the Market Promotion Program (MPP) authorized by Section 203 of the Agricultural Trade Act of 1978, 7 U.S.C. 5623. Specifically, this rule extends the period of time following the expiration of the marketing year during which participants may pay for approved market development activities and still be entitled to receive reimbursement from CCC. This period of time is extended from 30 days to 4 months. This change eases administrative requirements by affording program participants additional time to obtain invoices and other documentation which supports the completion of overseas market development activities.

EFFECTIVE DATES: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon McClure or Denise Fetters at (202) 720–5521.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866. Based on information compiled by the Department, it has been determined that this rule:

(1) Would have an annual effect on the economy of less than $100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome and are easy for the public to understand, use of comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations.

Regulatory Flexibility Act

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

Paperwork Reduction Act

The final rule does not impose any new reporting or record keeping requirements. The information collection requirements for participating in the MPP were approved for use by the Office of Management and Budget under OMB control number 0551–0027.

Executive Order 12372

This final rule is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 46 FR 29115 (June 24, 1983).

Executive Order 12778

This final rule has been reviewed under the Executive Order 12778, Civil Justice Reform. The rule would have pre-emptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The rule would not have retroactive effect. Administrative proceedings are not required before parties may seek judicial review.

Background

On February 1, 1995, the CCC published final rules at 60 FR 6352 governing the MPP. These new rules were applicable beginning with a participant's 1995 marketing year. Following publication, CCC participated with interested parties in five information sessions designed to familiarize participants with the new regulations and offer participants an additional opportunity to identify any problem areas. At these sessions, there was considerable discussion concerning the requirement that participants must completely pay for approved activities not later than 30 days following the end of a participant's activity plan year in order to receive reimbursement, 7 CFR § 1485.16(h)(3). As a result of these discussions, CCC published a proposed rule on January 10, 1996, to amend the current requirement in 7 CFR § 1485.16(h).

General Comments

The public was given 30 days to submit written comments on the proposed rule. During this period, CCC received 5 letters from nonprofit U.S. trade organizations. All commenters strongly supported the proposed rule which would allow participants to transfer funds to pay for activities not later than 4 months following the end of the activity plan year and still be entitled to receive reimbursement from CCC. The proposed rule is adopted as final. Since this final removes a restriction, it is being made effective upon publication in the Federal Register.

List of Subjects in 7 CFR Part 1485

Agricultural commodities, Exports.

Accordingly, 7 CFR Part 1485 is amended to read as follows:

PART 1485—AGREEMENTS FOR THE DEVELOPMENT OF FOREIGN MARKETS FOR AGRICULTURAL COMMODITIES

1. The authority citation for Part 1485 continues to read as follows:

Authority: 7 U.S.C. 5623, 5662–5664 and sec. 1302, Pub. L. 103–66, 107 Stat. 330.

Subpart B—Market Promotion Program

2. In § 1485.16, paragraph (h) is revised to read as follows:

§ 1485.16 Reimbursement rules.

* * * * *

(h) CCC will reimburse for expenditures made after the conclusion of participant's activity plan year provided:

(1) The activity was approved prior to the end of the activity plan year;

(2) The activity was completed within 30 calendar days following the end of the activity plan year; and

(3) all funds were transferred to pay for the activity within 4 months following the end of the activity plan year.

Signed at Washington, D.C. on May 8, 1996.

Timothy J. Galvin,

Acting Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 96–12055 Filed 5–13–96; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–117–AD; Amendment 39–9613; AD 96–10–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–300, –400, and –500 series airplanes, that requires inspection to detect damage of a wire bundle and clamp that are located in the electronic/electrical (E/E) equipment bay, and repair of the damaged wire bundle. That action also requires replacement of the existing steel clamp with a nylon clamp, and rearrangement of the clamp installation. This amendment is prompted by a report of fire in the E/E equipment bay due to electrical arcing caused by chafing of a wire bundle. The actions specified by this AD are intended to prevent chafing of a wire bundle that could cause short circuiting of the wire bundle, and could result in smoke and fire in the E/E equipment bay.

DATES: Effective June 13, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 13, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket 95–NM–117–AD, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen Oshiro, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2793; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–300, –400, and –500 series airplanes was published in the Federal Register on October 13, 1995 (60 FR 53307). That action proposed to require a visual inspection to detect damage of the wire bundle and clamp in the electronic/electrical (E/E) equipment bay, and repair, if necessary. Additionally, that action proposed to require replacement of the rubber cushioned steel clamp with a nylon clamp, and the installation of additional clamps to prevent contact between wire bundle W2132 (or W0132) and power feeder wire bundle W0142.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed rule.

Request to Withdraw the Rule: Basis May be an Isolated Incident

One commenter requests that the FAA first review the findings on airplanes inspected thus far and, if no incorrect routing exists on other airplanes, the proposed rule should be withdrawn. This commenter states that the Supplementary Information section of the preamble to the proposal only states that an unsafe condition is ''likely to exist'' on other airplanes, and asks that further explanation be given as to why the FAA believes other airplanes may be affected. This commenter has received no reports of similar conditions on other airplanes.

The FAA agrees that fleetwide corrective actions should not be mandated in response to incidents determined to be truly ''isolated.'' In this case, however, AD action is warranted since the FAA has confirmed that the incident described in the notice was the result of a manufacturing error, and that this error was repeated on numerous airplanes. As part of its investigation, the FAA conducted inspections of 10 airplanes in the manufacturer's production facility. These inspections revealed that incorrect wire bundle clamps were installed in each of these airplanes. Furthermore, a review of manufacturing records indicates that this condition exists in approximately 620 previously delivered airplanes. In light of this evidence, the FAA has determined that the condition addressed by this AD is not the result of a single isolated incident, as the commenter suggests.

Request to Withdraw the Rule: No Essential Flight Circuits are Involved

One commenter requests that the AD be withdrawn because of the fact that no essential flight circuits were affected as a result of the damage to the wiring. The wire bundle involved in the damage is not associated with flight-critical systems.

The FAA agrees that loss of the systems associated with the damaged wire bundle would not significantly affect safe flight and landing of the airplane. The FAA's primary concern, however, is not the loss of system function, but the possibility of chafing of a wire bundle that could cause short circuiting of the wire bundles. Such short circuiting of the wire bundles could result in an undetected in-flight fire, since Electrical Equipment (E/E) bays of Model 737 airplanes are not equipped with fire detection systems.

Request to Withdraw the Proposal: No ''Formal'' Service Document Exists

One commenter contends that the FAA should not issue an AD that cites an ''informal'' service letter (Boeing Service Letter 737–SL–24–106, dated March 10, 1995) as the appropriate

source of instructions for accomplishing the proposed actions. The commenter maintains that a ''formal'' service bulletin should be issued if the manufacturer finds the chafing problem to be more than an isolated incident.

The FAA does not concur with the commenter. The fact that the manufacturer chose to publish the service information in a form other than a ''formal'' service bulletin, is not a justifiable reason to withdraw the proposed AD. It is appropriate for the FAA to reference in AD's any document that is available to affected operators and contains procedural instructions necessary for conducting required actions. Further, the decision to mandate corrective actions via the AD process is based on the FAA's assessment of the potential hazardous condition, not the assessment by the manufacturer.

Request to Withdraw the Rule: Service Information Incomplete

Two commenters state that the service letter, cited in the proposed rule as the appropriate service information, contains an incomplete list of parts. The commenters assert that the service letter only indicates a ''family'' of hardware, and leaves the determination of the appropriate clamp diameters and screw lengths up to the operators. The commenters request that an AD not be issued unless the manufacturer finds it advisable to publish a formal service bulletin containing a complete and accurate list of parts.

The FAA acknowledges the commenters' observation that the service letter contains an incomplete list of parts; however, that list is not incomplete to the extent that the AD should be withdrawn. The FAA finds that clarification of these parts is necessary so that operators will have no difficulty performing the requirements of this AD. In those situations where part numbers are incomplete, the undefined parameters are limited to non-critical part dimensions or, in the case of the NAS42DD–6 spacer, a dimension and finish. The function of the subject parts is to establish a reasonable amount of separation from surrounding structure by providing positive mechanical support for the wire bundles. In these applications, a high degree of precision in the unspecified dimensions is not essential. It also is reasonable to assume that the modification will be accomplished by trained personnel, whose discretion in the selection of part sizes is appropriate. Such discretion will give operators the flexibility needed to deal with slight manufacturing variations in the wire bundle installation of the affected area. The FAA agrees that some guidance may prove useful to operators unfamiliar with the parts identified in the service letter; therefore, the FAA has revised paragraph (a) of the final rule to include descriptions for the installation of the screw size, spacer clearance, and specific finish requirements for the spacers.

Request to Extend Compliance Time

Two commenters request that the compliance time of the proposed rule be increased from the proposed 12 months to 18 months. The commenters state that extending the compliance period will allow operators to accomplish the inspection during a scheduled ''C'' check, when airplanes are brought to the main maintenance base for an extended hold. Adoption of a 12-month compliance time would require affected operators to special schedule airplanes so that the requirements of the rule can be accomplished; this would entail additional expenses over what the FAA estimated in its cost impact information.

The FAA concurs that the compliance time can be extended somewhat. The FAA's intent was that the inspections be conducted during a regularly scheduled maintenance visit for the majority of the affected fleet. The FAA now recognizes that 15 months corresponds more closely to the interval representative of the majority of affected operators' normal maintenance schedules. Extending the compliance time by three additional months will not adversely affect safety, and will allow the modification to be performed at a base during regularly scheduled maintenance. Paragraph (a) of the final rule has been revised to reflect a compliance time of 15 months.

Request to Revise Cost Impact Information

One commenter requests that the FAA's cost impact estimation be revised to specify that two work hours are required to accomplish the proposed modification, instead of one work hour. The commenter explains that the access to the work area is from under the cabin floor, and the personnel performing the modification are in an awkward position and are unable to fully view the work area. Because of these factors, the modification would take a longer time that the FAA's estimated one work hour.

The FAA does not concur. The cost impact information, below, describes only the ''direct'' costs of the specific actions required by this AD. The FAA's estimate of 1 work hours necessary to accomplish the required actions is based on the best data available to date, and represents the time necessary to perform only the actions actually required by this AD. The FAA recognizes, that in accomplishing the requirements of any AD, operators may incur ''incidental'' costs in addition to the ''direct'' costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 620 Model 737–300, –400, and –500 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 195 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $25 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $16,575, or $85 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT

Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–10–08 Boeing: Amendment 39–9613. Docket 95–NM–117–AD.

Applicability: Model 737–300, –400, and –500 series airplanes, as listed in Boeing Service Letter 737–SL–24–106, dated March 10, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent short circuiting of a wire bundle located in the electrical/electronics (E/E) equipment bay, which could result in smoke and fire, accomplish the following:

(a) Within 15 months after the effective date of this AD, accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3), of this AD in accordance with Boeing Service Letter 737–SL–24–106, dated March 10, 1995.

Note 2: Screws having part number (P/N) NAS1801–3–( ) and spacers having P/N NAS42DD–6–( ), used to install the clamps as specified by this service letter, should be selected to provide a minimum of 0.25 inch clearance between wire bundles and surrounding structure and objects. Additionally, the spacers should have a part number having a chemical film finish code of ''FC'' or a gray anodize finish code of ''N.''

(1) Perform a visual inspection to detect damage of the wire bundle and clamps in the E/E compartment. If any damage is detected, prior to further flight, repair in accordance with the service letter.

(2) Reclamp wire bundle W2132 (or W0132) by removing the steel cushioned clamp and installing a nylon clamp on the aft side of the existing nut and bolt hole at body station (BS) 360, water line (WL) 203, left buttock line (LBL) 57, in accordance with the service letter.

(3) Install additional clamps to wire bundles W2132 (or W0132) and power feeder wire bundle WO142, in accordance with the service letter.

(b) Within 10 days after detecting any damage to the wire bundle or clamp as a result of the inspection required by paragraph (a) of this AD, submit a report of the damage findings to the FAA, Transport Airplane Directorate, Seattle Manufacturing Inspection District Office (MIDO), Attention: George Carter, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 237–6229; fax (206) 965–0264. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

(e) The actions shall be done in accordance with Boeing Service Letter 737–SL–24–106, dated March 10, 1995, including Attachments I and II. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 13, 1996.

Issued in Renton, Washington, on May 6, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11824 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 25

[Docket No. NM–121, Special Conditions No. 25–ANM–113]

Special Conditions: Cessna Aircraft Model 750 Airplanes; Operation With Fly-by-Wire Rudder

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Cessna Aircraft Model 750 airplane. This airplane will have novel and unusual design features, relating to its electronic rudder flight control system, when compared to the state of technology envisioned in the airworthiness standards of part 25 of the Federal Aviation Regulations (FAR). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards of part 25.

EFFECTIVE DATE: May 1, 1996.

FOR FURTHER INFORMATION CONTACT: Mark I. Quam, FAA, Standardization Branch, ANM–113, Transport Standards Staff, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2145, facsimile (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

On October 15, 1991, Cessna Aircraft Company (Cessna), 6030 Cessna Blvd., P.O. Box 7704, Wichita, KS 67277–7704, applied for a new type certificate in the transport airplane category for the Model 750 (Citation X) airplane. The Cessna 750 is a twin-engine, swept-wing business jet aircraft that is configured for approximately 8–12 passengers. The airplane has two Allison Engine Company AE 3007C turbofan engines rated at 6400 pounds of sea level, static takeoff thrust. The airplane has a maximum operating altitude of 51,000 feet and a range of approximately 3300 nautical miles.

The Cessna 750 has a yaw control system provided by a lower rudder and an upper rudder. Each rudder surface has an independent full-time control system, except that they share mechanical input at the rudder pedals. The lower surface is controlled by mechanical input to hydraulically-powered actuators. The upper surface is electronically controlled.

The lower rudder is positioned by two identical power control units (PCUs) installed one above the other, in parallel, in the vertical fin. The PCUs are each powered by an independent hydraulic system. Both the pilot and co-pilot rudder pedals are connected to the PCUs through conventional ⅛″ diameter stainless steel cables, bellcranks, and PCU input bungees. Dual mechanical load paths are provided from the input sector to the PCUs to ensure that no single mechanical disconnect can result in loss of both rudder pedal and electric trim input to the PCUs. Rudder pedal travel of +/− 2.9 inches provides a maximum lower rudder deflection of +/− 30 degrees. The lower rudder system has dual rudder authority limiters designed to limit deflection, depending on the airplane's dynamic pressure. The purpose of the rudder limiter is to protect the airplane structure against overload. Both rudder authority limiters, each controlled by an independent rudder limit module, operate simultaneously so that a failure of one system will not allow the lower rudder to deflect to an unwanted position. Dual yaw damper actuators are linked in series to the lower rudder system to provide Dutch roll damping and turn coordination.

The upper rudder is driven electrically by the stand-alone yaw stability augmentation systems (YSAS) which consist of two identical systems. Each YSAS consists of a yaw stability augmentation computer (YSAC), two dual rotary variable transformer (RVT) sensors, and a servo motor which is a part of an electromechanical actuator (EMA). Either one of two YSASs continuously provides Dutch roll damping of the airplane, as well as tracking of the upper rudder to the mechanical command from the rudder pedals through electronic sensing of the rudder pedal torque tube position in the cockpit. The maximum upper rudder deflection is +/−18 degrees. Upper surface position limiting is accomplished by electrical and mechanical stops at the surface.

In normal conditions, the manual yaw command from either the pilot or co-pilot rudder pedals is transmitted through the cable system and the PCU input bungees to the rudder PCUs. The PCUs then drive the lower rudder surface in proportion to the input command. At the same time, the rudder pedal command is electrically sensed at the rudder pedal torque tube and transmitted to the active YSAS for tracking the upper rudder. The position of each rudder surface may be displayed to the pilot along with the authority limiter position. In normal operation, both the lower and upper rudder systems provide yaw damper function at the same time. If the yaw damper function on either rudder system completely fails, the other system will provide adequate control to maintain the yaw stability of the airplane.

Type Certification Basis

Under the provisions of § 21.17 of the FAR, Cessna must show, except as provided in § 25.2, that the Model 750 (Citation X) meets the applicable provisions of part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–74. In addition, the certification basis for the Model 750 includes § 25.1316, System lightning protection, as amended by Amendment 25–80; part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and part 36, effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect at the time of certification. These special conditions form an additional part of the type certification basis. The certification basis also includes Special Conditions No. 25–ANM–99, dated 5/8/95, pertaining to protection from High Intensity radiated fields, and may include other special conditions that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Cessna Model 750 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special condition would also apply to the other model under the provisions of § 21.101(a)(1).

Discussion

The type design of the Cessna 750 contains novel or unusual design features not envisioned by the applicable part 25 airworthiness standards and therefore special conditions are considered necessary in the following areas:

1. *Upper Rudder Control System Operation Without Normal Electrical Power.* The Cessna Model 750 upper rudder control system is required in order to maintain safe flight. The Cessna design has four yaw dampers, including lower rudder dual yaw dampers that are hydraulically powered, and an upper rudder with dual YSASs that are electrically powered. If all hydraulic power is lost to the lower rudder (manual revision), then availability of the upper rudder yaw damper function becomes critical. Section 25.1351(d) of the FAR, Operation without normal electrical power, requires safe operation in VFR conditions for at least five minutes with inoperative normal power. This rule was structured around a traditional design utilizing mechanical control cables for flight control, while the crew took time to sort out the electrical failure, start engine(s) if necessary, and re-establish some of the electrical power generation capability.

Service experience with traditional two-engine airplane designs has shown that the loss of electrical power generated by the airplane's engines is not extremely improbable. The electrical power system of the Cessna 750 must therefore be designed with standby or emergency electrical sources of sufficient reliability and capacity to power the upper rudder control system in the event of the loss of normally generated electrical power. The need for electrical power for the Cessna Model 750 upper rudder control system was not envisioned by part 25 since, in traditional designs, cables and hydraulics are utilized for the flight control system. Therefore, Special Condition No. 1 is needed.

2. *Design Maneuver Requirements.* In a conventional airplane, pilot inputs directly affect control surface movement (both rate and displacement) for a given flight condition. In the Cessna Model 750, the pilot provides only a portion of the input to the upper rudder control surface, and it is possible that the pilot control displacements specified in § 25.351 of the FAR may not result in the maximum displacement and rates of displacement of the upper rudder. The intent of these noted rules may not be

satisfied if literally applied. Therefore, Special Condition No. 2 is needed.

3. *Interaction of Systems and Structures.* The Cessna Model 750 has a full-time electronic upper rudder flight control system affecting the yaw axis. The current rules are inadequate for considering the affects of this system, and its failures, on structural performance. Therefore, Special Condition No. 3 is needed.

As discussed above, these special conditions are applicable initially to the Cessna Model 750 (Citation X) airplane. Should Cessna apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Discussion of Comments

Notice of proposed special conditions No. SC–96–1–NM was published in the Federal Register on March 22, 1996 (61 FR 11779). No comments were received.

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the Federal Register. However, as the certification date for the Cessna Aircraft Model 750 airplane is imminent, the FAA finds that good cause exists for making these special conditions effective upon issuance.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplanes.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Cessna Aircraft Model 750 airplanes.

1. *Upper Rudder Control System Operations Without Normal Electrical Power.* In lieu of compliance with § 25.1351(d), it must be demonstrated, by test or combination of test and analysis, that the upper rudder control system provides for safe flight and landing with inoperative normal engine electrical power (electrical power sources excluding the battery and any other standby electrical sources). The airplane operation should be considered at the critical phase of flight and include the ability to restart the engines and maintain flight for a minimum of 30 minutes in Instrument Meteorological Conditions (IMC).

Discussion: The Cessna Model 750 fly-by-wire upper rudder control system requires a continuous source of electrical power in order to maintain yaw control. Section § 25.1351(d), Operation without normal electrical power, requires safe operation in visual flight rules (VFR) conditions for at least five minutes with inoperative normal power. This rule was structured around a traditional design utilizing mechanical control cables for flight control while the crew took time to sort out the electrical failure and was able to re-establish some of the electrical power generation capability. In order to maintain the same level of safety associated with traditional designs, the Cessna 750 upper rudder control system design shall be demonstrated to operate for at least 30 minutes without the normal source of engine-generated electrical power. It should be noted that service experience has shown that the loss of all electrical power that is generated by the airplane's engines is not extremely improbable.

The emergency electrical power system must be designed to supply the upper rudder control system without the need for crew action following the loss of the normal electrical power system.

For compliance purposes:

1. A test demonstration of the loss of normal engine-generated power is to be established such that:

a. The failure condition should be assumed to occur during night instrument meteorological conditions (IMC), at the most critical phase of flight relative to the electrical power system design and distribution of equipment loads on the system.

b. The upper rudder control system can provide for continued safe flight and landing using emergency electrical power (batteries, etc.) for at least 30 minutes of operation in IMC. An engine restart should be included in this demonstration.

c. Availability of APU operation should not be considered in establishing emergency power system adequacy.

2. Since the availability of the emergency electrical power system operation is necessary for maintaining safe flight with the upper rudder, the emergency electrical power system must be available immediately prior to each flight.

3. The emergency electrical power system must be shown to be satisfactorily operational in all flight regimes.

2. *Design Yaw Maneuver Requirements.*

In lieu of compliance with § 25.351 of the FAR, the airplane must be designed for loads resulting from the yaw maneuver conditions specified in subparagraphs (a) through (d) of this paragraph, at speeds from V_{MC} to V_D. Unbalanced aerodynamic moments about the center of gravity must be reacted in a rational or conservative manner considering the airplane inertia forces. In computing the tail loads, the yawing velocity may be assumed to be zero.

(a) With the airplane in unaccelerated flight at zero yaw, it is assumed that the cockpit rudder control is suddenly displaced to achieve the resulting rudder deflection, as limited by:

(1) the control system or control surface stops; or

(2) a limit force of 300 pounds from V_{MC} to V_A and 200 pounds from V_C/M_C to V_D/M_D, with a linear variation between V_A and V_C/M_C.

(b) With the cockpit rudder control deflected so as always to maintain the maximum rudder deflection available within the limitations specified in subparagraph (a) of this paragraph, it is assumed that the airplane yaws to the overswing sideslip angle.

(c) With the airplane yawed to the static equilibrium sideslip angle, it is assumed that the cockpit rudder control is held so as to achieve the maximum rudder deflection available within the limitations specified in subparagraph (a) of this paragraph.

(d) With the airplane yawed to the static equilibrium sideslip angle of subparagraph (c) of this paragraph, it is assumed that the cockpit rudder control is suddenly returned to neutral.

3. *Interaction of Systems and Structures.*

Airplanes equipped with fly-by-wire control systems that affect structural performance, either directly or as a result of a failure or malfunction, must account for the influence of these systems and their failure conditions in showing compliance with the requirements of 14 CFR part 25, Subparts C and D.

(a) General. The following criteria will be used in determining the influence of the upper rudder control systems and their failure conditions on the airplane structure.

(b) System fully operative. With the system fully operative, the following apply:

(1) Limit loads must be derived in all normal operating configurations of the systems from all the limit conditions specified in 14 CFR part 25, Subpart C, taking into account any special behavior of such systems or associated functions or any effect on the structural performance of the airplane that may occur up to the limit loads. In particular, any significant nonlinearity (rate of displacement of control surface, thresholds, or any other system nonlinearities) must be accounted for in a realistic or conservative way when deriving limit loads from limit conditions.

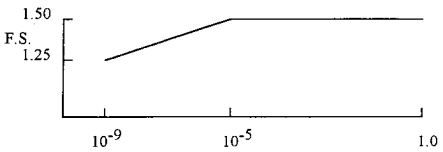
(2) The airplane must meet the strength requirements of 14 CFR part 25 (Static strength, residual strength), using the specified factors to derive ultimate loads from the limit loads defined above. The effect of non linearities must be investigated beyond limit conditions to ensure the behavior of the system present no anomaly compared to the behavior below limit conditions. However, conditions beyond limit conditions need not be considered when it can be shown that the airplane has design features that make it impossible to exceed those limit conditions.

(3) The airplane must meet the aeroelastic stability requirements of § 25.629.

(c) System in failure condition. For any failure condition in the system not shown to be extremely improbable, the following apply:

(1) At the time of occurrence. Starting from 1-g level flight conditions, a realistic scenario, including pilot corrective actions, must be established to determine the loads occurring at the time of failure and immediately after failure. The airplane must be able to withstand these loads multiplied by an appropriate factor of safety that is related to the probability of occurrence of the failure. The factor of safety (F.S.) is defined in Figure 1.

Figure 1
Factor of Safety at Time of Occurrence



P_j—Probability of occurrence of failure mode j (per hour)

(i) These loads must also be used in the damage tolerance evaluation required by § 25.571(b) if the failure condition is probable.

(ii) Freedom from flutter, divergence, and control reversal must be shown up to the speeds defined in § 25.629(b)(2). For failure conditions which result in speed increases beyond V_C/M_C, freedom from flutter, divergence, and control reversal must be shown to increased speeds, so that the margins intended by § 25.629(b)(2) are maintained.

(iii) Notwithstanding subparagraph (1) of this paragraph, failures of the system that result in forced structural vibrations (oscillatory failures) must not produce loads that could result in catastrophic fatigue failure or detrimental deformation of primary structure.

(2) For the continuation of the flight. For the airplane in the system failed state, and considering any appropriate reconfiguration and flight limitations, the following apply:

(i) Static and residual strength must be determined for loads derived from the following conditions at speeds up to V_C, or the speed limitation prescribed for the remainder of the flight:

(A) The limit symmetrical maneuvering conditions specified in §§ 25.331 and 25.325.

(B) The limit gust conditions specified in § 25.341 (but using the gust velocities for V_C) and in § 25.345.

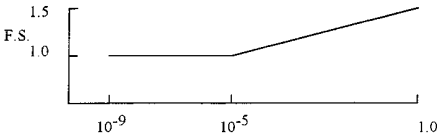
(C) The limit rolling conditions specified in § 25.349 and the limit unsymmetrical conditions specified in §§ 25.367 and 25.427(b) and (c).

(D) The limit yaw maneuvering conditions specified in Special Condition No. 2.

(E) The limit ground loading conditions specified in §§ 25.473 and 25.491.

(ii) For static strength substantiation, each part of the structure must be able to withstand the loads specified in subparagraph (2)(i) of this paragraph, multiplied by a factor of safety depending on the probability of being in this failure state. The factor of safety is defined in Figure 2.

Figure 2
Factor of Safety for Continuation of Flight



Q_j—Probability of being in failure condition j

$Q_j=(T_j)(P_j)$ where:

T_j=Average time spent in failure condition j (in hours)

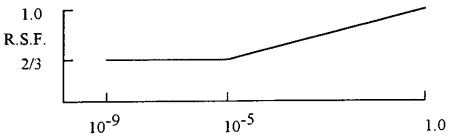
P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then a 1.5 factor of safety must be applied to all limit load conditions specified in Subpart C.

(iii) For residual strength substantiation as defined in § 25.571(b), structures affected by failure of the system and with damage in combination with the system failure, a reduced factor may be applied to the loads specified in

subparagraph (2)(i) of this paragraph. However, the residual strength level must not be less than the 1-g flight load, combined with the loads introduced by the failure condition, plus two-thirds of the load increments of the conditions specified in subparagraph (2)(i) of this paragraph, applied in both positive and negative directions (if appropriate). The residual strength factor (R.S.F.) is defined in Figure 3.

Figure 3
Residual Strength Factor



Q_j—Probability of being in failure condition j

$Q_j=(T_j)(P_j)$ where:

T_j=Average time spent in failure condition j (in hours)

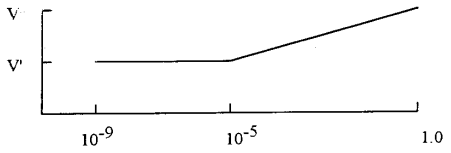
P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then a residual strength factor of 1.0 must be used.

(iv) If the loads induced by the failure condition have a significant effect on fatigue or damage tolerance, then their effects must be taken into account.

(v) Freedom from flutter, divergence, and control reversal must be shown up to a speed determined from Figure 4. Flutter clearance speeds V′ and V″ may be based on the speed limitation specified for the remainder of the flight, using the margins defined by § 25.629(b).

Figure 4
Clearance Speed



Q_j=Probability of being in failure condition $_j$

V′=Clearance speed as defined by § 25.629(b)(2).

V″=Clearance speed as defined by § 25.629(b)(1).

$Q_j=(T_j)(P_j)$ where:

T_j=Average time spent in failure condition j (in hours)

P_j=Probability of occurrence of failure mode j (per hour)

Note: If P_j is greater than 10^{-3} per flight hour, then the flutter clearance speed must not be less than V″.

(vi) Freedom from flutter, divergence, and control reversal must also be shown up to V′ in Figure 4 above, for any probable system failure condition combined with any damage required or selected for investigation by § 25.571(b).

(vii) If the mission analysis method is used to account for continuous turbulence, all the systems failure conditions associated with their probability must be accounted for in a rational or conservative manner in order to ensure that the probability of exceeding the limit load is not higher than the value prescribed in Appendix G of 14 CFR part 25.

(3) Consideration of certain failure conditions may be required by other sections of 14 CFR part 25, regardless of calculated system reliability. Where analysis shows the probability of these failure conditions to be less than 10^{-9}, criteria other than those specified in this paragraph may be used for structural substantiation to show continued safe flight and landing.

(d) Warning considerations. For upper rudder control system failure detection and warning, the following apply:

(1) The system must be checked for failure conditions, not extremely improbable, that degrade the structural capability below the level required by part 25 or significantly reduce the reliability of the remaining system. The crew must be made aware of these failures before flight. Certain elements of the control system, such as mechanical and hydraulic components, may use special periodic inspections, and electronic components may use daily checks, in lieu of warning systems, to achieve the objective of this requirement. These certification maintenance requirements must be limited to components that are not readily detectable by normal warning systems and where service history shows that inspections will provide an adequate level of safety.

(2) The existence of any failure condition, not extremely improbable, during flight that could significantly affect the structural capability of the airplane, and for which the associated reduction in airworthiness can be minimized by suitable flight limitations, must be signaled to the flight crew. For example, failure conditions which result in a factor of safety between the airplane strength and the loads of 14 CFR part 25, Subpart C, below 1.25, or flutter margins below V″, must be signaled to the crew during the flight.

(3) Dispatch with known failure conditions. If the airplane is to be dispatched in a known upper rudder control system failure condition that affects structural performance, or affects the reliability of the remaining system to maintain structural performance, then the provisions of this special condition must be met for the dispatched condition and for subsequent failures. Operational and flight limitations may be taken into account.

Issued in Renton, Washington, on May 1, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 96–2086 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR part 25

[Docket No. NM–124; Special Conditions No. 25–ANM–114]

Special Conditions: Dassault Aviation, Mystere Falcon 50 Airplane; High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Dassault Aviation, Mystere Falcon 50 airplane modified by K–C Aviation of Appleton, Wisconsin. This airplane will be equipped with a Flight Visions FV–2000 Head-up Display System that provides critical data to the flightcrew. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is May 3, 1996. Comments must be received on or before June 28, 1996.

ADDRESSES: Comments on these final special conditions, request for comments, may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–124, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–124. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dale Dunford, FAA, Flight Test and Systems Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (206) 227–2239; facsimile (206) 227–1100.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must be submitted with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM–124.'' The postcard will be date stamped and returned to the commenter.

Background

On June 27, 1995, K–C Aviation of Appleton, Wisconsin, applied for a supplemental type certificate to modify Dassault Aviation, Mystere Falcon 50 airplanes. The Dassault Aviation, Mystere Falcon 50 is a business jet with three aft mounted turbine engines. The airplane can carry three crew and 19 passengers depending on the configuration, and is capable of operating to an altitude of 49,000 feet. The proposed modification incorporates the installation of a digital avionics system that will present critical functions on the Head-up Display System (HUD), which are potentially vulnerable to a high-intensity radiated fields (HIRF) external to the airplane

Supplemental Type Certification Basis

Under the provisions of § 21.101 of the Federal Aviation Regulations (FAR), K–C Aviation must show that the altered Dassault Aviation, Mystere Falcon 50 airplane continues to meet the applicable provisions of § 21.29; and part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–34 and § 25.255 of Amendment 25–42; § 25.979 (d) and (e) of Amendment 25–38; § 25.1013(b)(1) of Amendment 25–36; § 25.1351(d) of Amendment 25–41; § 25.1353(c)(6) of Amendment 25–42; part 36 of the FAR effective December 1, 1969, as amended through Amendment 36–9; Special Federal Aviation Regulations (SFAR) 27 effective February 1, 1974, as amended through Amendment SFAR 27–1; and Special Conditions 25–86–EU–24. In addition, the certification basis may include other special conditions that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Dassault Aviation, Mystere Falcon 50 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provision of § 21.101(a)(1).

Novel or Unusual Design Features

The Dassault Aviation, Mystere Falcon 50 airplane incorporates a Flight Visions FV–200 Head-up Display system that provides critical data to the flightcrew. These systems may be vulnerable to HIRF external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are proposed for the Dassault Aviation, Mystere Falcon 50, which would require that new technology electrical and electronic systems, such as the HUD, etc., be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical

digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2000 KHz	70	70
2 MHz–30 MHz	200	200
30 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1000 MHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

As discussed above, the proposed special conditions would be applicable initially to the K–C Aviation modified Dassault Aviation, Mystere Falcon 50. Should K–C Aviation apply at a later date for a change to the supplemental type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain design features on the Dassault Aviation, Mystere Falcon 50 airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions for this airplane has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citiation for these special conditions is as follows

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

According, the following special conditions are issued as part of the supplemental type certification basis for the K–C Aviation modified Dassault Aviation, Mystere Falcon 50 series airplanes.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies: *Critical Functions.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on May 3, 1996.

Stewart R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 96–12085 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 95–NM–127–AD; Amendment 39–9614; AD 92–10–13 R1]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–80 Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, that currently requires a revision to the FAA-approved Airplane Flight Manual (AFM) to specify that the autothrottles must be disconnected if engine surge (stall) is detected during takeoff. That AD was prompted by results of an accident investigation, which revealed that the digital flight guidance computer (DFGC) on these airplanes can incorrectly identify an engine surge or stall as being an engine failure. This can cause the autothrottles to unclamp and automatically advance the thrust levers during takeoff. The actions specified by that AD are intended to prevent automatic advance of the thrust lever on a surging engine during takeoff, which could cause engine failure. This amendment provides for an optional terminating action for the AFM revision.

DATES: Effective June 13, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 13, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood,

California; telephone (310) 627–5245; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 92–10–13, amendment 39–8247 (57 FR 19249, May 5, 1992), which is applicable to certain McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes, was published in the Federal Register on October 18, 1995 (60 FR 53888). That action proposed to require the installation of a modified digital flight guidance computer (DFGC), which, when accomplished, would terminate the requirement for the AFM revision.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

Three commenters support the proposed rule.

Requests To Withdraw the Proposal

Several commenters request that the FAA withdraw the proposed rule or retain the proposed installation as an optional terminating action for the AFM revision. The commenters contend that the requirements of the proposed AD provide no additional safety over existing AD 92–10–13; the safety of the affected airplanes is ensured by the currently installed hardware and the procedural changes that are required by the existing AD. One commenter, Honeywell, states that both AD 92–10–13 and the proposed AD achieve the same goal of preventing forward throttle movement in the event of an engine surge or stall. AD 92–10–13 achieves this goal by requiring the pilot to recognize the surge condition and to manually disconnect the autothrottles. The proposed AD accomplishes this in a different manner—by forcing the DFGC autothrottles to remain in the clamp mode. Because the engine surge condition is easily and unambiguously recognized in the cockpit and the resultant action required by AD 92–10–13 (disconnecting the autothrottle) is likewise clear and easily accomplished, the correct execution for the subject condition is assured. The commenters also state that accomplishment of the requirements of the proposed AD would pose an immense cost to some operators. The commenters contend that such expense is unnecessary when an equivalent, alternative means is available.

The FAA does not concur with the requests to withdraw the final rule. However, the FAA has determined that, based on the information provided by the commenters, the currently installed hardware and the procedural changes required by the existing AD do provide a long term and adequate level of safety. While the manufacturer has advised the FAA that the new DFGC (part number 4034241–972) was incorporated on all production Model DC–9–80 series airplanes as of July 1995, the FAA has determined that the installation should be provided in this AD as an optional terminating action for the AFM revision. Therefore, this action revises AD 92–10–13 to add a new paragraph (c) that provides for installation of the new DFGC's as an optional terminating action for the AFM revision.

Other Changes to the Final Rule

The FAA also has clarified the applicability of this rule to specify that only airplanes equipped with digital flight guidance computers (DFGC) having part numbers prior to 4034241–972 are subject to the requirements of the AD. This change will exclude airplanes on which the terminating installation has been accomplished previously or in production.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 1,117 McDonnell Douglas Model DC–9–80 series airplanes and Model MD–88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 643 airplanes of U.S. registry will be affected by this AD.

The AFM revision that is currently required by AD 92–10–13 takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of this current requirement is estimated to be $38,580, or $60 per airplane.

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

Should an operator elect to accomplish the optional terminating action that is provided by this AD action (the removal of DFGC's having part number 4034241–971 and installation of DFGC's having part number 4034241–972), it would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $2,000 per airplane (that is, $1,000 per DFGC, and 2 DFGC's per airplane). Based on these figures, the cost impact of the optional terminating action is estimated to be $2,060 per airplane.

Should an operator have an airplane equipped with DFGC's having part numbers other than (lower than) 4034241–971, additional actions may be necessary prior to accomplishing the optional terminating action. Those additional actions involve modification(s) of the DFGC's to bring them to the level of configuration of DFGC's having part number 4034241–971. Depending on the current configuration of the DFGC's installed on the airplane, the highest costs associated with modifying a DFGC to a part number 4034241–971 configuration (excluding subsequent modification to the part number 4034241–972 configuration) could be as much as $92,000 per airplane (that is, $46,000 per DFGC, and 2 DFGC's per airplane).

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8247 (57 FR 19249, May 5, 1992), and by adding a new airworthiness directive (AD), amendment 39–9614, to read as follows:

92–10–13 R1 McDonnell Douglas: Amendment 39–9614. Docket 95–NM–127–AD. Revises AD 92–10–13, Amendment 39–8247.

Applicability: Model DC–9–80 series airplanes and Model MD–88 airplanes equipped with digital flight guidance computers (DFGC) having part numbers prior to 4034241–972; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent automatic thrust lever advance on a surging engine during takeoff, which could cause engine failure, accomplish the following:

(a) Within 30 days after May 20, 1992 (the effective date of AD 92–10–13, amendment 39–8247), revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

''LIMITATIONS SECTION

Autothrottles must be disconnected if engine surge (stall) is detected during takeoff.''

(b) Within 30 days after May 20, 1992 (the effective date of AD 92–10–13, amendment 39–8247), revise the Procedures Section of the FAA-approved AFM to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

''PROCEDURES SECTION

CAUTION

During takeoff, the Digital Flight Guidance Computer (DFGC) engine failure logic is armed if (1) the flight director pitch axis is in takeoff mode, (2) the aircraft is above 400 feet radio altitude, and (3) both engine pressure ratios (EPRs) are below the go-around EPR limit. If the DFGC detects an EPR drop greater than or equal to 0.25 EPR and 7% N_1 from the same engine, as compared to the other engine, the engine failure logic is satisfied and the DFGC will change the Thrust Rating Panel (or indicator) thrust limit to Go-Around (GA). This will cause the autothrottle system to unclamp and enter normal EPR limit (EPR LIM) mode where the throttles will maintain the higher engine EPR at the selected go-around thrust rating EPR LIM. Such an EPR and N_1 drop may also result from an engine surge (stall). Advancing thrust levers on a surging engine will hinder surge recovery and may result in eventual engine failure.

If an engine surge (stall) is detected during takeoff:

(1) Disconnect autothrottles.
(2) Reduce thrust on affected engine (idle if necessary).
(3) Shut down the affected engine if surging and popping continues.
(4) If affected engine surging or popping stops, accomplish the following:
A. Place ignition switch to GRD START & CONTIN.
B. Place ENG anti-ice switches to ON.
C. Place PNEU X-FEED VALVE lever OPEN on affected side.
D. Place AIR FOIL anti-ice switches ON.
E. Advance affected throttle slowly.
(5) If engine surging or popping returns, turn the ENG anti-ice switch OFF.
(6) After normal operation has been established, the autothrottles may be re-engaged.

Note: A NO MODE light may be annunciated due to abnormal bleed configuration.''

(c) Replacement of both DFGC's having a part number prior to 4034241–972, with DFGC's having part number 4034241–972, in accordance with McDonnell Douglas Service Bulletin MD80–22–111, dated May 23, 1995, constitutes terminating action for the requirements of this AD. Once the replacements are accomplished, the AFM revisions required by paragraphs (a) and (b) of this AD may be removed.

Note 2: McDonnell Douglas Service Bulletin MD80–22–111, dated May 23, 1995, references Honeywell Service Bulletin 4034241–22–44, dated May 22, 1995, as an additional source of service information.

Note 3: Paragraph 1.B of McDonnell Douglas Service Bulletin MD80–22–111, dated May 23, 1995, specifies certain concurrent actions that affect airplanes equipped with DFGC's having part numbers prior to 4034241–971.

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

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

(f) The replacement shall be done in accordance with McDonnell Douglas Service Bulletin MD80–22–111, dated May 23, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on June 13, 1996.

Issued in Renton, Washington, on May 6, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11823 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 95–NM–95–AD; Amendment 39–9617; AD 96–10–10]

RIN 2120–AA64

Airworthiness Directives; Jetstream Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Jetstream Model 4101 airplanes, that requires inspections of the handrail assembly at the main entrance door to detect loose or missing rivets, abnormal movement between the handrail pivot-tube and the spigot that attaches to the bearing assembly, and

cracks on the handrail pivot-tube. It also requires repair or replacement of the assembly, if necessary, and provides for two optional terminating actions. This amendment is prompted by a report indicating that fatigue cracks and loose rivets were found on the handrail assembly of the main passenger entrance door on an in-service airplane. The actions specified by this AD are intended to prevent these conditions, which can lead to the failure of the door handrail assembly; such failure could allow the door to fall free and subsequently cause injury to people on the airplane or on the ground.

DATES: Effective June 18, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 13, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Jetstream Model 4101 airplanes was published in the Federal Register on November 24, 1995 (60 FR 58023). That action proposed to require inspections of the handrail assembly at the main entrance door to detect loose or missing rivets, abnormal movement between the handrail pivot-tube and the spigot that attaches to the bearing assembly, and cracks on the handrail pivot-tube. It also proposed to require repair or replacement of the assembly, if necessary. The proposal also provided for two optional terminating actions.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

Two commenters support the proposal.

Request to Withdraw the Proposal as Unnecessary

One commenter requests that the proposal be withdrawn. This commenter, the only U.S. operator affected by the requirements of the proposed rule, states that it is currently in the process of accomplishing the terminating actions on all of its affected airplanes. Its schedule calls for the terminating action to be accomplished on all of these airplanes by the time the final rule would become effective. In light of this, the commenter maintains that an AD is unnecessary and the proposal should be withdrawn.

The FAA does not concur. While the operator's fleet may be the only airplanes currently on the U.S. Register that would be affected by the AD, there is the possibility that other airplanes of this same type design may be imported in the future and placed on the Register. Without this AD, there would be no assurance that the unsafe condition was addressed on those airplanes. For this reason, the FAA finds that the issuance of the final rule is both necessary and warranted.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 4 airplanes of U.S. registry will be affected by this AD. To accomplish the inspections, it would take approximately 1 work hour per airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $240, or $60 per airplane, per inspection.

This cost impact figure is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that the terminating actions provided by this rule have been accomplished on all 4 affected U.S.-registered airplanes. Therefore, the promulgation of this AD will impose no new additional costs on U.S. operators.

Should an operator elect to accomplish one of the two terminating actions provided by this AD, the following costs would apply:

Installation of the interim reinforcement of the handrail assembly takes approximately 4.5 work hours to accomplish, at an average labor charge of $60 per work hour. Based on these figures, the cost impact of this optional action is $270 per airplane, plus the cost of necessary parts.

Installation of the structural improvements of the door and door support, and the completely redesigned door handrail assembly, takes approximately10 work hours to accomplish, at an average labor charge of $60 per work hour. Based on these figures, the cost impact of this optional action is $600 per airplane, plus the cost of necessary parts.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–10–10 Jetstream: Amendment 39–9617. Docket 95–NM–95–AD.

Applicability: Model 4101 airplanes; equipped with handrail assembly, Part No. 6020203 Issue C, with Modification No. JM41179 (reference Jetstream Alert Service Bulletin J41–A52–009); certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the entrance door handrail assembly, which subsequently could result in injury to passengers, flightcrew, or groundcrew, accomplish the following:

(a) Within 50 landings after the effective date of this AD, conduct a detailed visual inspection of the handrail assembly at the main entrance door to detect loose or missing rivets, abnormal movement between the handrail pivot-tube and the spigot that attaches to the bearing assembly, and cracks on the handrail pivot-tube, in accordance with Jetstream Alert Service Bulletin J41–A52–036, dated June 13, 1994.

(b) If no cracks or other discrepancies are detected during the inspection required by paragraph (a) of this AD, repeat the inspection thereafter at intervals not to exceed 300 hours time-in-service.

(c) If evidence of any loose or missing rivet is revealed, or if abnormal movement between the handrail pivot-tube and the spigot that attaches to the bearing assembly is detected, as a result of any of the inspections required by this AD, prior to further flight, accomplish the procedures specified in paragraph 2.B.(4) of Jetstream Alert Service Bulletin J41–A52–036, dated June 13, 1994. Thereafter, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 300 hours time-in-service.

(d) If evidence of cracking is revealed as a result of any of the inspections required by this AD, prior to further flight, accomplish the requirements of either paragraph (d)(1), (d)(2), or (d)(3) of this AD:

(1) Install a new handrail assembly, Part No. 6020203 Issue C standard, as specified in paragraph 2.B.(5)(d) of Jetstream Alert Service Bulletin J41–A52–036, dated June 13, 1994. After installation, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 300 hours time-in-service. Or

(2) Install the interim reinforcement of the handrail assembly (Customer Option Kit. No. Jk42619) in accordance with Jetstream Service Bulletin J41–52–041–42619, dated June 13, 1994. Such installation constitutes terminating action for the inspections required by this AD. Or

Note 2: Jetstream Service Bulletin J41–52–041–42619 refers to Flight Refuelling Service Bulletin 6020303–52–1 for additional installation information.

(3) Install the structural improvements of the door and door support, and the completely redesigned door handrail assembly, in accordance with Jetstream Service Bulletin J41–52–025, dated February 11, 1994. Such installation constitutes terminating action for the inspections required by this AD.

Note 3: Jetstream Service Bulletin J41–52–025 refers to Flight Refuelling Service Bulletin 6020303–52–2 for additional installation information.

(e) Terminating action for the inspections required by this AD consists of installation of the item(s) specified in either paragraph (e)(1) or (e)(2) of this AD:

(1) Installation of the interim reinforcement of the handrail assembly (Customer Option Kit. No. Jk42619) in accordance with Jetstream Service Bulletin J41–52–041–42619, dated June 13, 1994. Or

(2) Installation of the structural improvements of the door and door support, and the completely redesigned door handrail assembly, in accordance with Jetstream Service Bulletin J41–52–025, dated February 11, 1994.

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(h) The inspections shall be done in accordance with Jetstream Alert Service Bulletin J41–A52–036, dated June 13, 1994. The interim reinforcement of the handrail assembly shall be done in accordance with Jetstream Service Bulletin J41–52–041–42619, dated June 13, 1994. The installation of the structural improvements of the door and door support, and the completely redesigned door handrail assembly, shall be done in accordance with Jetstream Service Bulletin J41–52–025, dated February 11, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on June 18, 1996.

Issued in Renton, Washington, on May 7, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–11882 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–SW–01–AD; Amendment 39–9616; AD 96–06–12]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47–K Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the Federal Register an amendment adopting Airworthiness Directive (AD) 96–06–12 which was sent previously to all known U.S. owners and operators of Bell Helicopter Textron, Inc. (Bell) Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47–K helicopters by individual letters. This AD requires a visual inspection of each tail rotor blade (blade) tip, abrasion strip, blade skin, and blade butt for corrosion or delamination. This amendment is prompted by reports that a number of Model 47 helicopter blades were manufactured using a clad aluminum alloy material instead of a bare aluminum alloy material. The actions specified by this AD are intended to prevent premature delamination or separation of the blade tip block or the abrasion strip, which could lead to failure of the blade and subsequent loss of control of the helicopter.

DATES: Effective May 29, 1996, to all persons except those persons to whom it was made immediately effective by priority letter AD 96–06–12, issued on March 13, 1996, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before July 15, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–01–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Nguyen, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5177; fax (817) 222–5960.

SUPPLEMENTARY INFORMATION: On March 13, 1996, the FAA issued priority letter AD 96–06–12, applicable to Bell Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47–K helicopters, which requires, prior to the first flight of each day, and at intervals not to exceed 10 hours time-in-service (TIS) if the helicopter is operated for more than 10 hours in any one day, a visual inspection of each blade tip, abrasion strip, blade skin, and blade butt for corrosion or delamination. That action was prompted by reports that a number of Model 47 helicopter blades were manufactured using a clad aluminum alloy material instead of a bare aluminum alloy material. The shear and peel strength of bonded clad aluminum alloy is less than the shear and peel strength of bonded bare aluminum alloy. This condition, if not corrected, could result in premature delamination or separation of the blade tip block or the abrasion strip, which could lead to failure of the blade and subsequent loss of control of the helicopter.

Since the unsafe condition described is likely to exist or develop on other Bell Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47–K helicopters of the same type design, the FAA issued priority letter AD 96–06–12 to prevent premature delamination or separation of the blade tip block or the abrasion strip, which could lead to failure of the blade and subsequent loss of control of the helicopter. The AD requires, prior to the first flight of each day, and at intervals not to exceed 10 hours TIS, if the helicopter is operated for more than 10 hours in any one day, a visual inspection of each blade tip, abrasion strip, blade skin, and blade butt for corrosion or delamination. If any of the inspections reveal corrosion or delamination, removal of the blades and replacement with airworthy blades is required.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on March 13, 1996 to all known U.S. owners and operators of Bell Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47–K helicopters. These conditions still exist, and the AD is hereby published in the Federal Register as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 96–SW–01–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 96–06–12 Bell Helicopter Textron, Inc.: Amendment 39–9616. Docket No. 96–SW–01–AD.

Applicability: Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47–K helicopters, with tail rotor blade assembly, part number (P/N) 047–642–117–105, serial numbers (S/N) A–1943 through A–2068, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent premature delamination or separation of the tail rotor blade (blade) tip block or the abrasion strip, which could lead to failure of the blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Prior to the first flight of each day, visually inspect each blade tip, abrasion strip, blade skin and blade butt as follows:

(1) Inspect each blade tip for corrosion or delamination adjacent to the abrasion strip and tip block.

(2) Inspect each abrasion strip for corrosion or delamination, paying particular attention to the abrasion strip leading edge.

(3) Inspect each blade skin for corrosion, paying particular attention to any areas of paint cracking or damage. Inspect all bonded joints for corrosion or delamination.

(4) Inspect each blade butt around the bearings for corrosion or delamination.

(b) Thereafter, conduct the visual inspections specified in paragraph (a) of this AD at intervals not to exceed 10 hours time-in-service.

(c) If the inspections required by paragraphs (a) and (b) of this AD reveal any corrosion or delamination, replace the blade with an airworthy blade before further flight.

(d) Installation of any airworthy tail rotor blade assembly which has been FAA-approved for the particular Model 47 helicopter, except for P/N 047–642–117–105 with S/N A–1943 through A–2068, constitutes a terminating action for the requirements of this AD.

(e) Installation of tail rotor blade assembly, P/N 047–642–117–105M, including those with S/N A–1943 through A–2068, constitutes a terminating action for the requirements of this AD.

Note 2: Bell Helicopter Textron Alert Service Bulletin No. 47–96–21, dated January 29, 1996, pertains to this AD.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

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

(h) This amendment becomes effective on May 29, 1996, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 96–06–12, issued March 13, 1996, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on May 3, 1996.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–11958 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–SW–02–AD; Amendment 39–9615; AD 96–10–09]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Helicopter Systems Model 369, 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, and 500N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to McDonnell Douglas Helicopter Systems (MDHS) Model 369, 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, and 500N helicopters. This action requires initial and repetitive inspections of each main rotor blade (blade) root for either cracks or paint and sealant cracking or separation between the lower surface root end fitting and the doubler. This amendment is prompted by one accident in which a blade separated from the helicopter, as well as eight other reports of cracked blades. The actions specified in this AD are intended to prevent failure of a blade resulting in separation of the blade and subsequent loss of control of the helicopter.

DATES: Effective May 29, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of 15 days after the date of publication in the Federal Register.

Comments for inclusion in the Rules Docket must be received on or before July 15, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–02–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from MDHS, Technical Publications, Bldg. 530/B111, 5000 E. McDowell Rd., Mesa, Arizona 85215–9797. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. John Cecil, Aerospace Engineer, ANM–120L, Los Angeles Aircraft Certification Office, Northwest Mountain Region, 3960 Paramount Blvd., Lakewood, California, telephone (310) 627–5322, fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD that is applicable to MDHS Model 369, 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, and 500N helicopters. One accident occurred in August 1995 in which one blade separated from the rotor system while the helicopter was on the ground. Additionally, there were eight reports of blade cracking prior to the one accident, all of which were discovered during either routine inspections or inspections resulting from reported abnormal vibrations. Subsequent investigations revealed that bonding separation occurred between the lower surface root end fitting and the doubler. This condition, if not corrected, could result in failure of a blade resulting in separation of the blade and subsequent loss of control of the helicopter.

The FAA has reviewed McDonnell Douglas Helicopter Systems Service Information Notice No. HN–239, DN–188, EN–81, FN–67, and NN–008, dated October 27, 1995, which describes procedures for a one-time visual inspection of the blade root end for chordwise cracking and paint or sealant cracking between the lower surface root end fitting and the doubler, and then repetitive inspections at intervals of 100 hours time-in-service (TIS).

Since an unsafe condition has been identified that it is likely to exist or develop on other MDHS Model 369, 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, and 500N helicopters of the same type design, this AD is being issued to prevent failure of a blade at the root end due to fatigue cracking that initiates at the outboard bolt hole and usually travels in a chordwise direction. This AD requires, within 10 hours TIS after the effective date of this AD, a one-time visual inspection of each blade root end near the doubler paying particular attention to chordwise cracks and paint or sealant cracking or separation between the lower surface root end fitting and the doubler. Additionally, this AD requires repetitive visual inspections of each blade, at intervals not to exceed 100 hours TIS, for bond separation between the lower surface root end fitting and doubler paying particular attention to chordwise cracks. The actions are required to be accomplished in accordance with the service information notice described previously.

Due to the critical need to ensure the integrity of the main rotor system, and to comply with the requirements of this AD within 10 hours TIS, this rule must be issued immediately to correct an unsafe condition in the affected helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 96–SW–02–AD.'' The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety. Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 96–10–09 McDonnell Douglas Helicopter Systems: Amendment 39–9615. Docket No. 96–SW–02–AD.

Applicability: Model 369, 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, and 500N helicopters, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of a main rotor blade (blade) resulting in separation of the blade and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 10 hours time-in-service (TIS) after the effective date of this AD, perform a visual inspection of each blade root end for cracking and paint or sealant cracking, paying particular attention to chordwise cracking, and for separation between the lower surface root end fitting and doubler, in accordance with Part I of the Accomplishment Instructions of McDonnell Douglas Helicopter Systems Service Information Notice (SIN) HN–239, DN–188, EN–81, FN–67, and NN–008, dated October 27, 1995. If any blade crack is noted, before further flight, remove the blade and replace it with an airworthy blade. If paint or sealant cracking or separation is noted, accomplish the inspection in paragraph 3E of Part II of the Accomplishment Instructions of SIN HN–239, DN–188, EN–81, FN–67, and NN–008, dated October 27, 1995, using a piece of Mylar/viewfoil that is no thicker than .004-inch and that is cut to a size between 0.9 inch

and 1.1 inches wide and between 3.9 inches and 4.1 inches long. If any corner of the Mylar can be inserted between the lower surface root end fitting and doubler surface to a depth of 0.1 inch or greater, remove the blade from service and replace it with an airworthy blade.

(b) Thereafter, at intervals not to exceed 100 hours TIS, remove the blades and inspect for cracking, paying particular attention to chordwise cracking, and separation between the lower surface root end fitting and doubler in accordance with Part II of the Accomplishment Instructions of McDonnell Douglas Helicopter Systems SIN HN–239, DN–188, EN–81, FN–67, and NN–008, dated October 27, 1995. If missing or cracked adhesive or paint is detected at the lower surface root end fitting to doubler bonding line, accomplish the inspection in paragraph 3E of Part II of the Accomplishment Instructions of SIN HN–239, DN–188, EN–81, FN–67, and NN–008, dated October 27, 1995 using a piece of Mylar/viewfoil that is no thicker than .004-inch that is cut to a size between 0.9 inch and 1.1 inches wide and between 3.9 inches and 4.1 inches long. If any corner of the Mylar can be inserted between the lower surface root end fitting and doubler surface to a depth of 0.1 inch or greater, remove the blade from service and replace it with an airworthy blade.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(d) Special flight permits will not be issued.

(e) The inspections shall be done in accordance with McDonnell Douglas Helicopter Systems Service Information Notice (SIN) HN–239, DN–188, EN–81, FN–67, and NN–008, dated October 27, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Helicopter Systems, Technical Publications, Bldg. 530/B111, 5000 E. McDowell Rd., Mesa, Arizona 85215–9797. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective May 29, 1996.

Issued in Fort Worth, Texas, on May 2, 1996.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–11959 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 96–AWP–6]

Amendment of Class E Airspace; Visalia, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace area at Visalia, CA. The abandonment of Ianni Strip, CA has made this action necessary. This action will remove reference of Ianni Strip, CA from the Class E airspace description for Visalia, CA.

EFFECTIVE DATE: 0901 UTC August 15, 1996.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

History

On March 11, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by revising the Class E airspace area at Visalia, CA. The abandonment of Ianni Strip, CA has made this action necessary.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace area a Visalia, CA. The abandonment of Ianni Strip, CA has made this action necessary. This action will remove the reference of Ianni Strip, CA from the Class E airspace description for Visalia, CA.

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 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

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

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

* * * * *

AWP CA E5 Visalia, CA [Revised]

Visalia Municipal Airport, CA
(lat. 36°19′07″ N, long. 119°23′34″ W)
Visalia VOR/DME
(lat. 36°22′02″ N, long. 119°28′56″ W)
Swanson Ranch NR1 Airport, CA
(lat. 36°24′00″ N, long 119°37′03″ W)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Visalia Municipal Airport and within 1.8 miles each side of the Visalia VOR 302° radial, extending from the 5-mile radius to 7 miles northwest of the VOR and within 4 miles each side of the Visalia VOR 150° radial, extending from 1.7 mile southeast

17.4 miles southeast of the Visalia VOR and within 2.3 miles each side of the 245° bearing from the Visalia Municipal Airport, extending from the 5-mile radius to 8 miles southwest of the airport; excluding the airspace within 1-mile radius of the Swanson Ranch NR1 Airport.

* * * * *

Issued in Los Angeles, California, on April 29, 1996.

George D. Williams,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 96–12088 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 95–AWP–27]

Establishment of Class E Airspace; San Andreas, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area at San Andreas, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 31 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Calaveras Co-Maury Rasmussen Field Airport, San Andreas, CA.

EFFECTIVE DATE: 0901 UTC August 15, 1996.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

History

On March 13, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at San Andreas, CA (61 FR 10296). This action will provide adequate controlled airspace to accommodate a GPS SIAP to RWY 31 at Calaveras Co-Maury Rasmussen Field Airport, San Andreas, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class E airspace area at San Andreas, CA. The development of a GPS SIAP to RWY 31 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft executing the GPS RWY 31 SIAP at Calaveras Co-Maury Rasmussen Field Airport, San Andreas, CA.

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 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

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 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p.389; 14 CFR 11.69.

§ 71.1 [Amended]

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

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

* * * * *

AWP CA E5 San Andreas, CA [New]

Calaveras Co-Maury Rasmussen Field Airport, CA
(lat. 36°08′46″ N, long. 120°38′53″ W)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of the Calaveras Co-Maury Rasmussen Filed Airport.

* * * * *

Issued in Los Angeles, California, on April 29, 1996.

George D. Williams,

Manager, Air Traffic Division, Western-Pacific Region

[FR Doc. 96–12089 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority to set forth the current organizational structure of the agency as well as the current addresses for headquarters and field offices. This action is necessary to ensure the continued accuracy of the regulations.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Ellen Rawlings, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: The regulations are being amended in 21 CFR 5.100 and 5.115 to reflect the current organizational structure of the agency and to provide current addresses for headquarters and for field and district offices.

Notice and comment on these amendments are not necessary under the Administrative Procedure Act because this is a rule of agency organization (5 U.S.C. 553(b)).

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR Part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 138a U.S.C. 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354–360F, 361, 362, 1701–1706; 2101–2672 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1–300ff); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591 secs. 312, 313, 314 of the National Childhood Vaccine Act of 1986, Pub. L. 99–660 (42 U.S.C. 300aa–1 note).

2. Section 5.100 is revised to read as follows:

§ 5.100 Headquarters.

The central organization of the Food and Drug Administration consists of the following:

Office of the Commissioner[1]

Immediate Office

Office of the Administrative Law Judge.
Office of Executive Operations.
Office of Equal Employment Opportunity and Civil Rights.
Office of Chief Counsel.
Office of Internal Affairs.

Office of External Affairs.

Office of AIDS and Special Health Issues.
Office of Consumer Affairs.
Office of Health Affairs.
Office of Legislative Affairs.
Office of Public Affairs.
Office of Women's Health.
Office of International Affairs.
Industry and Small Business Liaison Staff.

Office of Management and Systems

Office of Planning and Evaluation.
Office of Management.
Office of Information Resources Management.

Office of Policy

Regulations Policy and Management Staff.
Policy Development and Coordination Staff.
Policy Research Staff.
International Policy Staff.

Office of Operations

Office of Science

Office of Orphan Products Development

National Center for Toxicological Research[2]

Office of the Center Director

Environmental Health and Program Assurance Staff.
Equal Employment Opportunity Staff.
Technology Advancement Staff.

Office of Planning and Resource Management

Planning Staff.
Financial Management Staff.
Evaluation Staff.

Office of Research

Division of Reproductive and Developmental Toxicology.
Division of Genetic Toxicology.
Division of Biochemical Toxicology.
Division of Nutritional Toxicology.
Division of Biometry and Risk Assessment.
Division of Chemistry.
Division of Microbiology.
Division of Neurotoxicology.

Office of Research Support

Veterinary Services Staff.
Information Technology Staff.
Division of Administrative Services.
Division of Facilities Engineering and Maintenance.

Office of Regulatory Affairs

Office of the Associate Commissioner

Equal Employment Opportunity Staff.
Strategic Initiatives Staff.

Office of Resource Management

Division of Planning, Evaluation, and Management.
Division of Information Systems.
Division of Human Resource Development.
Division of Management Operations.

Office of Enforcement

Division of Compliance Management and Operations.
Division of Compliance Policy.
Division of Medical Products Quality Assurance.

Office of Regional Operations

Division of Federal-State Relations.
Division of Field Science.
Division of Emergency and Investigational Operations.
Division of Import Operations and Policy.

Office of Criminal Investigations[3]

Northeast Area Office.[4]
Mid-Atlantic Area Office.[5]
Southeast Area Office.[6]
Midwest Area Office.[7]
Southwest Area Office.[8]
Pacific Area Office.[9]

Center for Biologics Evaluation and Research[10]

Office of the Center Director

Equal Employment Opportunity Staff.
Congressional and Public Affairs Staff.
Scientific Advisors and Consultants Staff.

Office of Communication, Training, and Manufacturers Assistance

Division of Congressional and Public Affairs.

Office of Management

Division of Management Services.
Division of Applied Information Technology.
Division of Planning, Evaluation, and Budget.

Office of Compliance

Division of Case Management.
Division of Regulations and Policy.
Division of Inspections and Surveillance.

Office of Therapeutics Research and Review

Division of Cytokine Biology.
Division of Cellular and Gene Therapies.
Division of Hematologic Products.
Division of Monoclonal Antibodies.
Division of Clinical Trial Design and Analysis.
Division of Application Review and Policy.

Office of Vaccines Research and Review

Division of Allergenic Products and Parasitology.
Division of Bacterial Products.
Division of Viral Products.
Division of Vaccines and Related Products Applications.

[1]Mailing address: 5600 Fishers Lane, Rockville, MD 20857.

[2]Mailing address: Jefferson, AR 72079–9502.

[3]Mailing address: 7500 Standish Pl., rm. 250N, Rockville, MD 20855.

[4]Mailing address: 10 Exchange Pl., 18th Floor, Jersey City, NJ 07302.

[5]Mailing address: 7500 Standish Pl., rm. 250N, Rockville, MD 20855.

[6]Mailing address: 8525 North West 53d Terrace, suite 204, Miami, FL 33166.

[7]Mailing address: 801 Warrenville Rd., suite 500, Lisle, IL 60532.

[8]Mailing address: 10901 West 84th Terrace, suite 201, Lenexa, KS 66214–3338.

[9]Mailing address: 4365 Executive Dr., suite 230, San Diego, CA 92121.

[10]Mailing address: 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448.

Office of Establishment Licensing and Product Surveillance

Division of Product Quality Control.
Division of Veterinary Services.
Division of Biostatistics and Epidemiology.
Division of Establishment Licensing.

Office of Blood Research and Review

Division of Blood Applications.
Division of Transfusion Transmitted Diseases.
Division of Hematology.

Center for Drug Evaluation and Research[11]

Office of the Center Director

Associate Director for Policy.
Regulatory Policy Staff.
Associate Director for Medical Policy.
Division of Drug Marketing, Advertising and Communications.
Executive Operations Staff.
Equal Employment Opportunity Staff.

Office of Management

Division of Management and Budget.
Division of Management Services.
Division of Drug Information Resources.
Division of Information Systems Resources.

Office of Training and Communications

Freedom of Information Staff.
Division of Training and Development.
Division of Communications Management.
Medical Library.

Office of Compliance

Division of Labeling and Nonprescription Drug Compliance.
Division of Prescription Drug Compliance and Surveillance.
Division of Manufacturing and Product Quality.
Division of Scientific Investigations.

Office of Pharmaceutical Science

Office of New Drug Chemistry

Microbiology Team.
Division of New Drug Chemistry I.
Division of New Drug Chemistry II.
Division of New Drug Chemistry III.

Office of Generic Drugs[12]

Division of Chemistry I.
Division of Chemistry II.
Division of Bioequivalence.
Division of Labeling and Program Support.

Office of Clinical Pharmacology and Biopharmaceutics

Pharmacometrics Staff.
Division of Pharmaceutical Evaluation I.
Division of Pharmaceutical Evaluation II.
Division of Pharmaceutical Evaluation III.

Office of Testing and Research

Division of Research and Testing.
Division of Clinical Pharmacology Research.
Division of Drug Analysis.

Office of Review Management

Office of Drug Evaluation I

Division of Neuropharmacological Drug Products.
Division of Oncologic Drug Products.
Division of Cardio-Renal Drug Products.

Office of Drug Evaluation II

Division of Metabolic and Endocrine Drug Products.
Division of Pulmonary Drug Products.

Office of Drug Evaluation III

Division of Gastro-Intestinal and Coagulation Drug Products.
Division of Anesthetic, Critical Care, and Addiction Drug Products.
Division of Medical Imaging and Radiopharmaceutical Drug Products.

Office of Drug Evaluation IV

Division of Anti-Infective Drug Products.
Division of Anti-Viral Drug Products.

Office of Drug Evaluation V

Division of Anti-Inflammatory, Analgesic, and Dental Drug Products.
Division of Dermatologic and Ophthalmologic Drug Products.
Division of Over-The-Counter Drug Evaluation.

Office of Epidemiology and Biostatistics

Quantitative Methods Research Staff.
Division of Pharmacovigilance and Epidemiology.
Division of Biometrics I.
Division of Biometrics II.
Division of Biometrics III.
Division of Biometrics IV.

Center for Devices and Radiological Health[13]

Office of the Center Director

Office of Systems and Management

Division of Planning, Evaluation, and Information Services.
Division of Resource Management.
Division of Computer Services.
Division of Information Resources.

Office of Health and Industry Programs[14]

Office of Compliance[15]

Division of Program Operations.
Division of Bioresearch Monitoring.
Division of Enforcement 1.
Division of Enforcement 2.
Division of Enforcement 3.

Office of Device Evaluation[16]

Division of Cardiovascular, Respiratory and Neurological Devices.
Division of Reproductive, Abdominal, Ear, Nose, and Throat, and Radiological Devices.
Division of General and Restorative Devices.
Division of Clinical Laboratory Devices.[17]
Division of Ophthalmic Devices.
Division of Dental, Infection Control, and General Hospital Devices.

Office of Science and Technology[18]

Division of Mechanics and Materials Science.
Division of Life Sciences.
Division of Physical Sciences.
Division of Electronics and Computer Science.
Division of Management, Information, and Support Services.

Office of Health and Industry Programs[19]

Division of Device User Programs and Systems Analysis.
Division of Small Manufacturers Assistance.
Division of Mammography Quality and Radiation Programs.
Division of Communication Media.

Office of Surveillance and Biometrics[20]

Division of Biostatistics.
Division of Postmarket Surveillance.
Division of Surveillance Systems.

Center for Food Safety and Applied Nutrition[21]

Office of the Center Director

Office of Policy, Planning, and Strategic Initiatives.

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[11]Mailing address: 5600 Fishers Lane, WOC II, rm. 6027, Rockville, MD 20857.

[12]Mailing address: 7500 Standish Pl., rm. 150, Rockville, MD 20855.

[13]Mailing address: 9200 Corporate Blvd., Rockville, MD 20850.

[14]Mailing address: 1350 Piccard Dr., Rockville, MD 20850.

[15]Mailing address: 2094 Gaither Rd., Oak Grove Center, Rockville, MD 20850.

[16]Mailing address: 9200 Corporate Blvd., Rockville, MD 20850.

[17]Mailing address: 2098 Gaither Rd., Rockville, MD 20850.

[18]Mailing address: 12720 Twinbrook Pkwy., Bldg. 1, Rockville, MD 20857.

[19]Mailing address: 1350 Piccard Dr., Rockville, MD 20850.

[20]Mailing address: 1350 Piccard Dr., Rockville, MD 20850.

[21]Mailing address: 200 C St. SW., Washington, DC 20204.

Office of Programs

Office of Cosmetics and Colors

Division of Programs and Enforcement Policy.
Division of Science and Applied Technology.

Office of Food Labeling

Division of Programs and Enforcement Policy.
Division of Technical Evaluation.
Division of Science and Applied Technology.

Office of Pre-Market Approval

Division of Product Policy.
Division of Petition Control.
Division of Health Effects Evaluation.
Division of Molecular Biological Research and Evaluation.
Division of Product Manufacture and Use.

Office of Plant and Dairy Foods and Beverages

Division of Programs and Enforcement Policy.
Division of Microanalytical Evaluations.
Division of Programs and Enforcement Policy.
Division of Virulence Assessment.
Division of Pesticides and Industrial Chemicals.
Division of Natural Products.
Division of Food Processing and Packaging.

Office of Seafood

Division of Special Programs.
Division of Programs and Enforcement Policy.
Division of Science and Applied Technology.

Office of Special Nutritionals

Division of Programs and Enforcement Policy.
Division of Science and Applied Technology.

Office of Special Research Skills

Division of Toxicological Research.
Division of Microbiological Studies.

Office of Systems and Support

Quality Assurance Staff.

Office of Constituent Operations

Consumer Education Staff.
Legislative Activities Staff.
Industry Activities Staff.
International Activities Staff.

Office of Field Programs

Division of Enforcement.
Division of HACCP Programs.
Division of Cooperative Programs.
Division of Field Program Planning and Evaluation.

Office of Management Systems

Division of Information Resources Management.
Division of Planning and Resources Management.

Office of Scientific Analysis and Support

Division of Mathematics.
Division of General Scientific Support.
Division of Market Studies.

Center for Veterinary Medicine[22]

Office of the Center Director

Office of Management

Division of Program and Information Systems.
Division of Program Communications and Administrative Management.

Office of Surveillance and Compliance

Division of Compliance.
Division of Animal Feeds.
Division of Surveillance.
Division of Voluntary Compliance and Hearings Development.

Office of New Animal Drug Evaluation

Division of Biometrics and Production Drugs.
Division of Chemistry.
Division of Therapeutic Drugs for Food Animals.
Division of Therapeutic Drugs for Non-Food Animals.
Division of Toxicology and Environmental Sciences.

Office of Science

Division of Residue Chemistry.
Division of Animal Research.

3. Section 5.115 is revised to read as follows:

§ 5.115 Field Structure.

NORTHEAST REGION

Regional Field Office: 850 Third Ave., Brooklyn, NY 11232.
Northeast Regional Laboratory: 850 Third Ave., Brooklyn, NY 11232.
New York District Office: 850 Third Ave., Brooklyn, NY 11232.
New England District Office: One Montvale Ave., Stoneham, MA 02180.
Buffalo District Office: 599 Delaware Ave., Buffalo, NY 14202.

MID-ATLANTIC REGION

Regional Field Office: 900 U.S. Customhouse, Second and Chestnut Sts., Philadelphia, PA 19106.
Philadelphia District Office: 900 U.S. Customhouse, Second and Chestnut Sts., Philadelphia, PA 19106.
Baltimore District Office: 900 Madison Ave., Baltimore, MD 21201.
Cincinnati District Office: 1141 Central Pkwy., Cincinnati, OH 45202–1097.
New Jersey District Office: Waterview Corporate Center, 10 Waterview Blvd., 3d Floor, Parsippany, NJ 07054.

SOUTHEAST REGION

Regional Field Office: 60 Eighth St. NE., Atlanta, GA 30309.
Southeast Regional Laboratory: 60 Eighth St. NE., Atlanta, GA 30309.
Atlanta District Office: 60 Eighth St. NE., Atlanta, GA 30309.
Nashville District Office: 297 Plus Park Blvd., Nashville, TN 37217.
New Orleans District Office: 4298 Elysian Fields Ave., New Orleans, LA 70122.
Florida District Office: 7200 Lake Ellenor Dr., suite 120, Orlando, FL 32809.
San Juan District Office: 466 Fernandez Juncos Ave., San Juan, PR 00901–3223.

MIDWEST REGION

Regional Field Office: 20 North Michigan Ave., rm. 550, Chicago, IL 60602.
Chicago District Office: 300 South Riverside Plaza, suite 500, South Chicago, IL 60606.
Detroit District Office: 1560 East Jefferson Ave., Detroit, MI 48207.
Minneapolis District Office: 240 Hennepin Ave., Minneapolis, MN 55401.

SOUTHWEST REGION

Regional Field Office: 7920 Elmbrook Dr., suite 102, Dallas, TX 75247–4982.
Dallas District Office: 3032 Bryan St., Dallas, TX 75204.
Denver District Office: Bldg. 20, Denver Federal Center, Sixth and Kipling Sts., P.O. Box 20587, Denver, CO 80255–0087.
Kansas City District Office: 11510 West 80th St., Lenexa, KS 66214–3340.
St. Louis Branch: 808 North Collins Alley, St. Louis, MO 63102.

PACIFIC REGION

Regional Field Office: Oakland Federal Office Bldg., suite 1180–N, 1301 Clay St., Oakland, CA 94512–5217.
San Francisco District Office: 1431 Harbor Bay Pkwy., Alameda, CA 94502–7070.
Los Angeles District Office: 19900 MacArthur Blvd., suite 300, Irvine, CA 92715–2445.
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Dated: May 1, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–12091 Filed 5–13–96; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Parts 600 and 601

[Docket No. 95N–0411]

RIN 0910–AA71

Elimination of Establishment License Application for Specified Biotechnology and Specified Synthetic Biological Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations to eliminate the establishment license application (ELA) requirement for certain biotechnology and synthetic biological products subject to licensing under the Public Health Service Act (PHS Act). This final rule also exempts these biotechnology and synthetic biological products from certain biologics regulations and harmonizes the requirements applicable to these products with those applicable to similar drug products which are approved under the Federal Food, Drug, and Cosmetic Act (the act). This final rule is part of FDA's continuing effort to achieve the objectives of the President's ''Reinventing Government'' initiatives, and it is intended to reduce unnecessary burdens for industry without diminishing public health protection.

EFFECTIVE DATE: May 24, 1996.

FOR FURTHER INFORMATION CONTACT: Sharon A. Carayiannis, Center for Biologics Evaluation and Research (HFM–630), Food and Drug Administration, 1401 Rockville Pike, suite 400S, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of January 29, 1996, FDA proposed to amend the biologics regulations to eliminate the ELA requirement for well-characterized biotechnology products licensed under the PHS Act. In that document, FDA proposed to use the general phrase ''well-characterized biotechnology product,'' to describe products that would be eligible for a single license application so that the regulatory language would accommodate categories of products that might later be considered to be well-characterized as scientific knowledge progresses. FDA requested specific comments on whether a definition of a well-characterized biotechnology product should be included in the regulations and, if so, what the scope of such a definition should be.

The agency noted that technical advances over the last 15 years have greatly increased the ability of manufacturers to control and analyze the manufacture of many biotechnology-derived biological products. After over a decade of experience with these products, the agency has found that it can review the safety, purity, potency, and effectiveness of most well-characterized biotechnology products without requiring submission of a separate ELA. Accordingly, FDA proposed procedures under which CBER would approve most well-characterized biotechnology products by requiring a single biologics license application. FDA noted that the proposed procedures would significantly reduce burdens without reducing the safety or effectiveness of these products.

In the Federal Register of December 8, 1995 (60 FR 63048), the agency first published an interim definition of a well-characterized therapeutic recombinant DNA-derived and monoclonal antibody biotechnology product and announced that, under § 610.2, the Director of CBER was no longer requiring that manufacturers of these products submit samples and protocols to CBER for lot-by-lot release. While the interim definition was intended to be used as a basis for determining which products would be exempted from CBER lot-by-lot release, FDA also used the interim definition to prepare draft guidance on reporting post-approval changes for biotechnology products (as published in the Federal Register of January 29, 1996 (61 FR 2739 at 2748), ''Draft Guidance; Changes to An Approved Application for Well-Characterized Therapeutic Recombinant DNA-Derived and Monoclonal Antibody Biotechnology Products''.)

In addition, FDA held a scientific workshop on December 11 through 13, 1995, to discuss the characterization of therapeutic recombinant DNA-derived and monoclonal antibody products, including whether FDA's interim definition should be changed or expanded to include other categories of products that would be considered well-characterized.

After considering the public comments received on the interim definition, the discussion at the workshop, and the many requests the agency has received for further clarification of the term ''well-characterized,'' FDA has determined that it may not be possible to achieve a sufficiently clear and specific understanding of this term to adequately apprise potential applicants of the applicability of the new procedures. Accordingly, in this final rule, FDA is specifying, in lieu of the term ''well characterized biotechnology product,'' the categories of products to which this final rule will be applicable (see comment Nos. 1 and 6).

FDA intends to evaluate the application of lot-by-lot release for additional products and to announce in the Federal Register a revised determination of which products will be exempted from lot-by-lot release. FDA also plans to issue guidance on the characterization of product categories specified in this rule. FDA anticipates that these documents will replace the notice published in the Federal Register of December 8, 1995 (60 FR 63048).

This final rule is part of FDA's continuing effort to achieve the objectives of the President's ''Reinventing Government'' initiatives. One goal of these initiatives is to harmonize regulations administered by FDA's Center for Biologics Evaluation and Research (CBER) and Center for Drug Evaluation and Research (CDER), to reduce unnecessary burdens for industry without diminishing public health protection.

II. Proposed Rule

In the January 29, 1996, proposed rule, FDA proposed to amend § 601.2(a) and to add a new paragraph (c) to create a licensing scheme for well-characterized biotechnology products that differs from the current licensing scheme for biological products in four fundamental ways. First, an applicant seeking marketing approval for a product that falls within the scope of the rule would submit a single biologics license application to CBER and would be issued a single license. Second, for these products, many of the establishment and product standards set forth in parts 600 through 680 (21 CFR parts 600 through 680) would not be applied. The current good manufacturing practice (CGMP) regulations found at parts 210 and 211 (21 CFR parts 210 and 211), in addition to the information included in a chemistry, manufacturing, and controls (CMC) section of the biologics license application, would constitute the bulk of the applicable establishment standards for these products. Third, in lieu of reviewing an ELA, FDA proposed to evaluate whether establishment standards had been met by reviewing information submitted in the biologics license application and by inspecting the facilities in which the product is manufactured for compliance with applicable requirements, including CGMP's. Fourth, FDA proposed to amend § 600.3(t) to broaden the term

''manufacturer'' as it is used in parts 600 through 680 to include an applicant for a license for a well-characterized biotechnology product who may or may not own the facilities engaged in significant manufacturing steps. This amendment would allow a single license applicant to take responsibility for compliance with the requirements in parts 600 through 680 applicable to manufacturers and would eliminate the requirement that each contract facility engaged in significant manufacturing obtain its own license. Instead, each well-characterized biotechnology product could be covered by a single biologics license application, which lists all manufacturing locations, regardless of how many separate companies are involved in its manufacture. In addition, FDA requested comments on whether the definition of ''manufacturer''in § 600.3(t) should also be expanded to include license applicants for products other than well-characterized biotechnology products.

III. Responses to Letters of Comment

FDA allowed 30 days for comment on the proposal of January 29, 1996. Written comments received in response to the proposal are on file in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FDA received seven comments in response to the proposed rule. The comments, which addressed a number of issues, were received from manufacturers of biotechnology products, a blood establishment, and a biotechnology trade association. Comments received and FDA's responses to the comments are discussed below. All of the comments supported the proposal, although many comments contained suggestions or requests for clarification. All of the letters supported FDA's efforts to achieve the President's ''Reinventing Government'' initiatives and agreed that the proposed changes will contribute to the goal of reducing unnecessary burdens for industry and the agency without diminishing public health protection.

1. Two comments requested that FDA define well-characterized products in the final rule to clearly identify those entities subject to the rule and to allow for public comment and administrative review. However, one of these comments also suggested that FDA publish a companion guidance document, updated as necessary, to provide interpretation of this definition based on current technology and scientific knowledge. Two comments requested that a definition be included in a guideline rather than the regulation so that it can be readily revised as the technology advances. One comment stated that the proposal left uncertainty as to which products would be eligible for the single license application.

In response to comments received, FDA has revised its proposed administrative approach and is specifying, in § 601.2(a) and new paragraph (c), the categories of products subject to the rule. FDA has decided to list the product categories in the regulation in order to minimize uncertainty about which products are eligible for the new procedures.

2. Five comments suggested that products in addition to those identified in FDA's interim definition of a well-characterized therapeutic recombinant deoxyribonucleic acid (DNA) derived and monoclonal antibody biotechnology product could be considered well-characterized and requested that FDA broaden the scope of the proposed rule to include additional product categories. Particular categories suggested by one or more comments include: Proteins, including those isolated from natural sources; products (including vaccines and in vitro diagnostics) made using synthetic peptides, recombinant DNA technology and monoclonal antibody technology; products made using chemical synthesis; DNA plasmid products; highly purified and inactivated vaccines; polysaccharides; and any other biologic product for which the applicant submits data from studies that demonstrate that the manufactured product meets prescribed standards of safety, purity, and potency. One comment suggested that in vitro diagnostic products using biotechnology components should not be treated differently than well-characterized biotechnology drugs. One comment requested that FDA specify that blood, blood components (including plasma and stem cells), and plasma derivatives (where the raw material is human based) are products which should not be included.

FDA agrees that the elimination of the ELA requirement should apply to product categories beyond those originally identified in the agency's interim definition of a well-characterized therapeutic recombinant DNA-derived and monoclonal antibody biotechnology product. FDA is expanding the scope of this final rule to include additional products, based on the technology of the manufacturing process and the proposed use of the products. At this time, FDA has determined that it has sufficient experience in reviewing investigational and product applications to eliminate the ELA requirements for the following categories of products: Therapeutic DNA plasmid products; therapeutic synthetic peptide products of 40 or fewer amino acids; monoclonal antibody products for in vivo use; and therapeutic recombinant DNA-derived products. Methodologies are now available to characterize these products in a much more rigorous fashion, allowing the products to be more clearly evaluated by end product testing. FDA believes that eliminating the submission for the facility and establishment information will not adversely affect the public health.

FDA disagrees that vaccines and in vitro diagnostic (IVD) products should be included within the scope of this rule at this time because these products raise additional concerns in assessing safety, purity, and potency. For vaccines, safety is a critical concern due to the intended use in a healthy population. For IVD products, FDA believes that the product and establishment standards necessary to ensure continued safety, purity, and potency may differ from those applicable to products included in this rule.

FDA agrees that blood and blood components, including plasma, plasma derivatives, and stem cells, are products which should not fall within the scope of this rule. FDA believes that license applications for these and other naturally derived products should continue to include establishment information at this time. FDA believes that a license application that includes detailed information on the facilities and controls may be necessary to assess the continued safety, purity, and potency of these products. Because these products involve complex issues, such as a risk of contamination with infectious agents, their review requires special expertise and adequate time in order to assess the adequacy of controls in place at the facility. In addition, end product testing of naturally derived products may not be sufficient to detect contamination with infectious agents. FDA intends to continue to assess the need to expand the scope of the rule to include additional categories of products as science and technology advance and as the agency gains experience in regulating biological products under this new scheme.

3. One comment suggested that the use of a single biologics application be applied to all biologic products. Another comment suggested that IVD products be eligible for the single license application.

As outlined in the President's November, 1995, National Performance Review, ''Reinventing the Regulation of Drugs Made From Biotechnology,'' FDA will use a standardized, single application form for all biological and drug product approvals, regardless of which Center regulates them. FDA will make the harmonized form available for public comment through a subsequent rulemaking and will develop guidance to assist applicants in completing the new application form when it is available.

4. One comment suggested that FDA develop a guideline delineating the responsibilities of center and field inspection personnel to avoid confusion. One comment suggested that FDA application reviewers participate in facility inspections to provide continuity.

FDA recognizes that close cooperation between center and field is essential to the success of this approach. CBER and the field offices intend to coordinate pre- and post-licensure inspections to provide consistency in program and policy approaches. In addition, FDA plans to develop guidance on facility standards for biotechnology manufacturing facilities to clarify regulatory requirements and FDA policy.

5. One comment requested that companies have the option to submit descriptions of systems design, equipment validation, etc., for FDA review and comment prior to the time of inspection because it would be advantageous to both industry and FDA.

FDA agrees that the submission of facility information, such as systems design, and early dialogue is advantageous to both industry and FDA. Accordingly, the agency intends to continue to review this information, when requested, and provide comments early in the development process, prior to and after the submission of the license application. Companies should contact the Division of Establishment Licensing, CBER, to arrange such reviews.

6. One comment stated that the use of an interim definition of products that would be eligible for single license application under § 601.2(c) creates the possibility that FDA might refuse to file a biologics license application for a product that the applicant believes is well-characterized, even though the application might include sufficient data to demonstrate that the product meets prescribed standards for safety, purity, and potency. Another comment suggested that the determination as to whether a product is well-characterized should be made during the Phase 2 clinical trials or as early in the process as is practical.

As discussed above in the response to comment No. 1 of this document, FDA has decided to clearly identify, by category, those products subject to the rule, and thereby reduce uncertainty as to whether a product falls within the scope of the rule. This clear identification of products should also eliminate the concerns regarding a refusal to file action and the need to provide sufficient data to support an applicant's claim that its product is ''well-characterized.'' Applicants seeking licensure of a product that falls within a category listed in 601.2(c) will not be required to make an initial showing that the product is ''well-characterized'' to use the new procedures. Companies may seek guidance from FDA at any time on the type of application that should be submitted, and FDA encourages early communication.

7. One comment agreed with FDA's proposal to exempt well-characterized products from § 610.62, which sets out requirements for position and prominence of the proper name of the product on the package label. The comment suggested that this labeling change should be voluntary for currently licensed products, that companies should be allowed to phase in changes over a 24 month time period, and that preapproval should not be required.

The comment may have misunderstood the applicability of § 201.10(g) (21 CFR 201.10(g)). Section 201.10(g) applies to biological products licensed under section 351 of the PHS Act, as well as to drugs approved under the act. Accordingly, labels that comply with preexisting requirements should not require revisions to comply with the requirements in this final rule.

8. One comment suggested that manufacturers submitting a biologics license application should be permitted to cross-reference information already supplied in an approved ELA.

FDA agrees that avoiding unnecessary duplication of information in applications is desirable. FDA will permit a biologics license applicant to cross-reference information already submitted in an approved ELA at this time. However, the agency may reassess the viability of this approach in the future. Should the information in the approved ELA become outdated, cross-reference may no longer be appropriate.

9. One comment agreed with FDA's proposed revision of the definition of ''manufacturer'' in § 600.3(t). Three comments requested that FDA apply an expanded definition of ''manufacturer'' to all biologic license applicants and not limit application of this definition exclusively to well-characterized products. One of the comments favoring a broader definition suggested the following language for § 600.3(t): ''Manufacturer'' means any legal person or entity engaged in the manufacture of a product subject to license under the act; ''Manufacturer'' also includes an applicant for a license for a product, or a license holder, who is responsible for assuring that the product and establishment standards are met.

FDA agrees with the comments requesting the broader definition of ''manufacturer'' and is revising § 600.3(t) to include any license applicant who assumes responsibility for compliance with the applicable product and establishment standards in parts 600 through 680. FDA believes that this change will facilitate contract manufacturing arrangements for all biological products by allowing an applicant who does not own all the facilities where significant manufacturing is performed to apply for licensure. The revised § 600.3(t) will define ''manufacturer'' as the term is used in parts 600 through 680. Contract firms engaged in the manufacture, processing, packing, or holding of a biological drug will continue to be subject to applicable CGMP requirements and the amendment to § 600.3(t) will not affect other definitions of ''manufacturer'' contained in other applicable statutes and regulations. FDA intends to revise current guidance on contract manufacturing arrangements for applicants interested in pursuing such arrangements under the new definition.

10. One comment requested that § 610.63, which addresses package label and container label requirements for products manufactured under an arrangement involving two or more establishments, be exempted from applicability to well-characterized biotechnology products because such products would involve a single license holder. The comment suggested that it would be unnecessary to require that the labeling show the names of multiple participating manufacturers.

The agency does not agree that § 610.63 should be exempted from applicability to the products covered in this rule. Divided or shared manufacturing arrangements could still exist between holders of biologics licenses for products subject to this rule if this was an arrangement the companies desired, and in these cases § 610.63 would apply.

However, FDA agrees that it is unnecessary to identify contract

manufacturers on the package label and container label of a biological product subject to this final rule. FDA has applied § 610.63 to require label identification of licensed manufacturers only. As discussed below, FDA intends to consider the need for revisions to § 610.63 in separate rulemaking. FDA also intends to revise the November 25, 1992, Policy Statement Concerning Cooperative Manufacturing Arrangements for Licensed Biological Products to address contract, divided, and shared manufacturing arrangements under the new regulatory scheme.

11. One comment suggested that §§ 610.60, 610.61, 610.63, 610.64, and 610.65 be eliminated for all biologic products and be replaced by labeling requirements described in part 201 (21 CFR part 201), subpart A.

FDA agrees that harmonizing the labeling requirements for biologics and drugs approved under the act, where appropriate, is desirable. It is important to note that biologic products are already subject to most provisions in subpart A of part 201. FDA is considering revising the labeling requirements in §§ 610.60 through 610.65 as part of the agency's comprehensive review and rewrite of the general biologics regulations.

12. One comment stated that § 600.10(a), which describes the requirements for an establishments to designate a ''responsible head,'' should not apply to well-characterized products as currently written.

FDA agrees that § 600.10(a), as currently written, imposes unnecessary burdens for many modern biological manufacturers and has made a commitment to publish a proposed rule to revise this regulation within 9 months of the publication of the President's November, 1995, National Performance Review, ''Reinventing the Regulation of Drugs Made From Biotechnology.'' FDA intends to revise the requirements to allow more flexibility to assign control and oversight responsibility within a company.

13. One comment requested that § 600.22(g), which authorizes inspectors to inspect and copy, as circumstances may require, any records to be kept under to § 600.12, be amended because § 600.12 will not apply to well-characterized biotechnology products under this rule.

The agency believes that it is not necessary to amend § 600.22(g) because the CGMP requirements in parts 210 and 211 that apply to products subject to this rule include recordkeeping requirements and state that records are subject to photocopying as part of an FDA inspection (see § 211.180(b)).

14. One comment requested clarification of § 601.3(b), which describes the information required on the product license form. One comment requested that FDA eliminate the requirement for an establishment license number in the product license application (PLA) for well-characterized products because a contract manufacturing site engaged in multiproduct manufacture for different manufacturers may produce several licensed products. The comment stated that the establishment number would not be meaningful under such circumstances.

FDA believes that it is unnecessary to include an exemption for § 601.3(b)(4) in this rule. Elsewhere in this issue of the Federal Register, FDA is announcing the availability of an interim form, FDA 3439, which contains a section in which all locations performing manufacturing or testing of the product are to be identified. If a location has a license number, that number should be included as part of that identification, as should the location's registration number. If there is no license number for the location, it cannot be included, as is currently the case for a new establishment filing its first PLA and ELA.

15. One comment requested that § 601.22, which permits initial and partial manufacturing of products in short supply at other than a licensed establishment, be amended to include a statement clarifying the relevant referenced regulations when § 601.22 is applied to well-characterized products.

FDA agrees and is making conforming amendments to § 601.22 to specify that persons conducting the initial and partial manufacturing of a product that is subject to this rule shall be subject to all regulations of subchapter F except §§ 601.1 to 601.6, 601.9, 601.10, 601.20, 601.21; 601.30 to 601.33; 610.60 to 610.65, 600.10(b) and (c), 600.11, 600.12, 600.13, 610.11, and 610.53.

16. One comment stated that § 601.45, which requires, for certain products, submission of promotional materials to the agency, should not apply to well-characterized biotechnology products. The comment suggested that the proposed rule under which promotional labeling materials would not have to be submitted for agency consideration within 120 days following marketing approval be applied to well-characterized products. The comment also suggested that submission of advertisements and promotional labeling be regulated under § 314.81(b)(3)(i) (21 CFR 314.81(b)(3)(i)).

The comment may have misunderstood the applicability of § 601.45. Section 601.45 applies solely to biological products subject to subpart E, Accelerated Approval of Biological Products for Serious or Life Threatening Illnesses. For biological products not subject to subpart E, FDA has proposed to revise requirements for submission of advertisements and promotional labeling to CBER to reflect procedures found in § 314.81(b)(3)(i), in the proposal of January 29, 1996 (61 FR 2733 at 2739).

17. One comment requested that § 610.9, which permits manufacturers, under certain conditions, to modify a particular test method or manufacturing process, be exempted from applicability to well-characterized biotechnology products. The comment also suggested that this regulation be eliminated as part of the proposed revisions to § 601.12, published in the Federal Register (61 FR 2739).

FDA disagrees with the comment. The comment may have misunderstood § 610.9. This regulation allows manufacturers the flexibility to modify methods or processes specified in regulations, if the modification can be shown to provide equivalent assurance of safety, purity, potency, and effectiveness. Because this regulation adds flexibility without compromising the safety, purity, potency, or effectiveness of biological products, FDA believes that it should apply to all biological products.

18. One comment suggested that a broad interpretation of § 610.15, which describes the requirements for use of constituent materials, may require development of sophisticated purification methods to reduce the level of ''contaminating'' immunoglobulins to the one part per million level if applied to cell culture products such as monoclonal antibodies. The comment suggested that § 610.15 be amended to be applicable only to vaccine products and products intended to be antigenic.

Section 610.15(b) applies by its terms to cell culture-produced vaccines intended for injection. For guidance on the use of a serum in the medium for production of monoclonal antibodies, consult the Draft ''Points to Consider in the Manufacture and Testing of Monoclonal Antibody Products for Human Use,'' announced in the Federal Register of August 3, 1994 (59 FR 39571).

19. One comment suggested that § 600.81 (the comment references ''§ 601.81,'' but the subject is consistent with § 600.81), which describes the requirements for product distribution reports, is duplicative, provides no

value to the manufacturer or to FDA in ensuring the public health, and should be eliminated. The comment requested that distribution information for well-characterized biotechnology products be regulated under § 314.81(b)(2)(ii).

FDA disagrees with this comment. Section 600.81 differs from § 314.81(b)(2)(ii) in that § 600.81 requires submission of product distribution reports every 6 months; requires information on bulk lot number, fill lot number and label lot number; states that FDA may require more detailed information, as needed; and states that FDA may require, on written notice, submission of reports at times other than those stated in the regulation. FDA believes that the requirements in § 600.81 assist the agency in determining adverse reaction rates for vaccines and other biological products, and are of use in monitoring product safety. It should be noted that § 600.90 permits a licensed manufacturer to apply to FDA for a waiver from any of the requirements of § 600.81.

20. Several comments addressed issues beyond the scope of this rulemaking. Comments included issues related to reporting of errors and accidents (§ 600.14), lot release, methods for evaluating product characteristics, and establishing product specifications.

Revisions to § 600.14 *Reporting of errors* and other biologics regulations are currently under consideration and are outside the scope of this rulemaking. However, FDA will consider all comments received as a part of the agency's comprehensive rewrite of the general biologics regulations.

IV. Summary of Changes for the Final Rule

In response to comments received, FDA is making the following changes in this final rule:

In lieu of the term ''well-characterized biotechnology product,'' FDA is specifying, in § 601.2(a) (21 CFR 601.2(a)) and new paragraph (c), the categories of products to which the rule will be applicable, including therapeutic DNA plasmid products; therapeutic synthetic peptide products of 40 or fewer amino acids; monoclonal antibody products for in vivo use; and therapeutic recombinant DNA-derived products. The definition of manufacturer has been modified to include an applicant for a license for any biological product where the applicant assumes responsibility for compliance with the applicable product and establishment standards. The final rule also sets forth an amendment to 21 CFR 601.22 clarifying that section's applicability to the categories of products specified in new § 601.2(c).

V. Implementation Issues

Any therapeutic DNA plasmid product, therapeutic synthetic peptide product of 40 or fewer amino acids, monoclonal antibody product for in vivo use, and therapeutic recombinant DNA-derived product for which a PLA and an ELA are pending on the effective date of these regulations, will be reviewed as submitted. No new submission will be necessary to implement this rule change for these products. If found acceptable for licensure, FDA will issue a biologics license in lieu of issuing both a product and establishment license.

Applicants already holding an approved ELA and PLA for a product within the scope of this rule will not be required to file supplements to comply with the new requirements. The approved PLA for the product, together with the limited portions of the approved ELA relevant to the new requirements for the biologics license application, will be deemed to constitute an approved biologics license application under the new regulations.

The agency recognizes that there are a variety of contractual arrangements that could be affected by this rule. For example, an innovator company may have contracted with another company to make a product. Under the previous regulatory scheme, a contract manufacturer could hold both the establishment license and the product license. Under the new regulatory scheme, an innovator company may wish to hold the license. FDA anticipates that firms desiring an arrangement where the innovator holds the license could surrender the original licenses to the agency and request reissuance of a new biological license to the innovator under the provisions of this final rule. FDA urges license holders or those wishing to change their licensing arrangements to contact the agency for additional guidance on how this can be accomplished.

VI. Effective Date

The final rule is effective May 24, 1996. As provided under 5 U.S.C. 553(d) and 21 CFR 10.40(c)(4), the effective date of a final rule may not be less than 30 days after publication, except for, among other things, ''a regulation that grants an exemption or relieves a restriction'' (§ 10.40(c)(4)(i)). Because, as described below, this rule will decrease the regulatory burdens for specified biotechnology and synthetic biological products, FDA believes that an immediate effective date is appropriate.

VII. Analysis of Impacts

A. Reduction in Burden

The harmonization of the requirements will reduce burden on industry because companies manufacturing specified biotechnology and synthetic products that are regulated by both CBER and CDER will be able to submit applications for products in a consistent format.

Companies developing and manufacturing products within the scope of this rule will no longer have to prepare an ELA to submit to the agency for approval. The amount of information that applicants will need to provide in a biologics license application will be less than that currently required in a PLA and ELA. These changes will enable companies to devote more resources to ensuring that manufacturing processes are properly validated and fewer resources to submitting documentation to the agency. These changes will especially benefit biotechnology companies that lack experience preparing ELA's and PLA's. According to the biotechnology industry, preparation and submission of an ELA may add substantially to the cost of obtaining approval of a biotechnology product.

The inclusion of parts 210 and 211 in this final rule as establishment standards will not impose any additional burden on industry. Human drugs, including products subject to this rule, are already subject to the CGMP's in parts 210 and 211.

B. Review Under Executive Order 12866 and the Regulatory Flexibility Act

FDA has examined the impact of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impact; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is a significant regulatory action as defined by the Executive Order and is subject to review under the Executive Order because it deals with a novel policy issue.

In accordance with the principles of Executive Order 12866, the overall result of the final rule will be a substantial reduction in burdens on

applicants filing for approval of a product subject to this rule. In addition, FDA anticipates that the final rule will facilitate applicants' ability to improve their licensed products and methods of manufacture by decreasing the burden and cost associated with filing an application.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because, as stated above, the overall result of the final rule will be a substantial reduction of the regulatory and reporting burdens, the agency certifies that the final rule will not have a significant negative economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

C. Review Under the Paperwork Reduction Act of 1995

This final rule contains information collection requirements that were submitted for review and approval to the Director of the Office of Management and Budget (OMB) as required by section 3504(b) of the Paperwork Reduction Act of 1995. As part of this review, FDA provided individuals and organizations an opportunity to comment to OMB on the information collection requirements in the proposed rule. All comments received agreed that FDA's proposal to eliminate the ELA requirements for certain biotechnology products would reduce the burden to industry without diminishing the public health protection. As a result of information provided, FDA has revised the number of estimated applicants yearly from 1 to 15. The estimate for completing the application has not changed, however. This number remains at 40. These information collection requirements were approved and assigned OMB control number OMB No. 0910–0316. The expiration date for this approval is December 31, 1997. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The title, description and respondent description of the information collection are shown below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Elimination of Establishment License Application for Specified Biotechnology and Synthetic Biological Products.

Description: FDA is eliminating the requirement that an ELA be submitted and approved by FDA for specified biotechnology and synthetic biological products that are licensed by CBER. For these products, in place of the ELA, a company would be required to prepare and submit additional information for inclusion in a single biologics license application, which will be the same as the information included in the ''Chemistry, manufacturing, and controls'' (CMC) section of a new drug application. This regulation will harmonize the approval and other regulatory requirements applicable to specified biotechnology and synthetic biological products licensed under the PHS Act and drugs approved under the new drug provisions of the act.

Description of Respondents: All applicants for a biological product license to be approved under the Public Health Service Act.

Estimated Annual Reporting Burden

CFR Section	Number of Respondents	Frequency of Responses	Total Annual Responses	Hours per Response	Total Hours
601.2(c)	15	1	15	40	600

There are no capital costs or operating and maintenance costs associated with this information collection.

Reporting or Disclosure: These estimates are an approximation of the average time expected to be necessary for the collection of information. They are based on such information as is available to FDA.

D. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 600

Biologics, Reporting and recordkeeping requirements.

21 CFR Part 601

Administrative practice and procedure, Biologics, Confidential business information.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 600 and 601 are amended as follows:

PART 600—BIOLOGICAL PRODUCTS: GENERAL

1. The authority citation for 21 CFR part 600 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 519, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 360i, 371, 374); secs. 215, 351, 352, 353, 361, 2125 of the Public Health Service Act (42 U.S.C. 216, 262, 263, 263a, 264, 300aa–25).

2. Section 600.3 is amended by revising paragraph (t) to read as follows:

§ 600.3 Definitions.

* * * * *

(t) *Manufacturer* means any legal person or entity engaged in the manufacture of a product subject to license under the act; ''Manufacturer'' also includes any legal person or entity who is an applicant for a license where the applicant assumes responsibility for compliance with the applicable product and establishment standards.

* * * * *

PART 601—LICENSING

3. The authority citation for 21 CFR part 601 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 513–516, 518–520, 701, 704, 721, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 360c–360f, 360h–360j, 371, 374, 379e, 381); secs. 215, 301, 351, 352 of the Public Health Service Act (42 U.S.C. 216, 241, 262, 263); secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461).

4. Section 601.2 is amended by designating the text of paragraph (a) as introductory text of (a) and by adding a clause at the end of the introductory text, new paragraphs (a)(1) through (a)(4), and (c) to read as follows:

§ 601.2 Applications for establishment, product, and biologics licenses; procedures for filing.

(a) * * * In lieu of the procedures described in this paragraph, applications for the following specified

categories of products shall be handled as set forth in paragraph (c) of this section:

(1) Therapeutic DNA plasmid products;

(2) Therapeutic synthetic peptide products of 40 or fewer amino acids;

(3) Monoclonal antibody products for in vivo use; and

(4) Therapeutic recombinant DNA-derived products.

* * * * *

(c)(1) To obtain marketing approval for a therapeutic DNA plasmid product, therapeutic synthetic peptide product of 40 or fewer amino acids, monoclonal antibody product for in vivo use, or therapeutic recombinant DNA-derived product, an applicant shall submit to the Director, Center for Biologics Evaluation and Research, a biologics license application on a form prescribed by the Director, Center for Biologics Evaluation and Research. For such products, a separate establishment license application shall not be required. An application for a license for such a product shall include:

(i) Data derived from nonclinical laboratory and clinical studies that demonstrate that the manufactured product meets prescribed standards of safety, purity, and potency; with respect to each nonclinical laboratory study, either a statement that the study was conducted in compliance with the requirements set forth in part 58 of this chapter, or,

(ii) If the study was not conducted in compliance with such regulations, a brief statement of the reason for the noncompliance;

(iii) Statements regarding each clinical investigation involving human subjects contained in the application, that it either was conducted in compliance with the requirements for institutional review set forth in part 56 of this chapter or was not subject to such requirements in accordance with §§ 56.104 or 56.105 of this chapter, and was conducted in compliance with requirements for informed consent set forth in part 50 of this chapter;

(iv) A full description of manufacturing methods;

(v) Data establishing stability of the product through the dating period;

(vi) Sample(s) representative of the product to be sold, bartered, or exchanged or offered, sent, carried or brought for sale, barter, or exchange;

(vii) Summaries of results of tests performed on the lot(s) represented by the submitted samples; and

(viii) Specimens of the labels, enclosures, and containers proposed to be used for the product.

(2) An application for license shall not be considered as filed until all pertinent information and data have been received from the applicant by the Center for Biologics Evaluation and Research. The applicant shall also include either a claim for categorical exclusion under § 25.24 of this chapter or an environmental assessment under § 25.31 of this chapter.

(3) Approval of the biologics license application and issuance of the biologics license shall constitute a determination that the establishment and the product meet applicable standards established in this chapter to ensure the continued safety, purity, and potency of such products. Applicable standards for the maintenance of establishments for the manufacture of a product subject to this paragraph (c) shall include the good manufacturing practice requirements set forth in parts 210 and 211 of this chapter. The following sections in parts 600 through 680 of this chapter shall not be applicable to such products: §§ 600.10(b) and (c), 600.11, 600.12, 600.13, 601.1, 601.30, 601.31, 601.32, 610.11, 610.53, and 610.62 of this chapter.

(4) The term ''product license application,'' as it is used in those sections of parts 600 through 680 of this chapter that are applicable to products subject to this paragraph (c) shall include a biologics license application for a therapeutic DNA plasmid product, therapeutic synthetic peptide product of 40 or fewer amino acids, monoclonal antibody product for in vivo use, or therapeutic recombinant DNA-derived product.

(5) To the extent that the requirements in this paragraph (c) conflict with other requirements in this subchapter, this paragraph (c) shall supersede such other requirements.

5. Section 601.22 is amended by adding a sentence after the second sentence to read as follows:

§ 601.22 Products in short supply; initial manufacturing at other than licensed establishment.

* * *For persons and places authorized under this section to conduct the initial and partial manufacturing of a product for shipment solely to a manufacturer of a product subject to licensure under § 601.2(c), the following additional regulations shall not be applicable: §§ 600.10(b) and (c), 600.11, 600.12, 600.13, 610.11, and 610.53 of this chapter * * *.

Dated: May 6, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–12144 Filed 5–10–96; 10:13 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Coast Guard

33 CFR Part 52

[OST Docket No. OST–95–878]

RIN 2105–AC31

Coast Guard Board for Correction of Military Records; Procedural Regulation

AGENCY: Office of the Secretary, Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Department is amending its regulation with respect to reconsideration of final decisions of the Board for Correction of Military Records of the Coast Guard (BCMR). This action is taken on the Department's initiative in order to streamline processing of these cases and to clarify the circumstances under which final decisions can be reconsidered. The amendment will make it possible for the BCMR to expedite the processing of reconsideration requests and it will increase the resources available to meet the requirement that all cases be decided within 10 months of the receipt of a completed application.

EFFECTIVE DATE: June 13, 1996.

FOR FURTHER INFORMATION CONTACT: Robert H. Joost, Chairman, Board for Correction of Military Records of the Coast Guard, C–60, Office of the General Counsel, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590–0001. Telephone: (202) 366–9335.

SUPPLEMENTARY INFORMATION:

Comments on Proposed Rulemaking

Proposed rulemaking was published on pages 63489–63491 of the Federal Register of December 11, 1995 [60 FR 63489], and invited comments for 60 days ending February 9, 1996. Comments were received from the following sources: (1) Eugene R. Fidell, Esq., an attorney in private practice; and (2) Michael J. Calabro, Esq., an attorney in private practice. The comments and the actions taken in response to the comments are summarized below.

Both attorneys expressed concern with respect to the amount of time that

may be consumed in processing a reconsideration request. The BCMR appreciates this concern, but believes that delay, which is a problem in the current reconsideration process, would be significantly reduced under the proposed rule. The proposed rule, by eliminating duplicative review of a reconsideration application, as required by the current § 52.67(c), and by providing for an expedited process in handling facially defective reconsideration requests, will require less time per reconsideration request than the current rule.

One of the commenting attorneys questioned the authority given to the Chairman in proposed § 52.67(b) on the ground that the enabling statute (10 U.S.C. § 1552) requires BCMR decisions to be made by the Secretary acting through a board. That is true, but it is only true with respect to an original decision. Section 1552 of title 10 does not provide for, nor does it prohibit, the reconsideration of original decisions. Reconsideration authority has been added by the BCMR's regulations and its parameters can therefore be determined by those regulations.

Comments were also offered on other aspects of the correction board process for the Coast Guard. One attorney asked that the BCMR's basic time limit regulation be updated, even though that was not a subject addressed in the proposed rule. Both attorneys made suggestions with regard to administrative matters that do not bear on the proposed rule and do not require a rules change to implement: appropriate designations and numbering for docketed reconsideration requests; the formalization and publication of the Secretary's delegate's authority; improvement of the system for indexing and retrieval of redacted Coast Guard BCMR decisions; availability of redacted decisions to all who are interested by bulletin board, CD–ROM, or mailed to subscribers on a mailing list, in return for a reasonable fee. None of these comments bear on the reconsideration regulation that is being considered in this rulemaking process. Therefore, while these matters remain under consideration, they are not addressed at this time.

Final Rule

This final rule explicitly authorizes the Board to consider applications for reconsideration upon a showing that the Board committed legal or factual error in the original determination that could have resulted in a determination other than that made.

This final rule also authorizes the Chairman not to docket applications for reconsideration that do not meet the threshold requirements for reconsideration, i.e., applications that only (1) present evidence or information previously considered by the Board, (2) present new evidence or information that is clearly not material to the result in the case, (3) present new evidence or information that could have been submitted earlier with the exercise of reasonable diligence, or (4) make arguments as to legal or factual error that are clearly not material to the result. The phrase ''otherwise comes to the attention of the Board'' has been deleted, however, as unnecessary.

This final rule also provides that no Board member who considered an applicant's original application for correction would participate in the consideration of that person's application for reconsideration. There will, to the extent practicable, be a related prohibition on the staff member; the person who drafted the original decision would not draft the reconsideration decision. In light of these safeguards, it would not be necessary for the Secretary's designate to approve each denial of a reconsideration request, thus expediting the review process.

Section-by-Section Analysis

Section 52.67, Reconsideration, is rewritten to add the new requirements outlined above, and to simplify the procedure on reconsideration.

Paragraph (a) provides that reconsideration of an application may occur if the applicant meets at least one of two sets of criteria. The first of these, paragraph (a)(1), directs reconsideration if an applicant presents evidence or information that was not previously considered by the Board if that evidence or information could result in a different determination and if it ''could not have been presented to the Board prior to its original determination if the applicant had exercised reasonable diligence.'' The second of these, paragraph (a)(2), directs reconsideration if an applicant presents evidence or information that the Board committed legal or factual error in the original determination that could have resulted in a different result.

Paragraph (b) directs the Chairman to docket a reconsideration request if it meets the requirements of paragraph (a)(1) or (a)(2). If neither of these requirements is met, the Chairman shall not docket the request, and shall return the application to the applicant with a statement that no action is being taken due to a failure to meet the threshold requirements for docketing.

Paragraph (c) provides that the Board shall consider each application for reconsideration that has been docketed under paragraph (b). This paragraph also provides that the final decision on reconsideration shall involve a different Board than the one that initially considered the application.

Paragraph (d) provides that the Board's final action on docketed application for reconsideration shall be the same as if they were original applications for correction.

Paragraph (e) provides that an applicant's request for reconsideration must be filed within two years after the issuance of a final decision, subject to other legal rules such as the Soldier's and Sailor's Civil Relief Act. The two-year statute of limitations parallels the time period allowed by Article 73 of the Uniform Code of Military Justice for petitioning for a new trial after the approval of a court-martial sentence on the grounds of newly discovered evidence or fraud on the court. If the Chairman dockets an applicant's request for reconsideration under paragraph (b), the two-year requirement may be waived if the Board finds that it would be in the interest of justice to consider the request despite its untimeliness.

Regulatory Process Matters

This is not a significant rule under Executive Order 12681 or the Department's Regulatory Policies and Procedures. The costs of a purely procedural change in the Board's rule would be negligible. The rule will not have a significant economic effect on a substantial number of small entities, as defined in the Regulatory Flexibility Act. There are no Federalism factors to warrant the preparation of a Federalism assessment.

List of Subjects in 33 CFR Part 52

Administrative practice and procedure, Archives and records, Military personnel, Military records.

Issued this 8th day of May 1996, at Washington, D.C.

Federico Peña,

Secretary of Transportation.

For the reasons set forth in the preamble, the Office of the Secretary of the U.S. Department of Transportation amends 33 CFR Part 52 as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 is revised to read as follows:

Authority: 10 U.S.C. 1552; 49 U.S.C. 108; Pub. L. 101–225, 103 Stat. 1908, 1914.

2. Section 52.67 is revised to read as follows:

§ 52.67 Reconsideration.

(a) Reconsideration of an application for correction of a military record shall occur if an applicant requests it and the request meets the requirements set forth in paragraph (a)(1) or (a)(2) of this section.

(1) An applicant presents evidence or information that was not previously considered by the Board that could result in a determination other than that originally made. Evidence or information may only be considered if it could not have been presented to the Board prior to its original determination if the applicant had exercised reasonable diligence; or

(2) An applicant presents evidence or information that the Board, or the Secretary as the case may be, committed legal or factual error in the original determination that could have resulted in a determination other than that originally made.

(b) The Chairman shall docket a request for reconsideration of a final decision if it meets the requirements of paragraph (a)(1) or (a)(2) of this section. If neither of these requirements is met, the Chairman shall not docket such request.

(c) The Board shall consider each application for reconsideration that has been docketed. None of the Board members who considered an applicant's original application for correction shall participate in the consideration of that applicant's application for reconsideration.

(d) Action by the Board on a docketed application for reconsideration is subject to § 52.64(b).

(e) An applicant's request for reconsideration must be filed within two years after the issuance of a final decision, except as otherwise required by law. If the Chairman dockets an applicant's request for reconsideration, the two-year requirement may be waived if the Board finds that it would be in the interest of justice to consider the request despite its untimeliness.

[FR Doc. 96–12030 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

33 CFR Part 117

[CGD09–96–003]

RIN 2115–AE47

Drawbridge Operation Regulations; Saginaw River, MI

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule.

SUMMARY: By this direct final rule, the Coast Guard is revising the regulations governing the operations of the CSX (formerly the Chessie System) railroad bridge at mile 18.0 over the Saginaw River in Saginaw, Michigan. The owners have made a request to the Coast Guard to maintain the bridge as a fixed structure with the stipulation and understanding that the bridge may be placed back into operation within six months upon notification of the Coast Guard.

DATES: This rule is effective on August 12, 1996, unless the Coast Guard receives written adverse comments or written notice of intent to submit adverse comments on or before July 15, 1996. If such comments or notice are received, the Coast Guard will withdraw this direct final rule, and a timely notice of withdrawal will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Commander (obr), Ninth Coast Guard District, 1240 E. Ninth St., Cleveland, OH 44199–2060, or may be delivered to room 2083 at the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (216) 522–3993.

The District Commander maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the above address during the same time.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Striffler, Project Manager, at (216) 522–3993.

SUPPLEMENTARY INFORMATION:

Request for Comments

Any comments must identify the name and address of the person submitting the comment, specify the rulemaking docket (CGD09–96–003) and the specific section of this rule to which each comment applies, and give the reason for each specific comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures of which are outlined in 33 CFR 1.05–55, because no adverse comments are anticipated. If no adverse comments or any written notices of intent to submit adverse comment are received within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, approximately 30 days prior to the effective date, the Coast Guard will publish a notice in the Federal Register stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if the Coast Guard receives written adverse comment or written notice of intent to submit adverse comment, the Coast Guard will publish a notice in the final rule section of the Federal Register to announce withdrawal of all or part of this direct final rule. If adverse comments apply to only part of this rule, and it is possible to remove that part without defeating the purpose of this rule, the Coast Guard may adopt as final those parts of this rule on which no adverse comments were received. The part of this rule that was the subject of adverse comment will be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of adverse comments, a separate Notice of Proposed Rulemaking (NPRM) will be published and a new opportunity for comment provided.

A comment is considered ''adverse'' if the comment explains why this rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change.

Background and Purpose

The placement of a movable bridge in a ''fixed status'' means that the bridge is essentially locked in the closed position and all the operating gear removed. This rule will allow the owners (CSX Railroad Corp.) of the CSX (formerly the Chessie System) railroad bridge, at mile 18.0 over the Saginaw River in Saginaw, Michigan, to maintain the bascule bridge in a ''fixed status''. The owners initiated this action due to the absence of any requests to open the bridge for commercial traffic since 1988. Furthermore, the bridge is unattended and subject to high maintenance costs from recurring vandalism. As part of the background for this rulemaking, the Coast Guard requested bridgetender logs for the previous five years, but CSX stated that it did not maintain records for this bridge during the period because no requests for openings were made. The Coast Guard asked for confirmation of the owner's claims from the local Coast Guard Station in Saginaw, Michigan. The Station verified that the bridge had not opened within the experience of the personnel assigned there. The Station also noted that they are not aware of any commercial traffic that has, or will have, a need to pass

through the bridge. Additionally, there are currently no loading or unloading facilities for commercial vessels above the bridge. The Coast Guard queried the Lake Carriers Association (LCA), representatives of Great Lakes commercial shipping companies, to determine what the impact of allowing the bridge to be maintained as a fixed structure may have on current and anticipated commercial marine traffic. The LCA indicated that their members would not be adversely impacted by the conversion of the bridge from a bascule to a fixed span. The owners pointed out that the Grand Trunk and Western railroad bridge, further upriver at mile 19.2, was converted from a movable to a fixed span in previous years and does not impact marine traffic in this area of the river. The CSX bridge has a vertical clearance of 13 feet, which is one foot higher than the Grand Trunk and Western bridge. The Coast Guard has stipulated, and the owners have agreed, to restore this bridge to an operable status within six months of notification by the Coast Guard if there is future commercial marine activity in the area. The Coast Guard concludes that the placement of this bridge in a fixed status would not impact commercial marine interests and does not anticipate any adverse comments to this Direct Final Rule.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that there has been no active commerce upriver from this bridge for many years and this situation is not expected to change in the future. Additionally, no vessel has requested that the bridge be opened since 1988. While there is some recreational marine traffic active above this bridge, the placement of a similar railroad bridge in a fixed status 1.2 miles further upriver has not caused any adverse effects for any business, recreational, or commercial vessel.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) Small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

Therefore, for the reasons discussed above, the Coast Guard finds that this rule will not have a significant economic impact on a substantial number of small entities. Any comments submitted in response to this finding will be evaluated under the criteria described earlier in the preamble for comments.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, 33 CFR part 117 is revised as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section § 117.647 is amended by revising paragraphs (a) and (d) to read as follows:

§ 117.647 Saginaw River.

(a) The draws of the Detroit and Mackinac railroad bridge, mile 2.5 at Bay City, and the Conrail railroad bridge, mile 4.4 at Bay City, shall open on signal; except that, from December 16 through March 15, the draws shall open on signal if at least 12 hours notice is given.

* * * * *

(d) The draw of the CSX railroad bridge, mile 18.0, need not be opened for the passage of vessels. The owner shall return the draw to an operable condition within a reasonable time when directed by the District Commander to do so.

* * * * *

Dated: April 26, 1996.

G.F. Woolever,

Rear Admiral, U.S. Coast Guard Commander, Ninth Coast Guard District.

[FR Doc. 96–11895 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AH99

Medical; VA Health Professional Scholarship Program, Correction

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

SUMMARY: This document corrects a repayment formula for health care professionals who fail to comply with service obligation under the VA Health Professional Scholarship Program.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Meryl Bullard, Health Education Specialist (143), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; Telephone (202) 565–7122. (This is not a toll-free number.)

There is no Catalog of Federal Domestic Assistance number for the program affected by this proposal.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philipines, Reporting

and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: May 7, 1996.

Thomas O. Gessel,

Director, Office of Regulations Management, Department of Veterans Affairs.

Accordingly, 38 CFR part 17 is corrected by making the following correcting amendment:

PART 17—MEDICAL

1. The authority citation for Part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 5705.

2. In § 17.610, the formula portion of paragraph (c) is amended by removing ''A=3O'' and adding, in its place, ''A=3Φ''.

[FR Doc. 96–11971 Filed 5–13–96; 8:45 am]

BILLING CODE 8320–01–P

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38 CFR Part 21

RIN 2900–AH79

Veterans Education: Increase in Rates Payable Under the Montgomery GI Bill—Active Duty, 1995–96

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: By statute, the monthly rates of basic educational assistance payable to veterans and servicemembers under the Montgomery GI Bill—Active Duty must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Active Duty for fiscal year 1996 (October 1, 1995 through September 30, 1996) are changed to show a 2.9% increase in these rates.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration (202) 273–7187.

SUPPLEMENTARY INFORMATION: Under the formula mandated by 38 U.S.C. 3015(g) for fiscal year 1996, the rates of basic educational assistance under the Montgomery GI Bill—Active Duty payable to students pursuing a program of education full time must be increased by the percentage that the total of the monthly Consumer Price Index-W for July 1, 1994, through June 30, 1995, exceeds the total of the monthly Consumer Price Index-W for July 1, 1993, through June 30, 1994. Under this formula, the changes to the regulations governing monthly rates reflect a 2.9% increase.

It should be noted that some veterans will receive an increase in monthly payments that will be less than 2.9%. The increase does not apply to additional amounts payable by the Secretary of Defense to individuals with skills or a specialty in which there is a critical shortage of personnel (so-called ''kickers''). It does not apply to supplemental educational assistance. It also does not apply to amounts payable for dependents. Veterans who previously had eligibility under the Vietnam Era GI Bill receive monthly payments that are in part based upon basic educational assistance and in part based upon the rates payable under the Vietnam Era GI Bill. Only that portion attributable to basic educational assistance is increased by 2.9%.

Although 38 U.S.C. 3015(g) requires only that the full-time rates be increased, these revisions include increases for other training also. Monthly rates payable to veterans in apprenticeship or other on-job training or cooperative training are set by statute at a given percentage of the full-time rate. Hence, any rise in the full-time rate automatically requires an increase in the rates for these types of training.

38 U.S.C. 3015 (a) and (b) require that the Department of Veterans Affairs (VA) pay part-time students at appropriately reduced rates. Since the first student became eligible for assistance under the Montgomery GI Bill—Active Duty in 1985, VA has paid three-quarter-time students and one-half-time students at 75% and 50% of the full-time rate, respectively. Students pursuing a program of education at less than one half but more than one-quarter-time have had their payments limited to 50% or less of the full-time rate. Similarly, students pursuing a program of education at one-quarter-time or less have had their payments limited to 25% or less of the full-time rate. Changes are made consistent with the authority and formula described in this paragraph.

The changes set forth in this final rule are applied retroactively from the effective date of the statutory changes.

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and does not directly affect small entities. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance number for the program affected by this final rule is 64.124.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Entitlement programs—education, Entitlement programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 1, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 21 (subpart K) is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart K—All Volunteer Force Educational Assistance Program (New GI Bill)

1. The authority citation for part 21, subpart K continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30, 36, unless otherwise noted.

2. In § 21.7136, paragraph (b)(3) is amended by removing ''$323.90'' and adding, in its place, ''$333.30'' and by removing ''1994, and before October 1, 1995'' and adding, in its place, ''1995, and before October 1, 1996''; paragraph (c)(3) is amended by removing ''$263.18'' and adding, in its place, ''$270.81'' and by removing ''1994, and before October 1, 1995'' and adding, in its place, ''1995, and before October 1, 1996''; and paragraphs (b)(1), (b)(2), (c)(1), and (c)(2) are revised, to read as follows:

§ 21.7136 Rates of payment of basic educational assistance.

* * * * *

(b) *Rates.* (1) Except as provided in paragraphs (b)(2), (b)(3), and (d) of this section, the monthly rate of basic educational assistance payable for training that occurs after September 30,

1995, and before October 1, 1996, to a veteran whose service is described in paragraph (a) of this section is the rate stated in the following table.

Training	Monthly rate
Full time	$416.62
¾ time	312.46
½ time	208.31
Less than ½ but more than ¼ time	208.31
¼ time or less	104.15

(Authority: 38 U.S.C. 3015)

(2) If a veteran's service is described in paragraph (a) of this section, the monthly rate payable to the veteran for pursuit of an apprenticeship or other on-job training that occurs after September 30, 1995, and before October 1, 1996, is the rate stated in the following table.

Training period	Monthly rate
First six months of pursuit of program	$312.46
Second six months of pursuit of program	229.14
Remaining pursuit of program	145.82

(Authority: 38 U.S.C. 3015, 3032(c))

* * * * *

(c) * * *

(1) Except as provided in paragraphs (c)(2), (c)(3), and (d) of this section, the monthly rate of basic educational assistance payable to a veteran for training that occurs after September 30, 1995, and before October 1, 1996, is the rate stated in the following table.

Training	Monthly rate
Full time	$338.51
¾ time	253.88
½ time	169.25
Less than ½ but more than ¼ time	169.25
¼ time or less	84.62

(Authority: 38 U.S.C. 3015, 3032(c))

(2) The monthly rate of educational assistance payable to a veteran for pursuit of an apprenticeship or other on-job training that occurs after September 30, 1995, and before October 1, 1996, is the rate stated in the following table.

Training period	Monthly rate
First six months of pursuit of program	$253.88
Second six months of pursuit of program	186.18
Remaining pursuit of program	118.48

(Authority: 38 U.S.C. 3015, 3032(c))

* * * * *

3. In § 21.7137, paragraph (c)(2) introductory text is amended by removing ''1994, and before October 1, 1995'' and adding, in its place, ''1995, and before October 1, 1996''; paragraph (c)(2)(i) is amended by removing ''$592.88'' and adding, in its place, ''$604.62''; paragraph (c)(2)(ii) is amended by removing ''$445.16'' and adding, in its place, ''$453.96''; paragraph (c)(2)(iii) is amended by removing ''$296.44'' and adding, in its place, ''$302.31''; paragraph (c)(2)(iv) is amended by removing ''$148.22'' and adding, in its place, ''$151.15''; and paragraphs (a)(1) and (a)(2) are revised, to read as follows:

§ 21.7137 Rates of payment of basic educational assistance for individuals with remaining entitlement under 38 U.S.C. ch. 34.

(a) *Minimum rates.* * * *

(1) Except as provided in paragraphs (a)(2), (b), and (c) of this section, the monthly rate of basic educational assistance for training that occurs after September 30, 1995, and before October 1, 1996, is the rate stated in the following table.

Training	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
Full time	$604.62	$640.62	$671.62	$16.00
3/4 time	453.96	480.46	503.96	12.00
1/2 time	302.31	320.31	335.81	8.50
Less than 1/2 but more than 1/4 time	302.31			
1/4 time	151.15			
Cooperative	454.90	475.30	494.90	9.20

(Authority: 38 U.S.C. 3015(c), (f), (g))

(2) For veterans pursuing an apprenticeship or other on-job training, the monthly rate of basic educational assistance for training that occurs after September 30, 1995, and before October 1, 1996, is the rate stated in the following table.

Training period	Monthly rate			
	No dependents	One dependent	Two dependents	Additional for each additional dependent
1st 6 months of pursuit of program	$415.21	$427.59	$438.46	$5.25
2nd 6 months of pursuit of program	285.52	294.87	302.57	3.85
3rd 6 months of pursuit of program	169.62	175.74	180.47	2.45
Remaining pursuit of program	157.72	163.49	168.74	2.45

(Authority: 38 U.S.C. 3015(d), (f), (g))

* * * * *

[FR Doc. 96–11970 Filed 5–13–96; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE26–1–6940; FRL–5503–6]

Approval and Promulgation of Air Quality Implementation Plans; Delaware: Amendment of Final Rule Pertaining to Regulation 24—Control of Volatile Organic Compound Emissions, Section 47—Offset Lithographic Printing; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction to Amendment of direct final rule.

SUMMARY: This document contains corrections to an amendment of a direct final rule, which was published on Tuesday, March 26, 1996 (61 FR 13101) (96–7063). This amendment pertains to Delaware Regulation 24, Control of Volatile Organic Compound Emissions, section 47, Offset Lithographic Printing.

EFFECTIVE DATE: March 26, 1996.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 597–3164.

SUPPLEMENTARY INFORMATION:

Background

On January 26, 1996, EPA published a Direct Final Rule approving a State Implementation Plan (SIP) revision submitted by Delaware (61 FR 2419) pertaining to Delaware Regulation 24, Control of Volatile Organic Compound Emissions, sections 10, 11, 12, 44, 45, 47, 48, and 49, and Appendices I, K, L, and M, effective November 29, 1994. These sections of Regulation 24 establish additional emission standards that represent the application of reasonably available control technology (RACT) to categories of stationary sources of volatile organic compounds (VOCs). Because EPA received adverse comments on section 47, Offset Lithographic Printing, EPA published an amendment of the direct final rule on March 26, 1996 (61 FR 13101), withdrawing section 47 only.

Need for Correction

As published, the amendment of the direct final rule contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, at 61 FR 13101, Mar. 26, 1996 the publication of the amendment, is corrected to read as follows: The heading ''§ 54.420 [Amended]'' is corrected to read ''§ 52.420 [Amended]''. In amendatory instruction 2 the reference to ''§ 54.420(c)(54)(i)(B)'' is corrected to read ''§ 52.420(c)(54)(i)(B)''.

Dated: May 1, 1996.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 96–11855 Filed 5–13–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[CT23–1–7084; FRL–5443–5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is responding to an adverse comment concerning EPA's proposal to redesignate Hartford, Connecticut as attainment for carbon monoxide. EPA is not changing its action to redesignate the area as attainment that took effect on January 2, 1996. EPA is also correcting an incorrect entry in the attainment status tables associated with this action.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Wing H. Chau, Air Quality Planning Unit, Office of Ecosystem Protection, United States Environmental Protection Agency, Region I, Boston, Massachusetts 02203, (617) 565–3570.

SUPPLEMENTARY INFORMATION: On October 31, 1995, EPA published a direct final rule (60 FR 55316) which announced that this rule would take effect in 60 days, or January 2, 1996, unless EPA received adverse comment on the rule within 30 days in response to a notice of proposed rulemaking published on the same day (60 FR 55354). EPA also committed to withdraw the direct final rule in the event it received adverse comment, and to respond to any adverse comments in a subsequent final rulemaking action. EPA did receive a timely adverse comment on this rule. EPA failed, however, to withdraw the final rule within the 60 days given in the direct final rule, and the rule took effect on January 2, 1996.

In this notice, EPA is responding to the comment it received, but for the reasons stated below, EPA is not changing the final rule in response to that comment. Had EPA withdrawn the direct final rule prior to its going into effect, EPA would have taken final action based on the proposal to promulgate a rule identical to the direct final rule that went into effect. Rather than now take the action of withdrawing the direct final rule only to repromulgate simultaneously an identical rule, however, EPA in this action is deciding to maintain the rule unchanged. EPA believes that withdrawal and repromulgation are unnecessary since the results would be identical to that obtained simply by leaving the rule unchanged and responding to the comments in this notice. This notice provides interested parties an opportunity to review how EPA addressed the comment and to petition for judicial review of EPA's action in this final rulemaking within 60 days of publication of this notice, as provided in section 307(b)(1) of the Act.

Also, in the October 31, 1995 direct final rulemaking, the revised Code of Federal Regulations (CFR) § 81.307 designation table for carbon monoxide identified a number of towns in the Litchfield, Middlesex, and Tolland Counties as ''Nonattainment * * * Moderate ≤12.7 ppm''. The table should have shown these areas as attainment areas for CO. The revised § 81.307 designation table associated with this final rulemaking reflects the appropriate attainment status of the towns mentioned above. The USEPA regrets any inconvenience these errors may have caused.

I. Summary of Action and Responses to Comments

EPA did receive one comment from the New York Mercantile Exchange (NYMEX), dated November 29, 1995. NYMEX is the world's largest exchange of energy futures, and NYMEX is concerned that the redesignation of the Hartford area might affect gasoline formulation requirements and disrupt futures contracts entered into based on gasoline formulation requirements in effect prior to the redesignation. The comment questioned whether EPA had offered interested persons any meaningful opportunity to comment on this proposal, and asserted that EPA should have provided ''far more than the limited period of notice afforded in these redesignation approvals'' to avoid disruption in the petroleum industry and energy futures markets when changing environmental requirements.

As a legal matter, this SIP action is subject to the procedures of the Administrative Procedures Act (''APA'')

for informal rulemaking. 5 U.S.C. § 553; *General Motors Corp.* v. *U.S.,* 110 S. Ct. 2528, 2533 (1990). It is well-settled that the APA ''established the maximum procedural requirements which Congress was willing to have the courts impose upon agencies in conducting rulemaking procedures.'' *Vermont Yankee Nuclear Power* v. *NRDC,* 435 U.S. 519, 524 (1978). In this action EPA published a notice of proposed rulemaking to redesignate the Hartford area as attainment for carbon monoxide, and gave the public thirty days to comment on that proposal. 60 FR 55354 (October 31, 1995). In a simultaneous final rule EPA informed the public that if no comment had been received within thirty days of the accompanying proposal, the redesignation would take effect within sixty days of the final rule. 60 FR 55316 (October 31, 1995). EPA provided the public thirty days to comment, which is an adequate period for public review. Indeed, NYMEX availed itself of that opportunity to comment. Although it is unclear from the comment letter, NYMEX may have been complaining that EPA should delay the effective date this rule for more than thirty days following this final notice. The APA is clear that EPA must only wait thirty days to make a rule effective. 5 U.S.C. § 553(d). EPA has fully discharged its legal obligation to provide the public adequate notice of this action.

As a factual matter, the state of Connecticut had been developing this redesignation proposal for much longer than thirty days. The state published a notice concerning the redesignation on July 15, 1994, held a public hearing on August 17, 1994 and submitted it to EPA on September 30, 1994, fully 13 months before EPA published its notice proposing to approve the state's request for redesignation. NYMEX and its clients had ample opportunity to anticipate this change as a practical matter. NYMEX's comment suggests that its gasoline futures contracts trade ten months in advance. It would not be practical for EPA to give ten months' notice on all such SIP actions, nor is it legally required. For industries that are sensitive to changes in SIP requirements and need substantial lead-time to anticipate them, EPA encourages them to monitor SIP developments at the state level.

II. Final Rulemaking Action

The USEPA maintains the approvals associated with the October 31, 1995 direct final rulemaking (60 FR 55316) which included the redesignation of the Hartford/New Britain/Middletown CO area to attainment, Connecticut's 1990 base year CO emission inventory, and Connecticut's oxygenated fuel program as it applies to the Hartford/Britain/Middletown area.

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

The CO SIP is designed to satisfy the requirements of part D of the CAA and to provide for attainment and maintenance of the CO NAAQS. This final redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the CO emission limitations and restrictions contained in the approved CO SIP. Changes to CO SIP regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of non-implementation (section 179(a) of the CAA) and in a SIP deficiency call made pursuant to sections 110(a)(2)(H) and 110(k)(2) of the CAA.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not impose any new requirements, it does not have any economic impact on any small entities. Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities.

Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Accordingly, I certify that the approval of the redesignation request will not have an impact on any small entities.

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 25, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 175A and section 187(a)(1) of the Clean Air Act. The rules and commitments approved in this action may bind State, local and tribal governments to perform certain actions and also may ultimately lead to the private sector being required to certain duties. To the extent that the imposition of any mandate upon the State, local or tribal governments either as the owner or operator of a source or as mandate upon the private sector, EPA's action will impose no new requirements under State law; such sources are already subject to these requirements under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, results from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Opportunity for Judicial Review

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: February 29, 1996.

John P. DeVillars,

Regional Administrator, Region I.

Title 40 of the Code of Federal Regulations, Chapter I, Part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Section 107 Attainment Status Designations

2. In § 81.307 by revising the table for ''Connecticut—CarbonMonoxide'' to read as follows:

§ 81.307 Connecticut.

* * * * *

CONNECTICUT—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Hartford-New Britain-Middletown Area:				
Hartford County (part)	1/2/96		1/2/96	
Bristol City, Burlington Town, Avon Town, Bloomfield Town, Canton Town, E. Granby Town, E. Hartford Town, E. Windsor Town, Enfield Town, Farmington Town, Glastonbury Town, Granby Town, Hartford City, Manchester Town, Marlborough Town, Newington Town, Rocky Hill Town, Simsbury Town, S. Windsor Town, Suffield Town, W. Hartford Town, Wethersfield Town, Windsor Town, Windsor Locks Town, Berlin Town, New Britain city, Plainville Town, and Southington Town.		Attainment		
Litchfield County (part):				
Plymouth Town				
Middlesex County (part):				
Cromwell Town, Durham Town, E. Hampton Town, Haddam Town, Middlefield Town, Middleton city, Portland Town, E. Haddam Town.		Attainment.		
Tolland County (part):		Attainment.		
Andover Town, Boton Town, Ellington Town, Hebron Town, Somers Town, Tolland Town, and Vernon Town				
New Haven—Meriden—Waterbury Area:				
Fairfield County (part):				
Shelton City		Attainment.		
Litchfield County (part):				
Bethlehem Town, Thomaston Town, Watertown, Woodbury Town		Attainment.		
New Haven County:				
New York—N. New Jersey—Long Island Area:				
Fairfield County (part):				
All cities and townships except Shelton City		Nonattainment.		Not classified
Litchfield County (part):		Nonattainment.		Not classified
Bridgewater Town, New Milford Town				Not classified
		Nonattainment.		Moderate > 12.7 ppm
		Nonattainment.		Moderate > 12.7 ppm
		Nonattainment.		
AQCR 041 Eastern Connecticut Intrastate:				
		Unclassifiable/Attainment.		
Middlesex County (part):				
All portions except cities and towns in Hartford Area.				
New London County:				
Tolland County (part):				
All portions except cities and towns in Hartford Area.				
Windham County:				
AQCR 044 Northwestern Connecticut Intrastate:				
		Unclassifiable/Attainment.		

CONNECTICUT—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Hartford County (part): Hartland Township Litchfield County (part): All portions except cities and towns in Hartford, New Haven, and New York Areas.				

[1] This date is November 15, 1990, unless otherwise noted.

[FR Doc. 96–11963 Filed 5–13–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 81

[SD001–0001; FRL–5502–1]

Technical Amendment to Attainment Status Designation for PM–10; South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendment.

SUMMARY: On February 6, 1996, EPA published a direct final rule amending the attainment status designation for the ''Rest of State'' area in South Dakota (excluding Rapid City) from unclassifiable to attainment for PM–10 (see 61 FR 4357). As stated in that Federal Register document, if adverse or critical comments were received by March 7, 1996, the effective date would be delayed and notice would be published in the Federal Register. EPA subsequently received adverse comments on that direct final rule. However, EPA mistakenly did not withdraw the direct final rule in time before it became effective on April 8, 1996. Therefore, EPA is amending the South Dakota's PM–10 attainment status designation table to reflect the unclassifiable PM–10 designation for the ''Rest of State'' area which existed previous to the direct final rulemaking published on February 6, 1996. EPA will address the comments received in a subsequent final action in the near future. EPA will not institute a second comment period on this document.

EFFECTIVE DATE: This amendment becomes effective on May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, 8P2–A, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, (303) 312–6445.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the final rules section of the February 6, 1996 Federal Register, and in the short informational document located in the proposed rule section of the February 6, 1996 Federal Register.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: April 26, 1996.

Jack W. McGraw,

Acting Regional Administrator.

40 CFR part 81, subpart B, is amended as follows:

PART 81—[AMENDED]

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 81.342 is amended by revising the table for ''South Dakota—PM–10'' to read as follows:

§ 81.342 South Dakota.

* * * * *

SOUTH DAKOTA—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
Rapid City Area	11/15/90	Unclassifiable		
Rest of State[1]	11/15/90	Unclassifiable		

[1] Denotes a single area designation for PSD baseline area purposes.

[FR Doc. 96–11945 Filed 5–13–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 421

Nonferrous Metals Manufacturing Point Source Category

CFR Correction

In title 40 of the Code of Federal Regulations, parts 400 to 424, revised as of July 1, 1995, page 468, the first § 421.35 is removed.

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 94–76; 94–77; RM–8470; RM–8477; RM–8523; RM–8524]

Radio Broadcasting Services; Chester, Shasta Lake City, Alturas, McCloud, Weaverville and Central Valley, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants allotment proposals in the above-captioned, interrelated proceedings at Chester, Shasta Lake City, Alturas, McCloud and Weaverville, CA, in response to petitions for rule making filed by m. JAYNE sawyer (''sawyer'') (MM Docket No. 94–76; RM–8477), and Mark C. Allen (''Allen'') (MM Docket No. 94–77; RM–8470), as well as mutually-exclusive counterproposals filed by Goldrush Broadcasting (''Goldrush'') and by Corey J. McCaslin (''McCaslin''), as set forth *infra* (see Supplementary Information). *See* 59 FR 36735, and 59 FR 36736, published July 19, 1994. With this action, the proceeding is terminated.

DATES: Effective June 17, 1996. The window period for filing applications will open on June 17, 1996, and close on July 18, 1996.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* involving two consolidated, interrelated proceedings consisting of MM Docket No. 94–76 and MM Docket No. 94–77, adopted April 23, 1996, and released May 3, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

The Commission, at the request of Goldrush allots Channel 259A to Chester, California, in lieu of Channel 296A, as requested by sawyer, as that community's second local FM service (MM Docket No. 94–76; RM–8477; RM–8523). In response to Goldrush's request, Channel 296C3 is allotted to Shasta Lake City, California, in lieu of Channel 276A, as requested by Allen. Also, in response to Goldrush's request, Channel 297C is allotted to Alturas, California, as that community's third local FM service, and Channel 238C3 is allotted to McCloud, California, as that community's first local commercial FM service (MM Docket No. 94–77; RM–8470; RM–8523). Additionally, in response to the counterproposal filed by Corey J. McCaslin, Channel 276C2 is allotted to Weaverville, California, as that community's first local FM service (MM Docket No. 94–77; RM–8470; RM–8524). Coordinates for Channel 259A at Chester, California, are 40–20–00 and 121–15–13; coordinates for Channel 296C3 at Shasta Lake City, California, are 40–43–58 and 122–21–59; coordinates for Channel 297C at Alturas, California, are 41–29–34 and 120–31–37; coordinates for Channel 238C3 at McCloud, California, are 41–15–18 and 122–08–24; and coordinates for Channel 276C2 at Weaverville, California, are 40–49–32 and 122–55–21. Additionally, as indicated in the *Notice* in MM Docket No. 94–77, 9 FCC Rcd 3318 (1994), we are also making an editorial amendment herein to the FM Table of Allotments to reflect that Channel 257C3 is deleted at Central Valley, California, and allotted at Shasta Lake City as a result of the former community's dissolution and incorporation into Shasta Lake City, pursuant to Resolution No. 93–02 of the Shasta County Local Agency Formation Commission.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 297C at Alturas;

3. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 259A at Chester;

4. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Central Valley, Channel 257C3;

5. Section 73.202(b), the Table of FM Allotments under California, is amended by adding McCloud, Channel 238C3;

6. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Shasta Lake City, Channel 257C3;

7. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 296C3 at Shasta Lake City;

8. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Weaverville, Channel 276C2.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 96–11814 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–135; RM–8681]

Radio Broadcasting Services; Honor, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 264A to Honor, Michigan, in response to a petition filed by Jacqueline F. Bourgard. *See* 60 FR 45390, August 31, 1995. The coordinates for Channel 264A at Honor are 44–41–26 and 86–01–05. There is a site restriction 3 kilometers (1.8 miles) north of the community. Canadian concurrence has been obtained for this allotment. With this action, this proceeding is terminated.

DATES: Effective June 20, 1996. The window period for filing applications will open on June 20, 1996, and close on July 5, 1996.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* MM Docket No. 95–135, adopted April 24, 1996, and released May 6, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by adding Honor, Channel 264A.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 96–12045 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–180; RM–8730]

Radio Broadcasting Services; Ingalls, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Dana J. Puopolo, allots Channel 242C1 to Ingalls, Kansas, as the community's second local aural transmission service. *See* 61 FR 2469, January 26, 1996. Channel 242C1 can be allotted to Ingalls, Kansas, in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 242C1 at Ingalls are 37–49–48 and 100–27–06. With this action, this proceeding is terminated.

DATES: Effective June 21, 1996. The window period for filing applications will open on June 21, 1996, and close on July 22, 1996.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 95–180, adopted April 24, 1996, and released May 7, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Channel 242C1 at Ingalls.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 96–12043 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 91–58, RM–7419, RM–7797, RM–7798]

Radio Broadcasting Services; Caldwell, College Station and Gause, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document denies a Petition for Reconsideration filed by Roy E. Henderson directed to the *Report and Order* in this proceeding. *See* 60 FR 52914, published October 11, 1995. With this action, the proceeding is terminated.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 91–58, adopted April 26, 1996, and released May 9, 1996. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–12047 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

Petroleum Products and Low-Stress Pipelines

AGENCY: Research and Special Programs Administration, (RSPA), DOT.

ACTION: Interpretation and partial stay of enforcement of regulation.

SUMMARY: This document interprets the definition of ''petroleum product'' under RSPA's safety regulations for hazardous liquid [1] pipelines. The definition has been applied to petrochemical products that the regulations were not intended to cover. The interpretation should reduce confusion in deciding which low-stress pipelines [2] are subject to the regulations.

In addition, this document stays enforcement of the regulations against low-stress pipelines regulated by the U.S. Coast Guard, and against certain short low-stress pipelines that serve plants and transportation terminals. Application of the regulations to these lines would cause undue burdens for industry and government. The stay should ease difficulties in applying the regulations to low-stress pipelines.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow, (202) 366–4559.

SUPPLEMENTARY INFORMATION:

Background

In response to a Congressional directive,[3] RSPA extended its hazardous liquid pipeline safety regulations (49 CFR Part 195) to cover certain low-stress pipelines other than rural gathering lines and gravity-powered lines (59 FR 35465; July 12, 1994). That rulemaking action affected low-stress pipelines that transport highly volatile liquids, low-stress pipelines that are located onshore in non-rural areas, and low-stress pipelines that are located offshore or in waterways that are navigable in fact and currently used for commercial navigation (§ 195.1(b)(3)).

Transfer lines comprised the largest proportion of low-stress pipelines brought under Part 195 (about two-thirds of the pipelines and one-third of the mileage). The remainder included trunk lines and non-rural gathering lines. Transfer lines are used to transport hazardous liquid locally between facilities such as transportation terminals, manufacturing plants, petrochemical plants, and oil refineries, or to connect these facilities to associated storage or long-distance pipeline transportation. Because the rulemaking action affected the current operating practices of many companies unfamiliar with Part 195, we allowed operators to delay compliance of

[1] ''Hazardous liquid'' means petroleum, petroleum products, or anhydrous ammonia. (§ 195.2)

[2] Low-stress pipeline means a hazardous liquid pipeline that is operated in its entirety at a stress level of 20 percent or less of the specified minimum yield strength of the line pipe. (§ 195.2)

[3] The Secretary of Transportation may not provide an exception from regulation for a hazardous liquid pipeline facility only because the facility operates at low internal stress. (49 U.S.C. § 60102(k))

existing low-stress pipelines until July 12, 1996 (§ 195.1(c)).

Meaning of Petroleum Product

The impact of the rulemaking action intensified last fall, particularly for petrochemical companies, when RSPA interpreted the definition of ''petroleum product.'' Part 195 defines ''petroleum product'' as ''flammable, toxic, or corrosive products obtained from distilling and processing of crude oil, unfinished oils, natural gas liquids, blend stocks and other miscellaneous hydrocarbon compounds''[4] (§ 195.2). The Hoechst Celanese Corporation had asked us whether two of its products come under this definition. Focusing on the ''miscellaneous hydrocarbon compounds'' aspect of the definition, we said the products, ethylene glycol and formic acid, were petroleum products because they are, respectively, flammable and toxic, and are produced by processing hydrocarbon compounds. Upon further consideration, however, we now believe that interpretation was too broad in light of the historical context of Part 195.

Since its inception, Part 195 has applied to petroleum products transported in liquid form by pipeline (34 FR 15473; Oct. 4, 1969). Only recently, while trying to clarify Part 195 requirements and reduce the burden of government regulation, did we adopt the present definition of petroleum product (59 FR 33395; June 28, 1994). Previously, both RSPA and the hazardous liquid pipeline transportation industry identified petroleum products as hydrocarbon compounds derived from processing natural gas or petroleum. This processing typically occurs at oil refineries, gas processing plants, and gasoline plants.[5]

Petroleum products include butane, propane, gasoline, heating oil, aviation fuel, kerosine, and diesel fuel. Also included are hydrocarbon feedstocks, such as ethylene and propylene, that are the basis of hundreds of petrochemical products, including paints, plastics, synthetic fibers, and fertilizers. Prior to the definition, we did not consider the intermediate and finished products manufactured at petrochemical plants by further processing hydrocarbon feedstocks to be petroleum products. These petrochemical products are characterized by the addition of chemicals, such as chlorine, nitrogen, or oxygen, to the hydrocarbon feedstocks.

In adopting the definition of petroleum product, we did not seek to expand this prior understanding of the term, only to clarify it.[6] For this reason, the definition of petroleum product must be applied consistent with its regulatory background. Thus, petrochemical products that are made by chemical means using petroleum products as a raw material do not come under the definition. Ethylene glycol, which is used in car antifreeze and other finished products, is an example of a petrochemical product that does not come under the Part 195 regulations.

Stay of Enforcement of 49 CFR Part 195 Against Certain Low-stress Pipelines

As mentioned above, Part 195 applies to certain low-stress pipelines used to transfer hazardous liquids locally. These transfer lines link long-distance pipelines and truck, rail, and vessel transportation terminals with various industrial plants, including manufacturing plants, petrochemical plants, and oil refineries. Many of the lines interconnect the plants themselves. These local transfer lines are generally short, averaging about a mile in length. They are usually operated in association with transfer piping on the grounds of the plants and terminals. Some transfer lines that serve industrial plants or terminals may be operated by long-distance pipeline operators.

Transfer lines or segments of lines on the grounds of industrial plants and transportation terminals generally are excepted from Part 195 (§ 195.1(b) (6) and (7)).[7] However, this excepted piping is subject to Occupational Safety and Health Administration (OSHA) safety standards, including, when 10,000 pounds or more of flammable liquid are involved, the Process Safety Management regulations (29 CFR 1910.119) issued under the Clean Air Act Amendments of 1990. These regulations are designed to reduce the risk of fires and explosions caused by the escape of hazardous chemicals from facility processes. In addition, transfer lines between vessels and marine transportation-related facilities are subject to safety requirements of the U.S. Coast Guard (33 CFR Parts 154 and 156). These requirements apply to transfer lines from the dock loading arm or manifold up to the first valve after the line enters the Spill Prevention Control and Countermeasure (SPCC) containment or secondary containment if the facilities are not protected by SPCC plans.

RSPA is concerned that the impending imposition of the Part 195 regime on a multitude of short hazardous liquid transfer lines throughout the U.S. and Puerto Rico may create difficulties for both industry and government that are not counterbalanced by a reduction in risk. A significant difficulty for many operators of transfer lines is that the lines may be designed and operated according to standards and specifications that differ from Part 195 requirements. Some time and expense would be necessary for operating personnel to become familiar with Part 195 and the companion drug and alcohol rules in 49 CFR Part 199.

Another difficulty for industry is the separate federal regulatory regimes over transfer piping. Part 195 generally does not displace OSHA regulations over on-grounds transfer piping. So most plants and terminals would have to comply with OSHA's Process Safety Management regulations for some transfers and Part 195 for others.[8] For transfers between vessels and marine transportation-related facilities, the Coast Guard safety regulations would apply as well. Application of Part 195 to these marine terminal transfer lines duplicates agency efforts within DOT and creates uncertainty in the industry as to which DOT regulations apply to particular facilities. The upshot of these separate regulatory regimes of RSPA, OSHA, and the Coast Guard is that differing safety rules and enforcement policies could confuse operating personnel and increase administrative costs through separate operating plans and recordkeeping.

Carrying out adequate government inspections presents a further difficulty. The task of finding and educating the many new operators coming under Part 195 because of low-stress pipelines is

[4] Hydrocarbon compounds are chemical compounds composed solely of hydrogen and carbon.

[5] Part 195 was based largely on voluntary standards contained in the 1966 edition of ''Code for Pressure Piping, Liquid Petroleum Transportation Piping Systems,'' (designated USAS B31.4–1966) prepared and published by the American Society of Mechanical Engineers. A diagram on page 2 of the code shows that the code applies to pipelines that run between production facilities, refineries, gasoline plants, gas processing plants, terminals, and bulk plants.

[6] In the Federal Register document concerning petroleum product and other terms that RSPA proposed to define, RSPA said ''[t]he proposed new definitions and definition change would not compromise pipeline safety because they would not alter the intended application of the existing part 195 regulations.'' (57 FR 56306; Nov. 27, 1992)

[7] Part 195 applies to transfer piping on facility grounds if the piping is necessary to control the operating pressure of off-grounds lines covered by Part 195, or if the on-grounds piping serves a breakout storage tank.

[8] However, where Part 195 applies to facility transfer piping, OSHA regulations may be preempted, because OSHA is precluded from enforcing its regulations against employee working conditions over which another federal agency prescribes or enforces safety regulations. (29 U.S.C. § 653(b)(1)).

likely to be a major, protracted effort that could swamp current inspection resources.

At the same time, the risk to the public from short low-stress transfer lines off plant or terminal grounds is generally low. A low operating stress is itself a safety factor against several accident causes. And the short length means the potential spill volume would be limited should an accident occur. Also, typically there is limited public exposure in the industrial areas where low-stress transfer lines are located. The risk of marine transfer lines is reduced even more by the U.S. Coast Guard regulations and inspection force.

Therefore, we are considering amending Part 195 to except short, low-stress transfer lines that traverse areas outside plant and terminal grounds. We are also considering excepting low-stress transfer lines of any length that are regulated by the U.S. Coast Guard. We intend to publish a notice of proposed rulemaking (NPRM) in the Federal Register to seek public comment on these proposals.

Meanwhile, effective May 14, 1996, I am staying enforcement of Part 195 against two categories of low-stress pipelines: (1) low-stress pipelines regulated by the U.S Coast Guard; and (2) low-stress pipelines that are less than 1 mile in length (measured outside plant or terminal grounds), except if the pipeline crosses offshore or any waterway currently used for commercial navigation. This stay will remain in effect until modified through another Federal Register document or until Part 195 is amended as a result of the NPRM, whichever happens first. RSPA will continue to enforce Part 195 over short lines that cross offshore or commercially navigable waterways but do not come under U.S. Coast Guard regulations because of the need to reduce the threat of environmental damage.

Authority: (49 U.S.C. § 60102 *et seq.;* 49 CFR 1.53)

Issued in Washington, DC on May 7, 1996.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96–11886 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register
Vol. 61, No. 94
Tuesday, May 14, 1996

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR PART 51

[Docket Number FV–95–306]

Fresh Fruits, Vegetables and Other Products (Inspection, Certification, and Standards)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document would revise the regulations governing inspection and certification for fresh fruits, vegetables and other products by increasing the fees charged for the inspection of these products at destination markets. These revisions are necessary in order to recover, as nearly as practicable, the costs of performing inspection services at destination markets under the Agricultural Marketing Act of 1946.

DATES: Comments must be postmarked or courier dated on or before July 15, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Branch Chief, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2049 South Building, Washington, DC 20090–6456. Comments should note the date and page number of this issue of the Federal Register and will be made available for public inspection in the office of the Branch Chief during regular business hours.

FOR FURTHER INFORMATION CONTACT: Robert J. Huttenlocker, at the above address or call, (202) 720–0297.

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

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action 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. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The Agricultural Marketing Service (AMS), has certified that this action will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, (5 U.S.C. 601). The proposed rule reflects certain fee increases needed to recover the costs of inspection services rendered in accordance with the Agricultural Marketing Act (AMA) of 1946.

The AMA authorizes official inspection, grading, and certification on a user-fee basis, of fresh fruits, vegetables, and other products such as raw nuts, Christmas trees, and flowers. The AMA provides that reasonable fees be collected from the user of the program services to cover, as nearly as practicable, the costs of services rendered. This proposal would amend the schedule for fees and charges for inspection services rendered to the fresh fruit and vegetable industry to reflect the costs currently associated with the program.

AMS regularly reviews these programs to determine if fees are adequate. Employee salaries and benefits are major program costs that account for approximately 86 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 3.09 to 6.25 percent depending on locality, effective January 1995, has materially affected program costs. Another general and locality salary increase, ranging from 2.39 to 2.87 percent depending upon locality (amounting to approximately $253,000), was effective January 1996; further standardization program costs must be paid for by user fees.

While a concerted effort to cut costs resulted in overhead savings of $350,000 in FY 95 over FY 94, the last fee increase of June 1994 did not result in collection of enough revenue to cover all these increases and still maintain an adequate reserve balance (four months of costs) called for by Agency policy (AMS Directive 407.1) and prudent financial management. Currently the Fresh Products Branch (FPB) trust fund reserve balance for the market program is approximately $1 mil. under the desired level of $3.9 mil. Further action is necessary to meet rising costs and maintain adequate reserve balances. This action will assist in moving the FPB trust fund toward a more adequate level and will result in an estimated $614,000 in additional revenues. Projected FY96 revenues for market inspection are $12.555 mil with costs projected at $11.594 mil and a reserve of $3.093.

Based on the Agency's analysis of increased costs since 1994, AMS proposes to increase the fees for destination market inspection services. The following table compares current fees and charges with proposed fees and charges for fresh fruit and vegetable inspection as found in 7 CFR 51.38. Unless otherwise provided for by regulation or written agreement between the applicant and the Administrator, the charges in the schedule of fees as found in § 51.38 are:

Service	Current	Proposed
Quality and condition inspections of one to four products each in quantities of 51 or more packages and unloaded from the same land or air conveyance:		
Over a half carlot equivalent of each product	$74	$78.
Half carlot equivalent or less of each product	$62	$65.
For each additional lot of the same product	$12	$13.
Condition inspections of one to four products each in quantities of 51 or more packages and unloaded from the same land or air conveyance:		
Over a half carlot equivalent of each product	$62	$65.

Service	Current	Proposed
Half carlot equivalent or less of each product	$57	$60.
For each additional lot of the same product	$12	$13.
Inspections of five or more products each in quantities of 51 or more packages and unloaded from the same land or air conveyance:		
For the first five products	$264	$277.
For each additional product	$37	$39.
For each additional lot of any of the same product	$12	$13.
Inspections of products each in quantities of 50 or less packages unloaded from the same land or air conveyance:		
For each product	$37	$39.
For each additional lot of any of the same product	$12	$13.
Dock-side inspections of an individual product unloaded directly from the same ship:		
For each package weighing less than 15 pounds	1 cent	No change.
For each package weighing 15 to 29 pounds	2 cents	No change.
For each package weighing 30 or more pounds	3 cents	No change.
For each additional lot of any of the same product	$12	$13.
Minimum charge per individual product	$74	$78.
Inspections performed for other purposes during the grader's regularly scheduled work week	$37 per hour	$39 per hour.
Overtime or holiday premium rate for all inspections performed outside the hourgrader's regularly scheduled work week.	$18.50 per hour	$19.50 per hour.

List of Subjects in 7 CFR Part 51

Agricultural commodities, Food grades and standards, Fruits, Nuts, Reporting and recordkeeping requirements, Trees, Vegetables.

PART 51—[AMENDED]

For reasons set forth in the preamble, 7 CFR Part 51 is proposed to be amended as follows:

1. The authority citation for 7 CFR Part 51 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 51.38 is revised to read as follows:

§ 51.38 Basis for fees and rates.

(a) When performing inspections of product unloaded directly from land or air transportation, the charges shall be determined on the following basis:

(1) For products in quantities of 51 or more packages:

(i) Quality and condition inspection of 1 to 4 products unloaded from the same conveyance:

(A) $78 for over a half carlot equivalent of an individual product.

(B) $65 for a half carlot equivalent or less of an individual product.

(C) $13 for each additional lot of the same product.

(ii) Condition only inspection of 1 to 4 products unloaded from the same conveyance:

(A) $65 for over a half carlot equivalent of an individual product.

(B) $60 for a half carlot equivalent or less of an individual product.

(C) $13 for each additional lot of the same product.

(iii) Quality and condition inspection and/or condition only inspection of 5 or more products unloaded from the same conveyance:

(A) $277 for the first 5 products.

(B) $39 for each additional product.

(C) $13 for each additional lot of any of the same product.

(2) For quality and condition inspection and/or condition only inspection of products in quantities of 50 or less packages unloaded from the same conveyance:

(i) $39 for each individual product.

(ii) $13 for each additional lot of any of the same product.

(b) When performing inspections of palletized products unloaded directly from sea transportation or when palletized product is first offered for inspection before being transported from the dock-side facility, charges shall be determined on the following basis:

(1) For each package inspected according to the following rates:

(i) 1 cent per package weighing less than 15 pounds;

(ii) 2 cents per package weighing 15 to 29 pounds; and

(iii) 3 cents per package weighing 30 or more pounds.

(2) $13 for each additional lot of any of the same product.

(3) A minimum charge of $78 for each product inspected.

(c) When performing inspections of products from sea containers unloaded directly from sea transportation or when palletized products unloaded directly from sea transportation are not offered for inspection at dockside, the car-lot fees in § 51.38(a) shall apply.

(d) When performing inspections for Government agencies, or for purposes other than those prescribed in the preceding paragraphs, including weight-only and freezing-only inspections, fees for inspection shall be based on the time consumed by the grader in connection with such inspections, computed at a rate of $39 an hour: Provided, That:

(1) Charges for time shall be rounded to the nearest half hour;

(2) The minimum fee shall be two hours for weight-only inspections, and one- half hour for other inspections;

(3) When weight certification is provided in addition to quality and/or condition inspection, a one-hour charge shall be added to the carlot fee.

(4) When inspections are performed to certify product compliance for Defense Personnel Support Centers, the daily or weekly charge shall be determined by multiplying the total hours consumed to conduct inspections by the hourly rate. The daily or weekly charge shall be prorated among applicants by multiplying the daily or weekly charge by the percentage of product passed and/or failed for each applicant during that day or week. Waiting time and overtime charges shall be charged directly to the applicant responsible for their incurrence.

(e) When performing inspections at the request of the applicant during periods which are outside the grader—s regularly scheduled work week, a charge for overtime or holiday work shall be made at the rate of $19.50 per hour or portion thereof in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Overtime or holiday charges for time shall be rounded to the nearest half hour.

(f) When an inspection is delayed because product is not available or readily accessible, a charge for waiting time shall be made at the prevailing hourly rate in addition to the carlot equivalent fee, package charge, or hourly charge specified in this subpart. Waiting time shall be rounded to the nearest half hour.

Dated: May 8, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96–12057 Filed 5–13–96; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[Docket No. PRM–72–3]

Fawn Shillinglaw; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by Fawn Shillinglaw. The petition has been docketed by the Commission and has been assigned Docket No. PRM–72–3. The petitioner requests that the NRC amend its regulations which govern independent storage of spent nuclear fuel in dry storage casks to require that the safety analysis report for a cask design fully conforms with the associated NRC safety evaluation report and certificate of compliance before NRC certification of the cask design. The petitioner also requests that the revision date and number of a safety analysis report be specified whenever that report is referenced in documents. The petitioner believes that her proposal would eliminate confusion among licensees, vendors, fabricators, and others who often refer to only the safety analysis report as the relevant document when there may be revisions that must be included to ensure compliance with the NRC safety evaluation report and certificate of compliance. The petitioner also believes that the NRC must clarify the process for modification of a safety analysis report after a cask has been certified.

DATES: Submit comments by July 29, 1996. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

For a copy of the petition, write: Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For information regarding electronic submission of comments, see the language in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7163 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission received a petition for rulemaking submitted by Fawn Shillinglaw in the form of two letters addressed to Chairman Jackson dated December 9 and December 29, 1995. A determination by the Office of the General Counsel on March 5, 1996, specified that the issues presented would be treated as a petition for rulemaking. The petition was docketed as PRM–72–3 on March 14, 1996. The petitioner requests that the NRC amend its regulations in 10 CFR Part 72 entitled, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste.''

Specifically, the petitioner requests that 10 CFR Part 72 be amended to require that the safety analysis report (SAR) for a spent fuel dry storage cask design fully conforms with the associated NRC safety evaluation report (SER) and certificate of compliance (COC) before NRC certification of the cask design. The petitioner also requests that 10 CFR Part 72 be amended to require that the revision date and number of an SAR be specified whenever that report is referenced in documents. The petitioner believes there is confusion among licensees, vendors, fabricators, and others who often refer to only the safety analysis report as if it is the only relevant document when there may be revisions that must be included to prevent discrepancies between versions of the SAR and the NRC SER and COC for a specific cask design.

The petitioner cites the VSC–24 cask, designed by Sierra Nuclear Corporation, as an example where revisions to the SAR occurred after the NRC SER and COC were issued. The petitioner believes that no procedures are currently in place to permit a cask vendor to make changes to its SAR after issuance of the NRC SER and COC. The petitioner also believes that this situation creates confusion and the possibility that an SAR version is being used that directly contradicts SER and COC requirements. The petitioner asks for an explanation of the process that the NRC used for allowing changes to be made by the vendor to the VSC–24 cask after NRC certification, what were those changes, and how this was accomplished without rulemaking. The petitioner also recommends that the NRC make cask unloading procedures publicly available.

The NRC is soliciting public comment on the petition for rulemaking submitted by Fawn Shillinglaw that requests the changes to the regulations in 10 CFR Part 72 as discussed below.

Discussion of the Petition

The petitioner notes that the regulations in 10 CFR Part 72 establish requirements and criteria for the certification of spent fuel dry storage cask designs by the NRC. The petitioner is concerned that no process exists in the regulations for a cask vendor to make changes to a generically approved and certified dry storage cask design. The petitioner cites the VSC–24 cask as an example where NRC certification was issued for a design that was modified after the actual certification took place. The petitioner notes that NRC certified the design for the VSC–24 cask on May 7, 1993. The vendor of the VSC–24 cask, Sierra Nuclear Corporation (Sierra), agreed to submit a revision to its SAR (Rev. OA) for this cask in July 1993, about 3 months after NRC certification, because changes were necessary to meet requirements contained in the NRC SER and COC.

The petitioner states that this revision was never completed and cites an NRC letter to Sierra dated November 28, 1994, which indicated that the SAR still needed modification to eliminate contradictions and differences between the VSC–24 cask SAR and the NRC SER and COC. The petitioner cites a Sierra submittal dated June 5, 1995, as the first instance where a revision (Rev. 0AA) appears with the necessary changes. The petitioner also cites a letter from NRC to Sierra which states that Revs. O and OA insert material into the SAR that NRC asked Sierra to perform. However, the petitioner believes that the material appears in the licensing record but not in the SAR. The petitioner indicates that constant references to the SAR exist in various documents but is concerned that the references do not specify the revision number. The petitioner believes this creates confusion and the possibility that an SAR version is being

used that may even contradict or differ from SER and COC requirements.

The petitioner has concluded that a final SAR for a spent fuel dry storage cask design should be accepted which completely fulfills all NRC SER and COC requirements before the cask is certified. The petitioner also believes that the NRC must address how the final vendor SAR can be modified as needed after a cask design is certified. Currently, the only way an SAR can be amended is through rulemaking. The petitioner has also concluded that the SAR revision number and date should be required whenever that document is referenced to eliminate confusion and prevent a situation where an SAR does not meet NRC SER and COC requirements. Lastly, the petitioner is concerned that the NRC is withholding cask unloading procedures from the public and recommends that the NRC make these procedures publicly available. The petitioner cites an example of a faulty dry cask at the Palisades facility where the licensee has been waiting to have a final unloading procedure approved by the NRC. The petitioner has concluded that dry cask storage issues should be addressed and resolved by the NRC to set the proper precedent for the national nuclear waste disposal program.

Electronic Submission of Comments

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on this rulemaking are also available for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' Users will find the ''FedWorld Online User's Guides'' particularly helpful. Many NRC subsystems and data bases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321–3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the ''Regulatory, Government Administration and State Systems,'' then selecting ''Regulatory Information Mall.'' At that point, a menu will be displayed that has an option ''U.S. Nuclear Regulatory Commission'' that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing ''/go nrc'' at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the ''Return to FedWorld'' option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP, that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, NRC, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

Dated at Rockville, Maryland, this 8th day of May, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–12027 Filed 5–13–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–25–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that currently requires inspections to detect cracking and corrosion of the aft trunnion of the outer cylinder of the main landing gear (MLG) and various follow-on actions. That action also provides for the optional termination of the inspections by repairing the outer cylinder and installing new aft trunnion bushings. That AD was prompted by reports of failure of several MLG due to fractures of the aft trunnion outer cylinders. The actions specified by that AD are intended to prevent the collapse of the MLG due to stress corrosion cracking of the aft trunnion of the outer cylinder. This proposed action would require operators to implement the previously optional terminating action.

DATES: Comments must be received by June 24, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–25–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2783; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–25–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–25–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On February 22, 1996, the FAA issued AD 96–03–02 R1, amendment 39–9526 (61 FR 7694, February 29, 1996). [AD 96–03–02 R1 was issued as a correction to AD 96–03–02, amendment 39–9497 (61 FR 3652, February 1, 1996)]. That AD is applicable to certain Boeing Model 767 series airplanes, which requires various inspections to detect cracking and corrosion of the aft trunnion and various follow-on actions. That action was prompted by reports of failure of several main landing gears (MLG) due to fracture of the aft trunnion outer cylinder. The requirements of that AD are intended to prevent the collapse of the MLG due to stress corrosion cracking of the aft trunnion of the outer cylinder.

That AD also provided for an optional action which, if accomplished, would constitute terminating action for the required inspections. In the preamble of that AD, the FAA indicated that this optional action, consisting of repair of the outer cylinder and replacement of the existing bushings with new bushings, was considered ''interim action'' and that further rulemaking action to mandate the repair and replacement was being considered. The FAA also indicated that the proposed compliance time for the replacement was sufficiently long so that notice and public comment were practicable. As a follow-on action from that determination, the FAA is now proposing to mandate the previously optional repair and replacement.

Explanation of Relevant Service Information

The FAA has previously reviewed and approved Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, which describes procedures for repair of the outer cylinder and replacement of the existing bushings of the aft trunnion and crossbolt of the MLG with new bushings. Accomplishment of this repair and replacement eliminates the need for certain follow-on actions that are described in Boeing Service Bulletin 767–32A0151, dated November 30, 1995, which was referenced in AD 96–03–02 R1 as the appropriate source of service information.

FAA's Conclusions

The FAA has determined that accomplishment of the repair and replacement specified in Boeing Alert Service Bulletin 767–32A0148 will positively address the unsafe condition identified as the failure of the MLG due to stress corrosion cracking of the aft trunnion of the outer cylinder.

Explanation of the Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 96–03–02 R1. It would continue to require various inspections to detect cracking and corrosion of the aft trunnion of the outer cylinder of the MLG, and require various follow-on actions. The proposed AD also would require repair of the outer cylinder and replacement of the bushings in the aft trunnion and crossbolt of the MLG with new bushings. Accomplishment of the repair and replacement would constitute terminating action for the requirements of the AD.

Accomplishment of the repair and replacement also would terminate the requirements of the following AD's:

- AD 95–19–10, amendment 39–9372 (60 FR 47689, September 14, 1995), and
- AD 95–20–51, amendment 39–9398 (60 FR 53109, October 12, 1995). [The comment period for AD 95–20–51 was extended by an AD action that was issued on November 28, 1995 (60 FR 62321, December 6, 1995.)]

Differences Between the Proposed AD and Relevant Service Information

Operators should note that Boeing Alert Service Bulletin 767–32A0148 refers to Component Maintenance Manual (CMM) 32–11–40, which, in turn, provides instructions for plugging the aft trunnion lubrication fitting with a rivet. This proposed AD, however, does not require plugging that fitting to terminate the requirements of this proposed AD, AD 95–19–10, or AD 95–20–51.

Cost Impact

There are approximately 609 Boeing Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 204 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 96–03–02 R1, and retained in this AD, take approximately 34 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be $416,160, or $2,040 per airplane.

The new actions that are proposed in this AD action would take approximately 218 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $9,510 per airplane. Based on these figures, the cost impact on U.S. operators of the proposed requirements of this AD is estimated to be $4,608,360 or $22,590 per airplane.

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

Regulatory Impact

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

proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9526 (61 FR 7694, February 29, 1996), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 96–NM–25–AD. Supersedes AD 96–03–02 R1, Amendment 39–9526.

Applicability: Model 767 series airplanes having line numbers 001 through 609, on which the terminating action described in paragraph (e) of this AD has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the collapse of the main landing gear (MLG) due to stress corrosion cracking of the aft trunnion of the outer cylinder, accomplish the following:

(a) Perform the inspections described in paragraph III, Accomplishment Instructions, of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, to detect cracking and corrosion of the aft trunnion of the outer cylinder of the MLG at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable. These inspections are to be accomplished in accordance with Figure 1 of that alert service bulletin. Repeat these inspections thereafter at the intervals specified in that alert service bulletin. To determine the category in which an airplane falls, the age of the outer cylinder of the MLG is to be calculated as of February 16, 1996, (the effective date of AD 96–03–02 R1, amendment 39–9526). For airplanes on which the age of the right MLG differs from the age of the left MLG, an operator may place the airplane into a category that is the higher (numerically) of the two categories to ease its administrative burden, and to simplify the recordkeeping requirements imposed by this AD. Once the category into which an airplane falls is determined, operators must obtain approval from the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, to move that airplane into another category.

Note 2: The broken (dash) lines used in Figure 1 of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, denote ''go to'' actions for findings of discrepancies detected during any of the inspections required by this AD.

Note 3: Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, refers to Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, for procedures to repair the outer cylinder and replace the bushings in the outer cylinder of the MLG with new bushings.

(1) For airplanes identified as Category 3 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Perform the initial inspections within 30 days after February 16, 1996 (the effective date of AD 96–03–02 R1, amendment 39–9526).

(2) For airplanes identified as Category 2 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Perform the initial inspections within 90 days after February 16, 1996, (the effective date of AD 96–03–02 R1, amendment 39–9526).

(3) For airplanes identified as Category 1 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Perform the initial inspections prior to the accumulation of 2½ years since the MLG outer cylinder was new or last overhauled, or within 150 days after February 16, 1996, (the effective date of AD 96–03–02 R1, amendment 39–9526), whichever occurs later.

(b) If no cracking or corrosion is detected, accomplish the follow-on actions described in the Boeing Alert Service Bulletin 767–32A0151, November 30, 1995, at the time specified in the alert service bulletin. These follow-on actions are to be accomplished in accordance with that alert service bulletin.

(c) If any cracking is detected, prior to further flight, replace the outer cylinder with a new or serviceable outer cylinder in accordance with Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995.

(d) If any corrosion is detected, accomplish the follow-on actions at the time specified in the ''Corrosion Flowchart,'' in Figure 1 of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995. The follow-on actions are to be accomplished in accordance with that alert service bulletin.

(e) Repair the outer cylinder and replace the bushings in the aft trunnion and crossbolt of the MLG with new bushings, in accordance with Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, at the time specified in either paragraph (e)(1) or (e)(2), as applicable. Accomplishment of this repair and replacement constitutes terminating action for this AD, and for the requirements of AD 95–19–10, amendment 39–9372; and AD 95–20–51, amendment 39–9398.

Note 4: Boeing Alert Service Bulletin 767–32A0148 refers to Component Maintenance Manual (CMM) 32–11–40 for certain procedures. Operators should note that, although the CMM specifies plugging the aft trunnion lubrication fitting with a rivet, this AD does not require this action to be accomplished in order to terminate the requirements of this AD, AD 95–19–10, or AD 95–20–51. Plugging the aft trunnion lubrication fitting with a rivet is the operator's prerogative.

(1) For airplanes identified as Category 3 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Accomplish the repair and replacement prior to the accumulation of 5 and years since the MLG outer cylinders were new or last overhauled, or within 18 months after the effective date of this AD, whichever occurs later.

(2) For airplanes identified as either Category 1 or Category 2 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, accomplish the repair and replacement at the time specified in either paragraph (e)(2)(i) or (e)(2)(ii) of this AD:

(i) Prior to the accumulation of 5 and 1/2 years since the MLG outer cylinders were new or last overhauled, or within 18 months after the effective date of this AD, whichever occurs later. Or,

(ii) Prior to the accumulation of 7 years since the MLG outer cylinders were new or last overhauled, provided that accomplishment of visual and non-destructive testing (NDT) inspections at the times specified in Figure 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, are repeated until the repair and replacement are accomplished.

(g) Accomplishment of the inspection requirements of this AD [in accordance with Boeing Alert Service Bulletin 767–32A0151,

dated November 30, 1995] is considered acceptable for compliance with AD 95–19–10, amendment 39–9372; and AD 95–20–51, amendment 39–9398.

(h)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(2) Alternative methods of compliance, approved in accordance with AD 96–03–02, amendment 39–9497; or AD 93–03–02 R1, amendment 39–9526; are approved as alternative methods of compliance with this AD.

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

Issued in Renton, Washington, on May 8, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12021 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 589

[Docket No. 96N–0135]

RIN 0910–AA91

Substances Prohibited From Use in Animal Food or Feed; Protein Derived From Ruminants Prohibited in Ruminant Feed

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is soliciting comments on the issue of using protein derived from ruminants (e.g., cattle, sheep, goats, mule deer, and elk) in ruminant feed. Animal feed containing protein derived from ruminants may contain the disease agent that causes transmissible spongiform encephalopathy (TSE) in animals. Epidemiological evidence gathered in the United Kingdom (U.K.) suggests a link between an outbreak of ruminant TSE, specifically bovine spongiform encephalopathy (BSE) and feeding animals protein derived from ruminants. In addition information from the U.K. also suggests that exposure to BSE may explain some of the recent cases of variant Creutzfeldt-Jakob disease (v-CJD) in the U.K. This action is being taken to protect the health of animals and to reduce any risk which might be faced by humans. FDA is requesting scientific and economic information and other comments relating to the prohibition of ruminant protein in ruminant feed.

DATES: Written comments by June 13, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: George Graber, Center For Veterinary Medicine (HFV–220), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1724.

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of August 29, 1994 (59 FR 44584) FDA issued a proposed rule declaring that specified offal from adult (more than 12 months of age) sheep and goats is not generally recognized as safe for use in ruminant feed and is an unapproved food additive when added to ruminant feed. The proposed rule defined ''specified offal'' as any tissue from the brain, spinal cord, spleen, thymus, tonsil, lymph nodes, or intestines of sheep or goats, or any processed product that is reasonably expected to contain specified offal. Processed products that may contain specified offal include, but are not limited to, meat meal, meat and bone meal, animal byproduct meal, meat byproducts, glandular meal, and cooked bone meal. Accordingly, in the absence of an approved food additive regulation or investigational exemption, the use in ruminant feed of ingredients containing specified offal from adult sheep or goats would cause the feeds to be considered adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act (the act). FDA proposed the action because the specified offal may contain the agent that causes scrapie, a TSE of sheep and goats. Since the proposal was issued, the agency has been evaluating the comments submitted on the proposal, monitoring the scientific advances made in understanding the interrelationships among the animal TSE's, and participating in a number of national and international task force/symposia to better understand the BSE epidemic. The actions that would have been prohibited in the proposed rule are considered in this advance notice of proposed rulemaking. If it is determined that some action is necessary, the agency believes issuing an advance notice of proposed rulemaking (ANPRM) will hasten that process.

In the U. K., scrapie has been epidemiologically associated with the occurrence of BSE, another form of TSE. The initial cases of BSE may have been the result of feeding supplements to cattle that were contaminated with prions from scrapie-infected sheep offal. Prions are highly resistant to procedures that modify or destroy nucleic acids. (Refs. 1 and 2). Prions are believed by many scientists to be the agents responsible for TSE's, and they appear to be modified forms of normal proteins.

BSE has been diagnosed in over 155,600 head of cattle from almost 33,000 herds in the U.K. No cases of BSE have been diagnosed in the United States. BSE is postulated to have been spread in the U.K. among cattle by the feeding of processed ruminant protein to cattle. A July 1988 U.K. ban on this feeding practice has resulted in a steady reduction in the number of cases of BSE detected in cattle, with the new cases occurring mainly in animals born before the ban was fully implemented.

Ten cases of CJD have been identified in the U.K. in recent months with a new neuropathological profile. Other consistent features that are unusual include the young age of the cases (16 to 39 years old at onset of clinical signs), clinical findings, and the absence of the electroencephalogram features typical for CJD. Similar cases have not been identified in other countries in the European surveillance system. These 10 cases appear to represent a new variant of CJD (v-CJD), which may be unique to the U.K. The appearance of these 10 cases of v-CJD raises the possibility that they are causally linked to BSE. Although this may be the most plausible explanation for these cases, a link with BSE cannot be confirmed on the basis of this evidence alone. (Ref. 3). Sporadic occurrences of spongiform encephalopathy in humans are known to occur at a rate of 1 to 2 per million population worldwide. A group of international experts convened in April 1996 by the World Health Organization concluded that there is no definite link between BSE and v-CJD, but that circumstantial evidence suggests exposure to BSE may be the most likely explanation. Among other recommendations, the group recommended that all countries should

ban the use of ruminant tissues in ruminant feed (Ref. 4).

II. Issues for Comment

No cases of BSE have been diagnosed in the United States. Despite the fact that there is no problem with BSE in the United States, the agency believes it would be prudent to solicit information and receive comments on this issue. Therefore, the agency is assessing whether to provide that protein derived from ruminants is not generally recognized as safe for use as a ruminant feed or prior sanctioned for such and is a food additive subject to section 409 of the act (21 U.S.C. 348). Absent a determination that it is safe for use as a food additive under section 409 of the act, the use in ruminant feed of ingredients containing protein derived from ruminants would cause the feed to be adulterated. Ruminant-derived protein could be defined as any feed ingredient that is reasonably expected to contain proteinaceous material that derives from ruminant species. Processed feed ingredients that may contain ruminant-derived protein include, but are not limited to, products meeting the following animal feed definitions: animal byproduct meal, blood meal, cooked bone meal, glandular meal, meat and bone meal, meat byproducts, and meat meal. The agency is prepared to consider the exclusion of specific ruminant products from the prohibition, such as milk products, blood products, fetal bovine serum, and gelatin based on appropriate and adequate scientific information which demonstrates no infectivity.

In addition, the agency is considering labeling requirements for ruminant-derived proteins for enforcement purposes.

III. Agency Request for Information

FDA is soliciting comments on all aspects of this ANPRM, and specifically requests comments on the following issues:

1. The occurrence in the United States of TSE's in animals.

2. Scientific information on how TSE's occur and are spread among animals and among humans and what vectors might be involved.

3. Scientific information on the ecology of TSE agents, and the epidemiology, etiology, and pathogenesis of TSE diseases.

4. Scientific information supporting the exclusion of any ruminant-derived proteins from the proposed prohibition.

5. Establishment of Hazard Analysis and Critical Control Points (HACCP) for the rearing of ruminants, and rendering or other processing of ruminant derived feed ingredients, that may reduce the need to prohibit the feeding of ruminant protein to ruminants.

6. Details of rendering or processing practices that may inactivate the TSE agents and information and evidence which shows that these practices are effective.

7. Data on the amount of material affected by this ruminant protein to ruminant feed prohibition, specifically: (a) The total volume of the processed feed ingredients that may contain ruminant-derived protein which were produced in the United States in recent years, (b) details of the total volume used for each of these ingredients in the rations of the various animals in the United States, (c) information on the percentage of the diet each ingredient

typically comprises for each species and what percentage of the total volume is fed to each species, and (d) other information.

8. Economic and environmental adverse consequences or benefits resulting from a ruminant protein to ruminant feed prohibition on: (a) The farmer/producer, (b) the slaughter operation, (c) the rendering industry, (d) the public, (e) the feed manufacturer, (f) other parties that may be affected.

9. Potential mitigating factors that would lessen the economic and environmental impact of the prohibition, specifically: (a) Identification of nonfeed uses of products containing ruminant-derived protein, (b) development of rendering or processing processes that would allow the safe feed use of a portion of the prohibited feed ingredient, (c) alternate disposal methods, and (d) other mitigating factors.

10. Descriptive and incremental cost data for incremental tasks required by the proposed change with respect to person-hours, type of labor (professional, technical, and clerical), type of equipment to be purchased, disposal costs, capital expenditures, loss of current markets, expansion of alternative markets, etc.

11. Estimates of the average total cost of compliance (including any expected reporting and recordkeeping costs) for both large and small businesses in each affected industry segment. Descriptions and numbers of small businesses affected in each sector.

12. Information which identifies and explains effective alternative policy actions which would minimize any negative economic effects on small businesses and the affected industry as a whole.

13. Estimates of the level of compliance with the voluntary ban on feeding ruminant protein to ruminants announced by the livestock industry on March 29, 1996.

14. Information on restrictions placed upon beef or sheep imports by foreign countries that would directly affect U.S. beef or sheep producers.

15. Identification of potential analytical methods that may be used in detecting ruminant proteins in feed.

16. Labeling requirements (i.e., declaring the source of the animal protein; a prohibition of use statement).

17. Development of antemortem tests to accurately determine if an animal has a TSE.

18. Alternate actions the agency could take to prevent the spread of TSE's among ruminants.

IV. Comments

Interested persons may, on or before June 13, 1996, submit to the Dockets Management Branch (address above), written comments regarding this ANPRM. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This ANPRM is issued under sections 201, 402, 409, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, and 371) and under the authority of the Commissioner of Food and Drugs.

VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Prusiner, S. B. , ''Novel Proteinaceous Infectious Particles Cause Scrapie,'' *Science*, 216:136–144, 1982.

2. Stahl, N. and S. B. Prusiner, ''Prions and Prion Proteins,'' *FASEB Journal*, 5:2799–2807, 1991.

3. Will, R. G. et al., ''A New Variant of Creutzfeldt-Jakob Disease in the UK,'' *Lancet*, 347, 921–925, 1996.

4. WHO press release, April 3, 1996, ''International Experts Propose Measures to Limit Spread of BSE and Reduce Possible Human Risk from Disease.''

Dated: May 8, 1996.

David A. Kessler,

Commissioner of Food and Drugs.

Donna E. Shalala,

Secretary of Health and Human Services.

[FR Doc. 96–12081 Filed 5–9–96; 2:16 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 90

[OJP No. 1019]

RIN 1121–AA35

Grants To Encourage Arrest Policies

AGENCY: U.S. Department of Justice, Office of Justice Programs.

ACTION: Proposed rule.

SUMMARY: This notice announces a proposed rule for the Grants to Encourage Arrest Policies authorized by the Violence Against Women Act, Title IV of the Violent Crime Control and Law Enforcement Act of 1994. For Fiscal Year 1996, Congress has appropriated $28 million to the United States Department of Justice, Office of Justice Programs, for Grants to Encourage Arrest Policies. This regulation is being published under the general statutory grant of authority to issue rules and regulations pursuant to the Omnibus Crime Control and Safe Streets Act of 1968. The purpose of this regulation is to provide a general outline of the program and its purposes as set forth in the statute.

DATES: All comments must be received by June 13, 1996. The length of the comment period has been limited to thirty days in order to provide States timely access to the available program funds. It would be contrary to the public interest to delay implementation of the program.

ADDRESSES: All comments should be addressed to Kathy Schwartz, Violence Against Women Grants Office, Office of Justice Programs, Room 446, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: The Department of Justice Response Center at 1–800–421–6770 or (202) 307–1480, or Catherine Pierce, Violence Against Women Grants Office, Office of Justice Programs at (202) 307–6026.

SUPPLEMENTARY INFORMATION:

Title IV Grants To Encourage Arrest Policies

For Fiscal Year (FY) 1996, Congress authorized a federal discretionary grant program under Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103–22, 108 Stat. 1796, 1902–55, codified as amended at 42 U.S.C. § 3796hh *et seq* (1994) [hereinafter the ''Act''], for States, units of local government, and Indian tribal governments to encourage the treatment of domestic violence as a serious violation of criminal law. The Act gives the Attorney General and an authorized designee, in this case the Assistant Attorney General for the Office of Justice Programs, the authority to make grants to the above mentioned entities. Omnibus Crime Control and Safe Streets Act of 1968 § 805, codified as amended at 42 U.S.C. § 3768 (1994) [hereinafter the ''Omnibus Act'']. Section 2104 of Title IV of the Act, codified as amended at 42 U.S.C. § 3796hh-3, requires that regulations be issued specifically to implement these policies and programs.

Statement of the Problem

In the past, police departments, and the criminal justice system as a whole, generally treated domestic violence as a private, family matter unlike any other violent crime. Many police departments maintained informal non-arrest policies for domestic violence, focusing instead on alternative responses such as family crisis intervention and counseling for domestic abusers.[1] In recent years, many departments have implemented new policies and practices that encourage or mandate arrest of a perpetrator of domestic violence for probable cause or for violating a protection order.[2] To ensure the effectiveness of these new policies, some departments have created special domestic violence units that train personnel; develop guidelines and protocols for enforcing laws related to domestic violence; create sophisticated tracking and communication systems; investigate both misdemeanor and felony domestic assaults; develop accountability measures which ensure enforcement of the law by all officers in the department; and coordinate with other criminal justice agencies and victim service providers. Despite these very significant accomplishments, many more police departments require the tools and resources necessary to implement similar innovations in their own communities.

For arrest to be an effective domestic violence intervention, it must be part of a coordinated and integrated response to the problem on the part of the entire criminal justice system.[3] That is, mandatory or proarrest policies will be effective only if police departments implement clear guidelines and protocols for the arrest of domestic violence perpetrators; if police and prosecutors alike conduct thorough and careful investigations of domestic violence cases; if judges impose appropriate sentences; if batterers remain in custody after they are arrested; if probation and parole departments devise ways to effectively supervise batterers; and if victims feel confident that all professionals in the system are committed to their safety and the safety of their children.

Policies that Mandate or Encourage Arrest

Laws and policies that encourage or mandate the arrest of a domestic violence perpetrator based on probable cause are not new. Currently, at least 27 States and the District of Columbia have adopted laws that mandate or encourage arrest of a person who assaults a family member, or of a person who violates a domestic violence protection order.[4] Federal law also requires all states honor certain protection orders issued by other jurisdictions. Act § 4022(a), 18

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[1] Liebman, D.A., and Schwartz, J.A., Police Programs in Crisis Intervention: A Review, (J.R. Snibbe and H.M. Snibbe eds. 1973). See also Charles C. Thomas, The Urban Policeman in Transition: A Psychological and Sociological Review (1973).

[2] Garner, J., Fagan, J., and Maxwell, C., Published Findings from the Spouse Assault Replication Program: A Critical Review, Journal of Quantitative Criminology, 11[1], 3–28, 1995.

Fagan, J., The Criminalization of Domestic Violence: Promises and Limits, Presentation at the 1995 National Institute of Justice Conference on Criminal Justice Research and Evaluation, January, 1996, available through the National Criminal Justice Reference Service, 1–800–851–3420.

[3] Hart, B.J., Coordinated Community Approaches to Domestic Violence, presented at the Strategic Planning Workshop on Violence Against Women sponsored by the National Institute of Justice in Washington, D.C., March 31, 1995, available through the National Criminal Justice Reference Service, 1–800–851–3420.

[4] Layden, J., Domestic Violence, Headliners, 1994.

U.S.C. § 2265(a). Domestic violence incidents are among the most difficult and most sensitive calls requesting police assistance. For this reason, many police departments with mandatory or proarrest policies inform their officers that, when responding to a domestic violence call, they must anticipate the unexpected, be carefully impartial and be primarily concerned for the needs and safety of the victim or victims. Some mandatory or proarrest policies go a step further by directing responding officers to arrest the primary aggressor in a domestic violence incident. These policies warn that dual arrests may trivialize the seriousness of domestic violence and potentially increase danger to its victims. Most importantly, arrest of the batterer conveys a message to the victim, the family and the community that domestic violence is a serious crime that will not be tolerated. Mandatory or proarrest policies also offer the potential benefit of deterring future abuse if the offender is separated from the victim and held publicly accountable for his[5] actions. Arrest demonstrates to the offender that he has committed a serious crime and communicates to the victim that she does not have to endure the offender's abuse. Moreover, arrest of the offender sends a broader public message—that violent behavior, even between intimates, is criminal.

Orders of Protection

An order of protection is the legal instrument many victims of domestic violence initially seek to protect themselves from further abuse. For protection orders to be effective, the terms of the order must be strictly and consistently enforced, and abusers violating the terms of the order must be punished. To ensure a consistent response, departmental policies specifying the violations for which an abuser is subject to arrest must be communicated clearly to police officers who respond to domestic violence calls. Furthermore, there must be consistent enforcement between same-State jurisdictions (e.g., county to county or city to city) or between communities under the jurisdiction of the same tribal government. In addition to *intrastate* enforcement, States and tribal governments must also take steps to ensure the interstate (i.e., State to State) enforcement of protection orders as required by Section 40221(a) of the Act.

Prior to the enactment of the Violence Against Women Act, a woman who obtained a protection order in her home state often could not use that order as the basis for protection if she worked, traveled, or moved to most other states. Under the Violence Against Women Act, a victim does not have to wait for abuse to occur in the new state, nor does she have to meet the new jurisdictional requirements. A woman may now seek enforcement of the out-of-state order in the new state.

Although there is no universal approach to effective implementation of the full faith and credit provisions of the Act, State and tribal law enforcement agencies, courts, prosecutors, non-profit, non-governmental victim services agencies and private attorneys are encouraged to collaborate on efforts and strategies for bolstering and implementing enforcement of out-of-state protective orders. The state administrative office of the court and state law enforcement agencies, in consultation with victim advocates, should devise and publicize widely a state plan for according full faith and credit to protection orders.

Centralized Communication, Information and Tracking Systems

Regardless of whether there is a particular jurisdictional domestic violence arrest policy in place, police must have probable cause to make an arrest. Police often are dispatched, however, without any information regarding the domestic violence or criminal history of the people involved in an altercation. The officers frequently do not know if there is an outstanding order of protection against the offender, whether the offender has previously been arrested for assaulting the victim, or if charges are pending against the perpetrator for prior alleged domestic violence. Knowledge of this information clearly would help guide the discretion of an officer who is trying to determine whether to make an arrest, and help him or her ensure the safety of the victim and other family members.

Beyond providing information about the criminal history of the perpetrator, responding officers also would benefit greatly from communication and tracking systems that could inform them about the frequency of past calls to the same location, prior weapons use, the presence of children at the residence and past need for medical emergency services. These advanced information systems also could provide a description of the alleged perpetrator and places he historically has frequented if the offender is not found at the scene.

Just as police officers need more information to respond effectively, so do prosecutors, judges and other criminal justice professionals. Access to centralized information on prior incidents or convictions, prior issuance of protection orders, other matters involving the same family pending before the court, and the availability of community resources and services for the victim would be extremely beneficial to prosecutors seeking convictions, to judges who must impose a sentence and to probation and parole officials responsible for providing community supervision. Interstate and intrastate communication and tracking systems for use by police officers and criminal justice professionals throughout a state or region of the country also would contribute to enhancing the safety of victims.

The Role of Prosecutors, Judges, Victim Advocates and Other Criminal Justice Professionals

If arrest policies are to be effective, pre-trial service agents, prosecutors, judges, probation officers, and parole officers need to respond with effective supervision and prosecution strategies, safety plans for victims, and appropriate sentences for offenders. In addition, prosecutors, judges and other criminal justice professionals need tools and resources to respond to domestic violence as a serious crime. For example, in those jurisdictions where mandatory or proarrest policies have been instituted, individual prosecutors may be overwhelmed with domestic violence cases, resulting in a severe lack of resources and time needed to prosecute each case effectively. To help alleviate the backlog of domestic violence cases, many prosecutors have begun to work with victim advocates during both the pending prosecution and the sentencing phase of a case. In many jurisdictions, victim advocates are critical to domestic violence prosecution. In addition to being effective legal advocates, victim advocates assist in safety planning with the victim, providing the court with information needed to determine risk assessment and proposed conditions of probation or parole for the offender.

Prosecutors, judges, victim advocates and other criminal justice professionals need specialized education and training on the phenomenon of domestic

[5] Men can be the victims of abuse, and women can be perpetrators. However, the vast majority of victims of domestic violence are women. In addition, it is much less common for men to receive injuries as a result of their abuse and less likely for men to become entrapped in relationships where they cannot leave for fear of extreme bodily harm to themselves or their children. For these reasons, victims are referred to as women and perpetrators as men throughout these proposed regulations. See Stets, J.E. and Straus, M.A., Gender Differences in Reporting Marital Violence and its Medical and Psychological Consequences (Physical Violence in American Families: Risk Factors and Adaptations to Violence in 8,145 Families, Straus, M.A. and Gelles, R.J. eds. 1990).

violence and information on community resources available to assist the victim and respond appropriately to the batterer. Prosecutors need to understand the psychology of domestic violence victims (e.g., why they may be reluctant to prosecute and the risks to their safety if they decide to prosecute). Judges need to craft effective protection orders and they need the information and skills necessary to tailor the sentence to the individual perpetrator (e.g., ordering protective conditions for victim safety, incarceration, community service, restitution, intensive probation or parole, batterer intervention services, drug and alcohol treatment, or all of the above, as appropriate). Victim advocates and all criminal justice professionals need to work together to explore and develop coordinated approaches to reduce and prevent domestic violence.

Conclusion

While strong, clear arrest policies are needed to guide the actions of police officers, the rest of the criminal justice system also must be directed to respond similarly in ways that will break the cycle of violence. Without aggressive, system-wide coordination, arrest alone will not stop domestic violence. Most importantly, as a jurisdiction assesses its response to domestic violence, prioritizing victim safety within the policies and practices of the entire criminal justice system is essential. In conclusion:

- Police departments need to develop clear policies and procedures mandating or encouraging arrest for perpetrators of domestic violence and for the violation of protection orders.
- Police officers need specialized training on domestic violence, on implementing departmental arrest policies and related federal, state and local law.
- Police departments need resources to develop guidelines for arrest and investigation of domestic violence, specialized training programs, special investigation or detective units, and procedures to ensure coordination with other parts of the criminal justice system.
- Police departments need the resources to develop advanced communication, information and tracking systems to enable them to respond more effectively to domestic violence incidents and prevent future incidents that could result in aggravated assault and homicide.
- Jurisdictions need to develop methods and technologies that will promote improved communication and coordination between law enforcement, prosecution, the judiciary and other parts of the criminal justice and social service systems to improve the entire system's response to domestic violence. In addition, jurisdictions need to develop centralized, automated information systems that will track the domestic violence history of involved parties, including outstanding orders of protection, previous arrests and pending charges against perpetrators.
- Police and prosecutors need the tools and resources to investigate domestic violence cases aggressively and thoroughly.
- Specialized education and training programs for prosecutors, judges, victim advocates and other criminal justice professionals need to be developed or replicated and adapted from existing curricula.
- Procedures to expedite requests for protection orders need to be developed by police departments, prosecution units, and the courts.
- Judges need to convey clearly to batterers the gravity of their offenses by imposing appropriate sentences.
- Probation and parole departments need to establish protocols and procedures for the intensive supervision of batterers.
- Victims and their children need access to a full range of services including legal advocacy and assistance in planning for their long and short-term safety.
- Research needs to be conducted to assess the effectiveness of arrest and other legal sanctions for domestic violence in communities that have adopted a system-wide, coordinated response to domestic violence.

The Violence Against Women Act of 1994

The Violence Against Women Act reflects a firm commitment towards working to change the criminal justice system's response to violence that occurs when any woman is threatened or assaulted by someone with whom she has or has had an intimate relationship, with whom she was previously acquainted, or who is a stranger. By committing significant Federal resources and attention to restructuring and strengthening the criminal justice response to women who have been, or potentially could be, victimized by violence, the safety of all women can be more effectively ensured.

Fiscal Year 1996 Grants To Encourage Arrest Policies

For FY 1996, Congress has appropriated $28 million to the United States Department of Justice Office of Justice Programs for Grants to Encourage Arrest Policies. Additionally, Part U of the Violence Against Women Act of 1994 authorizes $33 million for FY 1997 and $59 million for FY 1998. States, Indian tribal governments, and units of local government are eligible to receive grants subject to the requirements of the statute and these regulations, as well as assurances and certifications specified in the final program guidelines and application materials that will be available in early FY 1996.

Section 2101 of the Violence Against Women Act, codified as amended at 42 U.S.C. § 3796hh (1994), enumerates the following six purposes for which Grants to Encourage Arrest Policies may be used:

(1) To implement mandatory arrest or proarrest programs and policies in police departments, including mandatory arrest programs and policies for protection order violations;

(2) To develop policies and training programs in police departments to improve tracking of cases involving domestic violence;

(3) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges;

(4) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts;

(5) To strengthen legal advocacy service programs for victims of domestic violence; and

(6) To educate judges in criminal and other courts about domestic violence and improve judicial handling of such cases.

A Coordinated and Integrated Approach to the Problem

By definition, a coordinated and integrated approach suggests a partnership among law enforcement, prosecution, the courts, victim advocates and service providers. The goal of this Program is to treat domestic violence as a serious violation of the criminal law. A consistent criminal justice system response to domestic violence requires that professionals in the various components of the system have a shared vision that prioritizes the safety and well-being of the victim. The creation and implementation of that vision necessitates collaboration among police, prosecutors, the courts, and victim service providers. Thus, the Program requires that jurisdictions incorporate the experience of nonprofit, nongovernmental domestic violence service providers into the project planning and implementation process as well as police, prosecutors, and the

courts. Examples of innovative approaches include:

- Creating centralized units of police officers, prosecutors, judges and probation and parole officers to investigate and handle domestic violence cases.
- Implementing and testing the effectiveness of domestic violence arrest policies for violations of protection orders in the context of a coordinated criminal justice and community response to domestic violence that assigns priority to the safety of the victim and holds the offender accountable for his violent actions.
- Delivering comprehensive training programs for the police, prosecutors, probation and parole officers and the judiciary that address the technical issues associated with policies that encourage or mandate arrest for domestic violence; address the phenomenon of domestic violence; stress collaboration and shared responsibility for ensuring the safety of the victim; seek to change attitudes that have traditionally prevented professionals in the criminal justice system from responding to domestic violence as a serious violation of criminal law; and provide information on improved methods for tracking domestic violence cases.
- Developing information systems, automated registries, education and training programs and technical assistance efforts that facilitate enforcement of protection orders within a single jurisdiction; within a single State; and from State to State.
- Linking automated information and tracking systems to enhance communication among police, prosecutors, and criminal and family courts to ensure that all of the system components have access to consistent and complete information about an individual's domestic violence history.
- Establishing and expanding advocacy services for domestic violence victims from the time an abuse report is filed through the post-sentencing of the offender, including any time during which the offender is subject to probation or parole supervision.

Eligibility Requirements

To be eligible to receive grants under this Program, States, Indian tribal governments, and units of local government must certify that their laws or official policies (1) Encourage or mandate arrest of domestic violence offenders based on probable cause that an offense has been committed and (2) encourage or mandate arrest of domestic violence offenders who violate the terms of a valid outstanding protection order. Omnibus Act § 2101(c)(2), 42 U.S.C. § 3796hh(c)(2) (1994). Eligible applicants also must demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of an offender and victim. Omnibus Act § 2101(c)(2), 42 U.S.C. § 3796hh(c)(2) (1994).

In addition, States, Indian tribal governments, and units of local governments seeking grant funds through this Program must certify that their laws, policies, or practices prohibit the issuance of mutual restraining orders of protection, except in cases in which both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense. Omnibus Act § 2101(c)(3), 42 U.S.C. § 3796hh(c)(3) (1994).

Eligible applicants also must certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the victim bear the costs associated with the filing of criminal charges or the service of such charges on an abuser, or costs associated with the issuance or service of a warrant, protection order, or witness subpoena. Omnibus Act § 2101(c)(4), 42 U.S.C. § 3796hh(c)(4) (1994).

If the laws, policies, or practices required by Section 2101(c) of the Violence Against Women Act are not currently in place, States, Indian tribal governments, and local units of government must provide assurances that they will be in compliance with these requirements by the date on which the next session of the State or Indian Tribal legislature ends, or September 13, 1996, whichever is later. Omnibus Act § 2102(a)(1) (A)–(B), 42 U.S.C. § 3796hh–1(a)(1) (A)–(B) (1994).

For the purposes of this Program, a jurisdiction need not have pre-existing policies encouraging or mandating arrest to meet the eligibility requirements listed above. However, a State, Indian tribal government, or unit of local government must specify the policy that it intends to enact by the statutory deadline in its application for funding through this Program.

Award Priority

The Office of Justice Programs is required by the Violence Against Women Act to give priority to applicants that (1) Do not currently provide for centralized handling of cases involving domestic violence by police, prosecutors, and courts; and (2) demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence. Omnibus Act § 2102(b) (1)–(2), 42 U.S.C. § 3796hh–1(b) (1)–(2) (1994). Commitment may be demonstrated in a number of ways including: clear communication from top departmental management that domestic violence prevention is a priority; strict enforcement of arrest policies; innovative approaches to officer supervision in domestic violence matters; acknowledgment of officers who consistently enforce domestic violence arrest policies and sanctions for those who do not; education and training for all officers and supervisors on enforcement of domestic violence arrest policies and the phenomenon of domestic violence; and creation of special units to investigate and monitor spousal and partner abuse cases.

Technical Assistance and Training/ Evaluation

The Office of Justice Programs intends to assist States, Indian tribal governments, and units of local government in meeting the Program goal of treating domestic violence as a serious violation of criminal law. The Office of Justice Programs therefore hopes to set aside a small portion of the funds provided through this Program to provide specialized training and technical assistance to help grant recipients develop and implement effective arrest policies in the context of an integrated and coordinated criminal justice and community response to domestic violence.

In addition, the National Institute of Justice will conduct evaluations and studies of projects funded through this Program. Past research on the effectiveness of arrest policies for domestic violence has focused primarily on the police response and has not measured the response of victim service agencies and other parts of the criminal justice system, including pretrial services agencies, prosecution units, the courts, probation and parole. Additional research is needed to assess the effectiveness of arrest and other legal sanctions for domestic violence in communities that have adopted a system-wide, coordinated response to domestic violence. The Office of Justice Programs hopes to set aside a small portion of the overall funds authorized for the Program for this purpose. Recipients of funds for this Program must agree to cooperate with such federally-sponsored research and evaluation studies of their projects. In addition, grant recipients are required to report to the Attorney General on the effectiveness of their project(s). Omnibus Act § 2103, 42 U.S.C.

§ 3796hh–2 (1994). Recipients therefore are strongly encouraged to develop a local evaluation strategy to assess the impact and effectiveness of their programs. Applicants should consider entering into partnerships with research organizations that are submitting simultaneous grant applications to the National Institute of Justice for this purpose.

Request for Comments

The Office of Justice Programs seeks to fulfill Congressional intent by soliciting, encouraging and incorporating comments on all aspects of this program while ensuring that the statutory limitations are applied appropriately to all recipients. Comments are welcome on a broad range of issues, including but not limited to:

(1) Other priority areas that should be considered for funding in addition to the statutory award priorities identified in Section 90.66 of Subpart D;

(2) The special needs of Indian tribal governments, underserved populations and rural communities in implementing this Program;

(3) Effective strategies to ensure that local jurisdictions, States and tribal governments will accord full faith and credit to all valid protection orders pursuant to 18 U.S.C. § 2265; and

(4) Methods and approaches for conducting research on the effectiveness of arrest and other legal sanctions for domestic violence in communities that have adopted a system-wide coordinated response to the problem.

Administrative Requirements

This regulation has been drafted and reviewed in accordance with Executive Order 12866, § 1(b), Principles of Regulation. This rule is not a ''significant regulatory action'' under Executive Order 12866, § 3(f), Regulatory Planning and Review, and, accordingly, this rule has not been reviewed by the Office of Management and Budget.

The Assistant Attorney General for the Office of Justice Programs, in accordance with the Regulatory Flexibility Act, codified at 5 U.S.C. § 605(b), has reviewed this regulation and, by approving it, certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 90

Grant Programs, Judicial Administration.

For the reasons set out in the preamble, Title 28, Chapter 1, Part 90 of the Code of Federal Regulations is proposed to be amended as follows:

PART 90—VIOLENCE AGAINST WOMEN

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

Authority: 42 U.S.C. § 3711 et seq (1994).

2. A new Subpart D, consisting of §§ 90.60–90.67 is proposed to be added to read as follows:

Subpart D—Arrest Policies in Domestic Violence Cases

Sec.
90.60 Scope
90.61 Definitions
90.62 Purposes
90.63 Eligibility
90.64 Application Content
90.65 Evaluation
90.66 Review of Applications
90.67 Grantee Reporting

§ 90.60 Scope.

This subpart sets forth the statutory framework of the Violence Against Women Act's sections seeking to encourage States, Indian tribal governments, and units of local government to treat domestic violence as a serious violation of criminal law.

§ 90.61 Definitions.

For purposes of this subpart, the following definitions apply.

(a) *Domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or any other adult person against a victim who is protected from that person's acts under the domestic or family violence laws of the eligible State, Indian tribal government, or unit of local government that receives a grant under this subchapter.

(b) *Protection order* includes any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary and final orders issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding.

§ 90.62 Purposes.

The purposes of this program are:

(a) To implement mandatory arrest or proarrest programs and policies in police departments, including mandatory arrest programs and policies for protection order violations;

(b) To develop policies and training programs in police departments to improve tracking of cases involving domestic violence;

(c) To centralize and coordinate police enforcement, prosecution, or judicial responsibility for domestic violence cases in groups or units of police officers, prosecutors, or judges;

(d) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts;

(e) To strengthen legal advocacy service programs for victims of domestic violence; and

(f) To educate judges in criminal and other courts about domestic violence and improve judicial handling of such cases.

§ 90.63 Eligibility.

(a) Eligible grantees are States, Indian tribal governments, or units of local government that:

(1) Certify that their laws or official policies—

(i) Encourage or mandate the arrest of domestic violence offenders based on probable cause that an offense has been committed; and

(ii) Encourage or mandate the arrest of domestic violence offenders who violate the terms of a valid and outstanding protection order;

(2) Demonstrate that their laws, policies, or practices and their training programs discourage dual arrests of offender and victim;

(3) Certify that their laws, policies, or practices prohibit issuance of mutual restraining orders of protection except in cases where both spouses file a claim and the court makes detailed findings of fact indicating that both spouses acted primarily as aggressors and that neither spouse acted primarily in self-defense; and

(4) Certify that their laws, policies, or practices do not require, in connection with the prosecution of any misdemeanor or felony domestic violence offense, that the abused bear the costs associated with filing criminal charges or the service of such charges on an abuser, or that the abused bear the costs associated with the issuance or service of a warrant, protection order, or witness subpoena.

(b) If these laws, policies, or practices are not currently in place, States, Indian tribal governments, and local units of government must provide assurances that they will be in compliance with these requirements by the date on which the next session of the State or Indian

Tribal legislature ends, or September 13, 1996, whichever is later. Omnibus Act § 2102(a)(1), 42 U.S.C. 3796hh–-1(a)(1).

(c) For the purposes of this Program, a jurisdiction need not have pre-existing policies encouraging or mandating arrest to meet the eligibility requirements listed in this section. However, a State, Indian tribal government, or unit of local government must specify the policy that it intends to enact by the statutory deadline in its application for funding through this Program.

§ 90.64 Application content.

(a) Format. Applications from States, Indian tribal governments and units of local government must be submitted on Standard Form 424, Application for Federal Assistance, at a time designated by the Office of Justice Programs. The Violence Against Women Grants Office of the Office of Justice Programs will develop and disseminate to States, Indian tribal governments, local governments and other interested parties a complete Application Kit which will include a Standard Form 424, a list of assurances to which applicants must agree, and additional guidance on how to prepare and submit an application for grants under this Subpart. To receive a complete Application Kit, please contact: The Violence Against Women Grants Office, Office of Justice Programs, Room 444, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Telephone: (202) 307–6026.

(b) Programs. Applications must set forth programs and projects that meet the purposes and criteria of the Grants to Encourage Arrest program set out in § § 90.62 and 90.63 of this part.

(c) Requirements. Applicants in their applications shall, at a minimum:

(1) Describe plans to further the purposes stated in § 90.62 of this part;

(2) Identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

(3) Include documentation from nonprofit, private sexual assault and domestic violence programs demonstrating their participation in developing the application, and explain how these groups will be involved in the development and implementation of the project.

(d) Certifications. (1) As required by Section 2101(c) of the Omnibus Act, codified as amended at 42 U.S.C. 3796hh–1(a), each State, Indian tribal government or unit of local government must certify in its application that it has met the eligibility requirements set out in § 90.63 of this subpart.

(2) Each State, Indian tribal government or unit of local government must certify that all the information contained in the application is correct. All submissions will be treated as a material representation of fact upon which reliance will be placed, and any false or incomplete representation may result in suspension or termination of funding, recovery of funds provided, and civil and/or criminal sanctions.

§ 90.65 Evaluation.

The National Institute of Justice will conduct evaluations and studies of programs funded through this Program. The Office of Justice Programs hopes to set aside a small portion of the overall funds authorized for the Program for this purpose. Recipients of funds must agree to cooperate with such federally-sponsored research and evaluation studies of their projects. In addition, grant recipients are required to report to the Attorney General on the effectiveness of their project(s). Omnibus Act § 2103, 42 U.S.C. 3796hh–2. Recipients of program funds are strongly encouraged to develop a local evaluation strategy to assess the impact and effectiveness of their programs. Applicants should consider entering into partnerships with research organizations that are submitting simultaneous grant applications to the National Institute of Justice for this purpose.

§ 90.66 Review of Applications.

(a) Review criteria. (1) The provisions of Part U of the Omnibus Act and of the regulations in this subpart provide the basis for review and approval or disapproval of applications and amendments in whole or in part. Priority will be given to applicants that

(i) Do not currently provide for centralized handling of cases involving domestic violence by police, prosecutors, and courts; and

(ii) Demonstrate a commitment to strong enforcement of laws, and prosecution of cases, involving domestic violence. Omnibus Act § 2102(b)(1)–(2), 42 U.S.C. 3796hh–1(b)(1)–(2) (1994).

(2) Commitment may be demonstrated in a number of ways including: clear communication from top departmental management that domestic violence prevention is a priority; strict enforcement of arrest policies; innovative approaches to officer supervision in domestic violence matters; acknowledgment of officers who consistently enforce domestic violence arrest policies and sanctions for those who do not; education and training for all officers and supervisors on enforcement of domestic violence arrest policies and the phenomenon of domestic violence; and creation of special units to investigate and monitor spousal and partner abuse cases.

(b) Intergovernmental review. This program is covered by Executive Order 12372 (Intergovernmental Review of Federal Programs) and implementing regulations at 28 CFR part 30. A copy of the application submitted to the Office of Justice Programs should also be submitted at the same time to the State's Single Point of Contact, if there is a Single Point of Contact.

§ 90.67 Grantee reporting.

Each grantee receiving funds under this subpart shall submit a report to the Attorney General evaluating the effectiveness of projects developed with funds provided under this subpart and containing such additional material as the Assistant Attorney General of the Office of Justice Programs may prescribe.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 96–11852 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–18–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5504–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Extension of Public Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent for partial deletion of the RSR Corporation Superfund Site from the National Priorities List; notice of extension of the public comment period.

SUMMARY: As requested by some members of the public, the United States Environmental Protection Agency (EPA) Region 6 is extending the public comment period on the intent to delete the residential portions of the RSR Corporation Superfund Site (RSR Site) known as Operable Unit (OU) Nos. 1 and 2 from the National Priorities List (NPL). The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

EPA bases its proposal to delete OU Nos. 1 and 2 on the determination by EPA and the State of Texas, through the

Texas Natural Resource Conservation Commission (TNRCC), that all appropriate actions under CERCLA have been implemented to protect human health, welfare and the environment at OU Nos.1 and 2.

This partial deletion pertains only to OU Nos. 1 and 2 of the RSR Site and does not include OU Nos. 3, 4 and 5. OU Nos. 3, 4 and 5 will remain on the NPL, and response activities will continue at those OUs.

DATES: The EPA is extending the public comment period and will accept comments concerning its proposal for partial deletion for an additional thirty (30) days after publication of this notice in the Federal Register and a newspaper of record.

ADDRESSES: Comments may be mailed to: Ms. Olivia Rodriguez Balandran Community Relations Coordinator U.S. EPA, Region 6 (6SF–P) 1445 Ross Avenue Dallas, Texas 75202–2733 1–800–533–3508 or (214) 665–6484.

Information Repositories

Comprehensive information on the RSR Site as well as information specific to this proposed partial deletion is available for review at EPA's Region 6 office in Dallas, Texas. The Administrative Records for OU Nos. 1 and 2 and the Deletion Docket for this partial deletion are maintained at the following RSR Site document/information repositories: U.S. EPA, Region 6 Library, 12th Floor (6MD–II) 1445 Ross Avenue Dallas, Texas 75202–2733 (214) 665–6424 or 665–6427 hours of operation: M–F 8:00 a.m. to 4:30 p.m.

Dallas Public Library, 2332 Singleton Blvd., Dallas, Texas 75212, (214) 670–6445, hours of operation: M and W 10 a.m.–6 p.m. T and Th 10 a.m.–8 p.m. Sat 10 a.m.–5 p.m.

Texas Natural Resource Conservation Commission, 12118 North IH 35, Technical Park Center, Room 190, Building D, Austin, Texas 78753, (512) 239–2920, hours of operation: M-F 8:00 a.m.–5:00 p.m.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Carlos A. Sanchez, Project Manager, U.S. EPA, Region 6 (6SF–AT), 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8507.

SUPPLEMENTARY INFORMATION: This partial deletion of the RSR site is proposed in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995).

The proposal for partial deletion pertains to OU No. 1, which includes all privately owned residential properties and residential high risk areas, such as schools and day care centers, located in the RSR site. In addition, this proposal for partial deletion pertains to OU No. 2, which includes the public residential housing area located in RSR Site that is currently owned by the Dallas Housing Authority (DHA). EPA has issued no further action Records of Decision (RODs) for OU Nos. 1 and 2.

EPA, with concurrence from the State of Texas, has determined that all appropriate CERCLA response actions have been completed at OU Nos. 1 and 2 and protection of human health and the environment has been achieved in these areas. Therefore, EPA makes this proposal to delete only OU Nos. 1 and 2 of the RSR Corporation Superfund Site from the NPL.

Dated: May 7, 1996.

Approved By:

Myron O. Knudson,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region 6.

[FR Doc. 96–12076 Filed 5–13–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–105; RM–8793]

Radio Broadcasting Services; Ely, Hermantown and Pine City, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Harbor Broadcasting, Inc. requesting the substitution of Channel 221C3 for Channel 221A at Hermantown, Minnesota, and modification of its construction permit for Channel 221A to specify operation on Channel 221C3. The coordinates for Channel 221C3 are 46–49–30 and 92–17–00. To accommodate the upgrade at Hermantown, we shall also propose to substitute Channel 233A for Channel 221A at Ely, Minnesota, and modify the license for Station WELY-FM accordingly at coordinates 47–53–40 and 91–51–50 and substitute Channel 265A for Channel 221A at Pine City, Minnesota, and modify the license for Station WCMP-FM at coordinates 45–54–07 and 92–57–25. Since the communities of Ely, Hermantown and Pine City are all located within 320 kilometers (200 miles) of the U.S-Canadian border, Canadian concurrence will be requested for these allotments. We shall propose to modify the construction permit for Channel 221A at Hermantown, Minnesota, in accordance with Section 1.420(g) of the Commission's Rules and will not accept competing expressions of interest for the use of the channel or require petitioner to demonstrate the availaility of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before June 28, 1996, and reply comments on or before July 13, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Timothy E. Welch, Hill & Welch, 1330 New Hampshire Avenue, NW., Suite 113, Washington, DC 20036.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 96–105, adopted April 22, 1996, and released May 7, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 96–12046 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 96–106; RM–8797]

Radio Broadcasting Services; Hopkinsville, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Rockin' C Broadcasting proposing the allotment of Channel 248A at Hopkinsville, Kentucky, as the community's third local commercial FM transmission service. Channel 248A can be allotted to Hopkinsville in compliance with the Commission's minimum distance separation requirements with a site restriction of 10 kilometers (6.3 miles) south to avoid a short-spacing to the licensed site of Station WHRZ(FM), Channel 249A, Providence, Kentucky. The coordinates for Channel 248A at Hopkinsville are North Latitude 36–46–18 and West Longitude 87–28–28.

DATES: Comments must be filed on or before July 1, 1996 and reply comments on or before July 16, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Carol B. Ingram, President, Rockin' C Broadcasting, 212 Turtle Creek Drive, Batesville, Mississippi 38606 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 96–106, adopted April 29, 1996, and released May 8, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

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

[FR Doc. 96–12044 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Elimination of Nonstatutory Certifications

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of public meeting.

SUMMARY: The Administrator for Federal Procurement Policy, in concert with the Federal Acquisition Regulations (fAR) Council, is sponsoring a meeting to solicit public comments on the implementation of Section 4301(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106) (the Act). The Act requires the Administrator for Federal Procurement Policy to issue for public comment a proposal to amend the FAR to remove certification requirements for contractors and offerors that are not specifically imposed by statute. The Act provides the Administrator with authority to retain, under certain circumstances, certification requirements that are not specifically imposed by statute. In an effort to get public input in the rulemaking process prior to publishing a proposed rule, the FAR Council is inviting interested parties to participate in a public meeting on implementation of the Act.

DATES: *Public Meeting:* A public meeting will be conducted at the address shown below from 1 p.m. to 5:30 p.m., eastern daylight time, on June 3, 1996.

ADDRESSES: *Public Meeting:* The location of the public meeting is the White House Conference Center, 726 Jackson Place, NW, Washington, DC 20503. An interactive meeting, consisting of open discussion among the FAR Council members, other government representatives (from the procurement, legal, and Inspector General communities), and industry is planned. Individuals who would like to participate or submit a formal statement shall, by May 28, 1996, notify: Defense Acquisition Regulations Council, Attn: Mr. Michael Mutty, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 2031–3062. If time permits, formal statements will be heard.

FOR FURTHER INFORMATION CONTACT: Michael Mutty, telephone (703) 602–0131. FAX (703) 602–0350.

Dated: May 8, 1996.

Edward Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 96–11957 Filed 5–13–96; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88–06, Notice 25]

RIN 2127–AE49

Federal Motor Vehicle Safety Standards; Side Impact Protection—Light Trucks, Buses and Multipurpose Passenger Vehicles

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

ACTION: Denial of petition for reconsideration.

SUMMARY: This document denies a petition from Toyota Motor Corporate Services of North America (''Toyota'') for reconsideration of the agency's final rule that extended Safety Standard 214's dynamic side impact testing requirements to light trucks, multipurpose passenger vehicles and buses with a gross vehicle weight rating (GVWR) of 6,000 (lb) or less. Toyota requested that instead of using GVWR as the attribute for identifying vehicles to be excluded from the new requirements, NHTSA should exclude vehicles based on the height of their seating reference point. The agency is denying the petition because NHTSA believes Toyota's approach would exclude some vehicles that are and should remain subject to the dynamic side impact requirements.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues: Dr. William Fan, Office of Vehicle Safety Standards, NPS–14, telephone (202) 366–4922. For legal issues: Deirdre Fujita, Office of Chief Counsel, NCC–20, (202) 366–2992. Both may be reached at the National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

SUPPLEMENTARY INFORMATION:

Background

On July 28, 1995, NHTSA amended Federal Motor Vehicle Safety Standard No. 214, ''Side Impact Protection'' (49 CFR § 571.214), to extend the standard's dynamic testing requirements to light trucks, multipurpose passenger vehicles (hereinafter referred to as ''MPVs''), and buses with a GVWR of 6,000 lb or less. (This group of vehicles is hereinafter referred to as ''LTVs''). The rule resulted from a rulemaking on LTV side impact safety that the agency was required to commence pursuant to the NHTSA Authorization Act of 1991 (sections 2500–2509 of the Intermodal Surface Transportation Efficiency Act (''ISTEA'')).

Under the rule, an LTV must provide protection to an occupant's thoracic and pelvic regions, as measured by the accelerations registered on an instrumented side impact dummy (SID), in a full-scale crash test. In the test, the LTV (known as the ''target'' LTV) is struck in the side by a moving deformable barrier (MDB) simulating a passenger car. The SID is instrumented to measure accelerations in the ribs and spine and in the pelvic cavity. The values measured in the ribs and spine are used in determining the ''Thoracic Trauma Index (TTI(d)),'' an injury criterion that measures the risk of thoracic injury of an occupant in a side impact. The value measured in the pelvic cavity assesses the potential risk for pelvic injury. To meet Standard 214's side impact protection requirements, the TTI(d) and pelvis measurements must not exceed specified maximum values. For the thorax, TTI(d) must not exceed 85 g, and for the pelvis, peak lateral acceleration must not exceed 130 g's.

The rule extended to LTVs virtually all of the dynamic side impact provisions of Standard 214 that currently apply to passenger cars. LTVs will be dynamically tested with the same MDB used to test passenger cars to the side impact requirements of Standard 214, under the same test conditions and procedures. (One minor variation relates to the procedure for specifying where on the target LTV the MDB must first contact in the dynamic test. See 60 FR at 38758–38759.) The instrumented SIDs used in the passenger car test will be used to test LTVs, and used in the same manner, placed in the front and rear seats on the side of the vehicle struck by the MDB. Performance criteria for the TTI(d) and pelvic acceleration measured by the SID are the same as those specified for passenger cars, with one exception. Two-door LTVs have an 85 g limit for the TTI(d), while two-door passenger cars have a 90 g limit.

NHTSA determined that the passenger car provisions are appropriate for LTVs because both passenger cars and LTVs are driven in the same environment and thus have the same exposure to striking vehicles. However, NHTSA acknowledged that the extension of the passenger car requirements resulted in few estimated benefits since all current LTVs already meet the requirements. Nevertheless, the agency decided that the extension was warranted given that increasing numbers of LTVs are used as passenger vehicles and that the percentage of LTVs is likely to increase significantly in the future. Further, information indicates that small LTVs, which are potentially vulnerable in side crashes, will comprise much of the LTV fleet by the year 2000. The extension will prevent any future LTV from providing side impact safety performance that is inferior to that of passenger cars.

The decision to specify the barrier currently specified for passenger cars led the agency in turn to limit the extension of the rule to LTVs, thus excluding multipurpose passenger vehicles, trucks and buses with a GVWR over 6,000 lb. This limit was adopted because the barrier simulates side crashes in which occupants of the vehicles with higher GVWRs would be relatively unlikely to suffer death or serious injury. NHTSA also believed inclusion of vehicles with GVWRs over 6,000 lb would not result in any safety improvements since those vehicles would likely meet the adopted dynamic requirements without any modification. In the interest of avoiding unnecessarily requiring that those vehicles be certified to the dynamic side impact protection requirements, NHTSA did not extend the rule to larger vehicles. (60 FR at 38756.)

Petition for Reconsideration

Using a similar rationale of avoiding unnecessary regulatory and compliance test burdens and costs, Toyota petitioned to exclude LTVs ''whose seating reference points (SgRP) are 700 mm or greater.'' (The agency assumes this refers to the SgRP for the driver's position, although the petitioner did not specify the position.) Toyota believed that those vehicles will meet the new requirements without any problem because, according to the petitioner, the MDB will not impact the dummies' rib cage, where accelerometers are positioned. Toyota stated that ''NHTSA's own data indicates that the highest seating reference point of those vehicles (which did not meet the passenger car standard) was 655 mm.'' The petitioner said that it conducted tests of five of its current models. According to Toyota, all five passed the injury criteria. The only model that had a ''marginal'' TTI(d), as compared to the prescribed limit, was the vehicle that had an H-point height of less than 700 mm.

Agency Decision

The agency is denying Toyota's petition because NHTSA believes Toyota's approach would exclude some vehicles that are and should remain subject to the dynamic side impact requirements. The agency believes Toyota might not be correct in suggesting that all vehicles with a SgRP height of 700 mm or greater would readily pass the standard.[1]

It should be noted that during the development of the final rule extending Standard 214's dynamic requirements to LTVs, NHTSA considered excluding vehicles with an H-point height of 685 mm, which is approximately the height suggested by Toyota. After analyzing available data, the agency decided against this approach. Adjusted test data from a multiple linear regression model (developed during the 214 rulemaking to study the effects of barrier weight and height on SID responses) indicated that some LTVs whose H-point heights are greater than 700 mm might not be able to pass the new dynamic side impact requirements. (See pages IV–2, 3 and 4 of the agency's Preliminary Economic Assessment, June 1994, for the rulemaking proposal for the July 1995 rule. Docket 88–06–N23–001.) NHTSA tested seven LTVs that had an H-point height of 27 inches (686 mm) or greater, impacting them with barriers that were heavier and higher than the adopted one. Applying the regression model to

[1] NHTSA notes that while Toyota used SgRP in its petition, the agency used the H-point in assessing the merits of Toyota's request. ''SgRP'' is defined in 49 CFR § 571.3 as ''the unique design H-point as defined in [the Society of Automotive Engineers] SAE J1100 (June 1984),'' and which also conforms to other factors. ''H-point'' is defined in 571.3 as the hinged hip point described in SAE Recommended Practice J826. For the purposes of this action, these two terms are essentially the same.

these cases enabled NHTSA to estimate the TTI(d) and pelvic acceleration values that would have been obtained for the vehicles had they been tested with the barrier adopted by the final rule. The analysis indicates that, contrary to Toyota's assertion about widespread compliance of vehicles with SgRP are 700 mm or greater, three of the seven vehicles ('93 Plymouth Voyager, '89 Ford Ranger XLT, '89 Suzuki Sidekick) may require modifications to ensure compliance with the TTI(d) and pelvic g limits.

NHTSA also does not agree with Toyota's assertion that vehicles whose SgRP point is higher than 700 mm would necessarily pass Standard 214 due to the position of the SID's lower rib relative to the MDB in the crash test. The lower rib acceleration is not the only response used to determine the compliance of the vehicle. Accelerations of the upper spine, upper rib and pelvis also play an important role in determining compliance. Toyota did not address the effect that SgRP height might have on responses of those components. Further, the relative height between the MDB and the SgRP of the target vehicle is one of many factors that affect the vehicle performance during a side impact crash test. The vehicle weight, clearance between the side interior and the SID, side structure and/or padding properties are all important factors that could affect whether small LTVs, in particular, pass the performance criteria. Toyota did not address those factors either.

For the reasons discussed above, NHTSA denies Toyota's petition for reconsideration.

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

Issued on: May 8, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–12034 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–59–P

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49 CFR Part 571

[Docket No. 96–46; Notice 01]

RIN 2127–AF91

Federal Motor Vehicle Safety Standards; Seat Belt Assembly Anchorages

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

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to a petition from Volvo, this notice proposes to require manufacturers to certify the anchorages of a voluntarily installed Type 2 safety belt (lap/shoulder belt) to the anchorage requirements for a mandatorily installed Type 2 safety belt. Currently, if only a Type 1 safety belt (lap belt) is required for a particular seating position, a manufacturer must certify the anchorage(s) for the belt(s) it installs at that position to the anchorage requirements for a Type 1 belt, even if the manufacturer installs a Type 2 safety belt at that location.

DATES: Comments must be received by July 15, 1996.

ADDRESSES: Comments should refer to the docket and notice number.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590:

For non-legal issues: Clarke B. Harper, Office of Crashworthiness Standards, NPS–11, telephone (202) 366–2264, facsimile (202) 366–4329, electronic mail ''charper@nhtsa.dot.gov''.

For legal issues: Mary Versailles, Office of the Chief Counsel, NCC–20, telephone (202) 366–2992, facsimile (202) 366–3820, electronic mail ''mversailles@nhtsa.dot.gov''.

SUPPLEMENTARY INFORMATION:

Background

Federal Motor Vehicle Safety Standard No. 210,''Seat Belt Anchorages,'' requires the anchorages for mandatorily installed Type 2 safety belts to withstand the simultaneous application of a 3,000-pound load applied to the lap belt anchorages and a separate 3,000-pound load to the shoulder belt anchorages. When only a Type 1 safety belt is required, Standard No. 210 requires the anchorages for the lap belt to withstand a 5,000-pound load. If a manufacturer voluntarily installs a Type 2 safety belt at a seating position for which only a Type 1 safety belt is required, the lap belt portion is required to withstand a 5,000-pound load. but the shoulder belt portion is subject to no requirement.

Currently, manufacturers need only install a Type 1 safety belt at the following seating positions:

- The passenger seats in school buses with a gross vehicle weight rating (GVWR) of 10,000 pounds or less;
- All seats in vehicles, except passenger seats in buses, including school buses, with a GVWR of more than 10,000 pounds; and,
- All seats, except forward-facing outboard seats, in all other vehicles.

Volvo's Petition

On May 18, 1995, Volvo Cars of North America, Inc. (Volvo) petitioned NHTSA to amend Standard No. 210. Volvo stated that it subjects the anchorages of its voluntarily installed Type 2 safety belts to two different tests. Pursuant to Standard No. 210, it tests the anchorages of the lap belt portion of those belts for compliance with the anchorage requirements for a Type 1 safety belt. In addition, for quality control purposes, it tests the anchorages of its voluntarily installed Type 2 safety belts for compliance with the requirements for the anchorages of mandatorily installed Type 2 safety belts. To reduce the amount of testing, Volvo requests that the Standard be amended to give manufacturers a choice of certifying the anchorages of a voluntarily installed Type 2 safety belt either to the requirements for a Type 1 safety belt anchorage or to the requirements for a Type 2 safety belt anchorage. The adoption of its request would allow Volvo to cease the separate testing of the lap belt portion of its voluntarily installed Type 2 safety belts.

Agency Proposal

While Volvo asked NHTSA to allow manufacturers an option, NHTSA is proposing to require manufacturers that voluntarily install an integral Type 2 safety belt to certify the anchorages of that belt to the requirements for Type 2 safety belt anchorages.

First, there does not appear to be a reason for testing non-dynamically tested integral Type 2 safety belt anchorages differently based on whether the installation is mandatory or voluntary.

Second, the load applied by an occupant to the lap belt portion of a Type 2 safety belt would be lower than the load applied by the same occupant to a Type 1 safety belt, since part of the occupant's load would be borne by the shoulder belt. Thus, if the load requirements for the lap belt anchorages of a mandatory Type 2 safety belt are appropriate to meet the need for motor vehicle safety, it appears that the current requirements for the lap belt anchorages of a voluntarily installed Type 2 safety belt are excessive.

Finally, in the past, NHTSA has experienced difficulties in enforcing standards that give manufacturers the option of complying with any one of a set of alternative requirements. Generally, NHTSA will ask a manufacturer to specify which of the alternatives the agency should apply in a compliance test. In some instances when agency testing indicates that a

vehicle has an apparent non-compliance with the alternative specified by the manufacturer, the manufacturer has argued that the vehicle should nevertheless be regarded as being in compliance since it would comply with another alternative. NHTSA has then had to incur the expense of a second compliance test to determine whether it should continue with enforcement proceedings. This proposal would prevent such an enforcement problem with respect to anchorages for voluntarily installed Type 2 safety belts.

International Harmonization

This proposal would harmonize this aspect of Standard No. 210 with the counterpart regulation of the Economic Commission for Europe (ECE R14, ''Safety-Belt Anchorages''). ECE14 specifies two options for seats equipped with lap and shoulder belt anchorages. The first option consists of two tests which apparently address the possibility that while such a seat might be initially equipped with only a Type 1 belt, it might at some later point be equipped with a Type 2 safety belt. Test 1 simultaneously subjects the anchorages for the lap and shoulder belt portions to loads similar to the 3,000 pound loads in Standard No. 210. Test 2 subjects the anchorages for the lap belt portion to a load similar to the 5,000 pound load in Standard No. 210. The second option consists of only the first of these tests. If a Type 2 safety belt is initially installed at the seating position, ECE R14 specifies compliance with the second option. Under those circumstances, NHTSA's proposal specifies essentially the same test.

Cost Savings and Safety Impacts

The adoption of this proposal could result in minor reductions in manufacturing costs and compliance costs. If a manufacturer voluntarily installed a Type 2 safety belt, it might decide to install lap belt anchorages capable of withstanding a 3,000 pound load, but not the 5,000 pound load currently required. NHTSA believes that the cost savings from such a design change would be less than $1 per vehicle. In addition, manufacturers which currently certify the anchorages of voluntarily installed Type 2 safety belts to the requirements of Standard No. 210 for Type 1 safety belts and also choose to test those anchorages to the requirements for Type 2 anchorages would save approximately $1,400 per vehicle model as a result of not having to conduct a test to certify to the Type 1 anchorage requirements. For Volvo, this could result in a total annual cost savings from both design and test changes of approximately $100,000.

Approximately 90 percent of all trucks with a GVWR of more than 10,000 pounds have Type 2 safety belts installed at the front outboard seats, even though the minimum requirement is for a Type 1 safety belt. For this vehicle population, the annual cost savings from design changes could be approximately $770,000. This figure does not include the $1,400 for each certification test. The number of voluntarily-installed lap/shoulder belts is increasing as other manufacturers are beginning to install lap/shoulder safety belts at seating positions that are only required to have a lap belt.

While manufacturers might be able to install less strong lap belt anchorages under the proposed change, NHTSA does not believe there will be any net loss of benefits. Standard No. 210 tests the lap belt anchorages of a voluntarily installed Type 2 safety belt as if the lap belt were the only belt present at the seating position and by itself would have to sustain the entire load of the occupant. However, the proposal would require the shoulder belt anchorage to help sustain the load. Further, lap/shoulder belts offer greater protection than lap only belts. In the 1989 final rule requiring lap/shoulder belts at all forward-facing outboard seating positions in passenger cars, NHTSA estimated that rear-seat lap-only belts are 32 percent effective in reducing the risk of death, while rear-seat lap/shoulder belts were 41 percent effective (54 FR 25275, 25276; June 14, 1989). Therefore, there should not be any net loss of strength or benefits even if manufacturers install less strong lap belt anchorages.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures. As explained above, this proposal could result in an annual savings of approximately one million dollars.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. The anticipated slight savings would not affect the purchase of new vehicles by small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this proposed rule.

National Environmental Policy Act

NHTSA has also analyzed this proposed rule under the National Environmental Policy Act and determined that it would not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this proposed rule would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

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

Submission of Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the

complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR Part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 would continue to read as follows:

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

2. 571.210 would be amended by revising sections S4.2.1 and S4.2.2 to read as follows:

§ 571.210 Standard No. 210, Seat Belt Assembly Anchorages.

* * * * *

S4.2.1 Except as provided in S4.2.5, and except for side-facing seats, the anchorages, attachment hardware, and attachment bolts for any of the following seat belt assemblies shall withstand a 5,000 pound force when tested in accordance with S5.1 of this standard:

(a) Type 1 seat belt assembly; and

(b) Lap belt portion of either a Type 2 or automatic seat belt assembly that is equipped with a detachable upper torso belt.

S4.2.2 Except as provided in S4.2.5, the anchorages, attachment hardware, and attachment bolts for any of the following seat belt assemblies shall withstand a 3,000 pound force applied to the lap belt portion of the seat belt assembly simultaneously with a 3,000 pound force applied to the shoulder belt portion of the seat belt assembly, when tested in accordance with S5.2 of this standard:

(a) Type 2 and automatic seat belt assemblies that are installed to comply with Standard No. 208 (49 CFR 571.208); and

(b) Type 2 and automatic seat belt assemblies that are voluntarily installed at a seating position required to have a Type 1 seat belt assembly by Standard No. 208 (49 CFR 571.208).

* * * * *

Issued on May 8, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–12033 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 16

Review of Injurious Wildlife Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review of regulations.

SUMMARY: The Fish and Wildlife Service is reviewing 50 CFR Part 16 to determine to what extent it should be reinvented. 50 CFR Part 16 addresses the importation or shipment of injurious wildlife. Applicable legislation will be reviewed, the process for identifying and listing injurious wildlife will be examined, and import restrictions will be evaluated.

DATES: Comments must be submitted on or before July 15, 1996.

ADDRESSES: Comments may be mailed or sent by fax to the Chief, Division of Fish and Wildlife Management Assistance, U.S. Fish and Wildlife Service, 1849 C Street, N.W., Mail Stop 840 ARLSQ, Washington, D.C. 20240, or FAX (703) 358–2044.

FOR FURTHER INFORMATION CONTACT: Susan Mangin, Division of Fish and Wildlife Management Assistance at (703) 358–1718.

SUPPLEMENTARY INFORMATION: 50 CFR Part 16 implements provisions of the Lacey Act of 1900 (18 U.S.C. 42). The Lacey Act restricts importation of mammals, birds, fish, reptiles and amphibians that are deemed injurious to humans, agriculture, horticulture, forestry, wildlife, or wildlife resources of the United States. Interest has increased in preventing the introduction of harmful nonindigenous species. As 50 CFR is reinvented, alternatives to the current approach for implementing the Lacey Act will be considered. Specific comments from other Federal agencies, States, and the private sector are requested.

Dated: May 6, 1996.

Bruce Blanchard,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 96–11972 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[I.D. 050696A]

Reef Fish Fishery of the Gulf of Mexico; Amendment 13

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 13 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review, approval, and implementation by NMFS. Written comments are requested from the public.

DATES: Written comments must be received on or before July 8, 1996.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 13, which includes an environmental assessment and a regulatory impact review, should be sent to the Gulf of

Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, Suite 331, Tampa, FL 33609-2486, fax: 813-225-7015.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813-570-5305.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that a Council-prepared amendment to a fishery management plan be submitted to NMFS for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that NMFS, upon receiving an amendment, immediately publish a notice announcing that the amendment is available for public review and comment.

Amendment 13 would extend the red snapper commercial fishery trip limit and vessel permit endorsement provisions, currently in effect under an emergency interim rule (61 FR 7751, February 29, 1996), until implementation of: (1) The red snapper individual transferrable quota (ITQ) system approved under FMP Amendment 8; or (2) an alternative system to control access to the commercial red snapper fishery. Under Amendment 13, the trip limit and endorsement provisions would terminate on December 31, 1997, unless replaced earlier by the ITQ system or another controlled access program. The red snapper vessel permit endorsement and trip limit provisions have been in effect since December 1992. Proposed regulations to implement the measures of Amendment 13 are scheduled for publication within 15 days.

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

Dated: May 8, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11991 Filed 5–9–96; 2:16 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 94
Tuesday, May 14, 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

Rural Business-Cooperative Service

Notice of Request For Collection of Public Information With Use of a Survey

AGENCY: Rural Business-Cooperative Service.

ACTION: Proposed collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request clearance for a new information collection in order to render service to associations of producers of agricultural products and federations and subsidiaries thereof as authorized in the Cooperative Marketing Act of 1926.

DATES: Comments on this notice must be received by July 15, 1996 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Edgar L. Lewis, Agricultural Economist, RBS, U.S. Department of Agriculture, Ag Box 3252, Washington, DC 20250–3252, Telephone (202) 690–3407.

SUPPLEMENTARY INFORMATION:

Title: Cooperative Coordination of Production and Harvesting Decisions.

Type of Request: New information collection.

Abstract: The Rural Business-Cooperative Service (RBS) USDA, formerly the Agricultural Cooperative Service (ACS), conducts research on issues that are timely and important to cooperatives, including fruit and vegetable cooperatives. In order to carry out the Agency's mission, including research, RBS needs to collect information from the cooperative community.

The authority to carry out RBS mission is defined in the Cooperative Marketing Act of 1926 (44 Stat. 802–1926), and other regulations listed below.

Authority and Duties of Division (7 U.S.C. & 453)

(a) The division shall render service to associations of producers of agricultural products, and federations and subsidiaries thereof, engaged in the cooperative marketing of agricultural products, including processing, warehousing, manufacturing, storage, the cooperative purchasing of farm supplies, credit, financing, insurance, and other cooperative activities.

(b) The division is authorized:

(1) To acquire, analyze and disseminate economic, statistical, and historical information regarding the progress, organization, and business methods of cooperative association in the United States and foreign countries.

(2) To conduct studies of the economic, legal, financial, social, and other phases of cooperation, and publish the results thereof. Such studies shall include the analyses of the organization, operation, financial and merchandising problems of cooperative associations.

(3) To make surveys and analyses if deemed advisable of the accounts and business practices of representative cooperative associations upon their request; to report to the association so surveyed the results thereof; and with the consent of the association so surveyed to publish summaries of the results of such surveys, together with similar facts, for the guidance of cooperative associations and for the purpose of assisting cooperative associations in developing methods of business and market analysis.

Cooperatives account for approximately 20–25 percent of the total volume of fruit, vegetables, and specialty crops sold in the United States. A cooperative's ability to coordinate production practices and harvesting schedules from a central source has important implications for the operational efficiency and competitiveness in both fresh and processed produce markets. Structural changes in production and food marketing sectors have resulted in an increasingly competitive environment. The ability to regulate product flow to correspond to market conditions has evolved into an essential management tool. By definition or structure, many cooperatives are unable to access and respond to market information by adjusting their marketing activities. To compete and survive in this changing industry, fruit and vegetable cooperatives may benefit from more coordination of production and harvesting activities. This information collection is designed as input into a study that will provide a better understanding of cooperative coordination of production and harvesting decisions. The objectives of this research study are to determine the extent that fruit and vegetable cooperatives coordinate production and harvesting decisions, examine the effects these practices have on operating efficiency and competitiveness, and to identify conditions and situations where implementation of coordination practices will have their greatest economic impact.

In order to carry out the Agency's mission of research as authorized in the Cooperative Marketing Act of 1926 (44 Stat. 802–1926), RBS needs to collect information from the cooperative community. The data needed for this study is generally not available to the Agency unless provided by the cooperatives. This one-time information collection effort will be used for a research report designed to help prepare cooperatives to compete in a continually changing environment.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.0 hour per response.

Respondents: Fruit and vegetable cooperatives.

Estimated Number of Respondents: 300.

Estimated Number of Responses per Respondent: 1 (one time survey).

Estimated Total Annual Burden on Respondents: 300 hours.

Copies of this information collection can be obtained from Director, Regulations and Paperwork Management Division, at (202) 720–9725.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the function of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and

clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Director, Regulations and Paperwork Management Division, U.S. Department of Agriculture, Rural Development, Ag Box 0743, Washington, D.C. 20250. 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.

Dated: May 6, 1996.

Dayton J. Watkins,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 96–11976 Filed 5–13–96; 8:45 am]

BILLING CODE 3410–07–U

Agricultural Marketing Service

[Docket No. TB–96–21]

Burley Tobacco Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: Burley Tobacco Advisory Committee.

Dates: June 12, 1996.

Time: 10:00 a.m.

Place: Campbell House Inn, South Colonial Hall, 1375 Harrodsburg Road, Lexington, Kentucky 40504.

Purpose: To elect officers, recommend opening dates, review the 1996 policies and procedures and other related matters for the 1996 burley tobacco marketing season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact John P. Duncan III, Director, Tobacco Division, AMS, U.S. Department of Agriculture, Room 502 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: May 8, 1996.

John P. Duncan III,

Director, Tobacco Division.

[FR Doc. 96–12067 Filed 5–13–96; 8:45 am]

BILLING CODE 3410–02–P

Food and Consumer Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Federal-State Special Supplemental Nutrition Program Agreement

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Consumer Service's (FCS) intention to request OMB review of the Federal-State Special Supplemental Nutrition Program Agreement.

DATES: Comments on this notice must be received by July 15, 1996.

ADDRESSES: Send comments and requests for copies of this information collection to: Stanley C. Garnett, Director, Supplemental Food Programs Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, (703) 305–2749.

SUPPLEMENTARY INFORMATION:

Title: Federal-State Special Supplemental Nutrition Program Agreement.

OMB Number: 0584–0332.

Expiration Date: 7–31–96.

Type of Request: Extension of a Currently Approved Collection.

Abstract: The Agreement is the contract between USDA and State agencies administering the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) and the WIC Farmers' Market Nutrition Program (FMNP). The agreement authorizes the Department to release funds to the State agencies for the administration of WIC and the FMNP in the jurisdiction of the State agency in accordance with the provisions of 7 CFR Parts 246 and 248.

The Agreement requires the signature of the State agency official and includes a certification/assurance regarding drug-free workplace, a certification regarding lobbying and a disclosure of lobbying activities.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: The Chief Health Officer of the State agency or Chief Executive Officer of the State.

Estimated Number of Respondents: 103 respondents.

Estimated Number of Responses Per Respondent: One.

Estimated Total Annual Burden on Respondents: 52 hours.

Dated: May 3, 1996.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 96–12056 Filed 5–13–96; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 817]

Grant of Authority for Subzone Status; Custom Manufacturing Services, Lucent Technologies Inc. (Telecommunications and Computer Equipment) Whitsett, North Carolina

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 at the telecommunications and computer equipment manufacturing facility of the Custom Manufacturing Services unit of Lucent Technologies Inc., in Whitsett, North Carolina, was filed by the Board on March 27, 1995, and notice inviting public comment was given in the Federal Register (FTZ Docket 9–95, 60 FR 17052, 4–4–95); and,

Whereas, the Board adopts the findings and recommendations of the examiner's reports, 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 93E) at the plant of Custom Manufacturing Services, Lucent Technologies Inc., in Whitsett, 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 29th day of April 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. 96–11937 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 36–96]

Foreign-Trade Zone 7—Mayaguez, PR; Application for Subzone Status, Mani Can Corporation Facilities, (Steel Cans), Mayaguez, Puerto Rico

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Puerto Rico Industrial Development Company, grantee of FTZ 7, requesting special-purpose subzone status for the easy-open steel can processing facilities of Mani Can Corporation (MCC) (a wholly-owned affiliate of Star-Kist Foods, Inc., in turn wholly owned by the H. J. Heinz Company), located in Mayaguez, Puerto Rico. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 7, 1996.

The proposed subzone would consist of MCC's two steel can processing facilities located within the Industrial Port Urbanization area of the City of Mayaguez: Site 1 (120,000 sq.ft. on 10 acres)—located on Lots 9, 10, 11, and 12 at Street No. 3 and the Mani-Sabanetas Highway; and, Site 2 (104,000 sq.ft.) within a building located at Gonzalez Clemente Avenue and Street No. 3, some 475 meters east of Site 1. The facilities (150 employees) are used to fabricate cans and related can parts (sheets, easy-open ends, sanitary ends) used for food products (e.g., tuna fish, pet food). The production process involves cutting steel coils, pressing, enamel coating, and packaging. Some 70 percent of the steel coils would be purchased from abroad, including tin free steel (HTSUS #7210.50; duty rate-4.6%) and electro-tin plated steel (HTSUS #7210.11; 2.8%). The finished cans and parts are mostly sold to Heinz-affiliated canning plants in Puerto Rico, California, Kansas, and Pennsylvania.

Zone procedures would exempt MCC from Customs duty payments on the foreign steel used in the export production. On its domestic sales, the company would be able to choose the duty rates that apply to the finished cans (duty free) and can ends (4.7%) for the foreign steel inputs noted above. Zone procedures would also exempt certain foreign steel that becomes scrap during the production process (about 10%) from Customs duties. The application indicates that subzone status would help improve the international competitiveness of the MCC plant as well as other Heinz-affiliated domestic canning facilities. .

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 15, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 29, 1996).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, Federal Building, Room G–55, Chardon Avenue, Hato Rey, PR 00918

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue NW., Washington, DC 20230–0002.

Dated: May 7, 1996.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 96–11938 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–791–803]

Notice of Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Stagner or John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230; Telephone: (202) 482–1673 or (202) 482–3464, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Final Determination

As explained in the memoranda from the Assistant Secretary for Import Administration dated November 22, 1995, and January 11, 1996, the Department of Commerce (the Department) has exercised its discretion to toll all deadlines for the duration of the partial shutdowns of the Federal Government from November 15 through November 21, 1995, and December 16, 1995, through January 6, 1996. Thus, the deadline for the final determination in this investigation has been extended by 28 days, *i.e.*, one day for each full or partial day the Department was closed. As such, the deadline for this final

determination is no later than May 6, 1996.

We determine that circular welded non-alloy steel pipe from South Africa is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Act.

Case History

Since the preliminary determination on November 21, 1995 (60 FR 61533, November 30, 1995), the following events have occurred:

On December 6, 1995, the Department provided the respondent, RIH Group, Ltd., and its operating divisions Brollo Africa and Tosa, (collectively, RIH) with a supplemental questionnaire relating to sales to affiliated parties. On January 17, 1996, the respondent submitted its response.

On December 6, 1995, the respondent alleged clerical errors in the preliminary determination. We determined that there were clerical errors made; however, we did not amend the preliminary determination since the change in the margin was not significant (*see* the December 14, 1995, Memorandum from David L. Binder to Barbara R. Stafford).

In March 1996, we conducted verification of the sales questionnaire responses of the respondent in South Africa.

The respondent and the petitioners [1] submitted case briefs on April 17, 1996 and rebuttal briefs on April 22, 1996.

Scope of Investigation

The following scope language reflects certain modifications from the notice of the preliminary determination. We clarified the paragraph beginning ''The scope specifically includes * * *'' for use and presumed use language.

For purpose of this investigation, circular welded non-alloy steel pipes (standard pipes) are all pipes and tubes, of circular cross-section, not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), end finish (plain end, bevelled end, threaded, or threaded and coupled), or industry specification (ASTM, proprietary, or other) used in standard or structural pipe applications.

The scope specifically includes, but is not limited to, all pipe produced to the ASTM A–53, ASTM A–135, ASTM A–795, and BS–1387 specifications, regardless of use. It also includes any pipe multiple-stencilled or multiple-certified to one of the above-listed standard or structural pipe specifications and to any other specification, if used in a standard or structural pipe application. Pipe which meets the above physical parameters and which is produced to proprietary specifications, the API–5L, the API–5L X–42, or to any other non-listed specification is included within the scope of this investigation if used in a standard or structural pipe application, regardless of the Harmonized Tariff Schedule of the United States (HTSUS) category into which it was classified. If the pipe does not meet any of the above identified ASTM or BS specifications (i.e., ASTM A–53, ASTM A–120, ASTM A–135, ASTM A–795, and BS–1387) or is multiple-stencilled or multiple-certified to one of these specifications and to any other specification, although it is within the identified physical parameters described in the second paragraph of this section, our presumption is that it is not used in a standard pipe application.

Standard pipe uses include the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may carry liquids at elevated temperatures but may not be subject to the application of external heat. Standard pipe uses also include load-bearing applications in construction and residential and industrial fence systems. Standard pipe uses also include shells for the production of finished conduit and pipe used for the production of scaffolding.

Specifically excluded from this investigation are mechanical tubing, tube and pipe hollows for redrawing, and finished electrical conduit if such products are not certified to ASTM A–53, ASTM A–120, ASTM A–135, ASTM A–795, and BS–1387 specifications and are not used in standard pipe applications. Additionally, pipe meeting the specifications for oil country tubular goods is not covered by the scope of this investigation, unless also certified to a listed standard pipe specification or used in a standard pipe application.

The merchandise under investigation is currently classifiable under items 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Regarding implementation of the use provision of the scope of this investigation, and any order which may be issued in this investigation, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require use certification until such time as petitioner or other interested parties provide the Department with a reasonable basis to believe or suspect that substitution is occurring. Second, we will require use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that pipe produced to the API–5L specification is being used as standard pipe, we will require use certifications for imports of API–5L specification pipe. Third, normally we will require only the importer of record to certify to the use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Period of Investigation

The period of investigation (POI) is April 1, 1994, through March 31, 1995.

Facts Available

At verification, we found the following inaccuracies in the information provided by RIH which render the response unusable for purposes of margin calculations: unreported home market and U.S. sales; errors in the quantity and value reconciliations; certain discounts and rebates reported that should not have been; certain U.S. prices reported incorrectly; and certain discrepancies found in the pre-selected and surprise sales [2]. In addition, we found errors in the calculations of the following: indirect selling expenses; average stock days; and variable/total costs. The deficiencies found are outlined in detail

[1] Allied Tube & Conduit Corporation, Sawhill Tubular Division—Armco, Inc., LTV Steel Tubular Products Company, Sharon Tube Company, Laclede Steel Company, Wheatland Tube Company, and Century Tube Corporation.

[2] We chose certain sales to examine at verification in order to verify the specific sales data reported (*e.g.*, date of sale, date of payment, quantity, unit price, etc.).

in the public version of our April 3, 1996, verification report.

We have determined that the questionnaire responses of the respondent are unverifiable. The misreporting and inaccuracies of the information were so material and pervasive as to make the responses unreliable within the meaning of section 782(e)(3) of the Act. Therefore, RIH's responses provide an inadequate basis for calculating dumping margins.

We note that the respondent has cooperated throughout the investigation. In July and August 1995, we received questionnaire responses from RIH. In addition, RIH responded to five supplemental questionnaires; we received those responses in September–October 1994, and January–February 1996. In addition, RIH went through the entire verification process in South Africa in March 1996. Therefore, because the respondent has fully cooperated in this investigation, we are not using an adverse inference in selecting from among the facts otherwise available (*see* ''Interested Party Comment'' section of this notice).

Section 776(a)(2)(D) states that the Department ''shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title'' if an interested party or any other person provides such information but the information cannot be verified. The statute also provides that the facts otherwise available may be based on secondary information.

Section 776(c) provides that where the Department relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action (SAA), accompanying the URAA, clarifies that the petition is ''secondary information.'' ıSee! H. Doc. 316, 103d Cong., 2d Sess. 870 (1996). The SAA also clarifies that ''corroborate'' means to determine that the information used has probative value. *Id*. However, where corroboration is not practicable, the Department may use uncorroborated information. Given that the facts available margin for the respondent involves information contained in the petition, we are required to corroborate this data, to the extent practicable, pursuant to section 776(c) of the Act, because the information submitted by RIH was not verifiable.

In the present case, the petition is the only information on the record which could form the basis for a dumping calculation. Accordingly, the Department has based the margin on information in the petition. In accordance with section 776(c) of the Act, we attempted to corroborate the data contained in the petition. Because the petitioners based export price and normal value on independent, public sources (U.S. import statistics and a price list from one of respondent's distributors, respectively), we find that this information has probative value. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Clad Steel Plate from Japan* (61 FR 7469, 7470, February 28, 1996). Regarding the discounts used for normal value, we are not aware of any practicable means of corroborating such information. For a further discussion, *see* the May 6, 1996, memorandum from the Team to Gary Taverman.

Accordingly, we have relied upon the information contained in the petition. We have assigned to all exporters a margin of 117.66 percent, the average margin calculated in the petition on merchandise which is within the scope of this investigation.

Fair Value Comparisons

This final determination has been made using the average margin calculated in the petition as the facts available. For a discussion of how export price and normal value were calculated in the petition, see the *Initiation of Antidumping Duty Investigations: Circular Welded Non-Alloy Steel Pipe from Romania and South Africa* (60 FR 27078, May 22, 1995).

Verification

As provided in section 782(i) of the Act, we attempted to verify the information submitted by the respondent. We used standard verification procedures, including examination of relevant accounting and sales records and original source documents provided by the respondent. However, as stated above, we found numerous errors at verification (*see* the April 3, 1996, verification report). Thus, we did not use the respondent's information for our final determination.

Interested Party Comment

Use of Facts Available

The petitioners assert that the Department should make its final determination based on an adverse assumption of the facts available (AFA). The petitioners argue that respondent failed verification because the Department found errors in the respondent's home market and U.S. sales data such that it would not be possible to accurately determine normal value, export price or difference in merchandise adjustments.

In addition, the petitioners argue that the respondent failed to accurately report certain home market sales of the foreign like product. They cite *Circular Welded Non-Alloy Steel Pipes from Brazil* (57 FR 42940, September 17, 1992) in which the Department based its final determination on the best information available (the statutory predecessor to facts available) in part because the respondent had not reported certain home market sales of subject pipe which it contended were not comparable to the products sold in the U.S. market.

The petitioners state that the respondent has met the statutory requirement (19 U.S.C. 1677e) for the application of facts available which stipulates that the Department may rely on an adverse assumption of the facts available when ''an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information.'' They also argue that the pervasive nature of the deficiencies, despite numerous opportunities to correct the information, and unilateral decision making exhibited by the respondent, indicate a respondent who has not made its best effort to comply with the Department's information requests.

The respondent argues that the Department should not use AFA in its final determination because (1) it has cooperated with the Department throughout the investigation; and (2) the errors found at verification were inadvertent and due to RIH's inexperience with the Department's antidumping laws. It argues that the Department should resort to less drastic solutions than AFA if it finds gaps in the record; the respondent states that the Department has sufficient verified information on the record to fill such gaps. It notes that the statute states that the Department should not resort to adverse inferences unless an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information.'' (19 U.S.C. 1677e(b)).

Regarding the excluded products in the home market, the respondent argues that the costs of those products are significantly higher than the standard pipe products and that there were no sales of these products to the United States. Thus, they would not have been considered in the analysis.

DOC Position

We agree, in part, with the petitioners. Section 782(e)(3) of the Act states that, in reaching a determination, the

Department will not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the Department if the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination.

At verification, we discovered numerous errors in the respondent's reported information. For example, the vast majority of the pre-selected and surprise sales contained discrepancies. While many of these errors may be corrected, the number of errors discovered draw into question the completeness and accurateness of respondent's remaining sales (*i.e.,* the sales not specifically reviewed at verification). Additionally, we discovered that the respondent did not report certain home market and U.S. sales and incorrectly reported the sales price for certain U.S. sales. Based on these errors and others discussed in the verification report, we find that the respondent's response is so incomplete that it cannot serve as a reliable basis for this determination. Because the information cannot be verified, section 776(a) requires us to use the facts otherwise available.

As facts available, we are basing the respondent's margin on the average margin calculated in the petition. We are using the petition rates because this is the only information on the record which could form the basis for a dumping margin (*see* ''Facts Available'' section above).

The respondent has been fully cooperative in the investigation, as noted above. Also, the errors discovered at verification do not indicate that the respondent withheld or misreported information to ''obtain a more favorable result.'' SAA at 870. Rather, some of the errors hurt the respondent while others helped it. Therefore, we have used the average margin contained in the petition, rather than the highest margin. The Department's practice has been to assign the highest margin contained in the petition only where the respondent was found to have been uncooperative. *See Final Determination of Sales at Less Than Fair Value: Oil Country Tubular Goods from Italy* (60 FR 33558, 33559, June 28, 1995).

Because we are basing our final determination on the facts available, all other interested party comments are moot.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of circular welded non-alloy steel pipe from South Africa, as defined in the ''Scope of Investigation'' section of this notice, that are entered, or withdrawn from warehouse for consumption, on or after November 30, 1995, the date of publication of our preliminary determination in the Federal Register. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the export price, as shown below. In accordance with section 733(d) of the Act, the suspension of liquidation based on the Department's preliminary determination may not remain in effect for more than six months (including the statutorily permissible extension). In accordance with this provision, the suspension of liquidation will remain in effect until May 28, 1996.

The weighted-average dumping margin is as follows:

Exporter/manufacturer	Weighted-average margin percentage
All exporters	117.66

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of material injury, does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: May 6, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–11940 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–485–804]

Notice of Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe From Romania

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4162 or (202) 482–3464, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Final Determination

As explained in the memoranda from the Assistant Secretary for Import Administration dated November 22, 1995, and January 11, 1996, the Department of Commerce (the Department) has exercised its discretion to toll all deadlines for the duration of the partial shutdowns of the Federal Government from November 15 through November 21, 1995, and December 16, 1995, through January 6, 1996. Thus, the deadline for the final determination in this investigation has been extended by 28 days, *i.e.,* one day for each full or partial day the Department was closed. As such, the deadline for this final determination is no later than May 6, 1996.

We determine that circular welded non-alloy steel pipe (pipe) from Romania is being sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the preliminary determination of November 21, 1995 (60 FR 61529, November 30, 1995), the following events have occurred:

In February 23, 1996, the respondents, Tepro S.A. (Tepro) (the producer of the subject merchandise), Metagrimex S.A. (Metagrimex), Matalexportimport S.A. (Metalexportimport) and Metanef S.A. (Metanef) submitted additional publicly available published information (PAPI) pertaining to surrogate values. On March 1, 1996, the petitioners [1] commented on the respondents' PAPI.

In March 1996, we verified the questionnaire responses to Tepro, Metagrimex and Metalexportimport. The third exporter, Metanef, did not permit the Department to verify its questionnaire responses.

The petitioners and respondents submitted case and rebuttal briefs on April 12 and 17, 1996, respectively. Additional comments were requested by the Department and submitted by the petitioners and respondents on April 19 and 23, 1996, respectively.

Scope of Investigation

The following scope language reflects certain modifications from the notice of the preliminary determination. We clarified the paragraph beginning ''The scope specifically includes * * *'' for use and presumed use language.

For purpose of this investigation, circular welded non-alloy steel pipes (standard pipes) are all pipes and tubes, of circular cross-section, not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), end finish (plain end, bevelled end, threaded, or threaded and coupled), or industry specification (ASTM, proprietary, or other) used in standard or structural pipe applications.

The scope specifically includes, but is not limited to, all pipe produced to the ASTM A–53, ASTM A–120, ASTM A–135, ASTM A–795, and BS–1387 specifications, regardless of use. It also includes any pipe multiple-stencilled or multiple-certified to one of the above-listed standard or structural pipe specifications and to any other specification, if used in a standard or structural pipe application. Pipe which meets the above physical parameters and which is produced to proprietary specifications, the API–5L, the API–5L X–42, or to any other non-listed specification is included within the scope of this investigation if used in a standard or structural pipe applicaion, regardless of the *Harmonized Tariff Schedule of the United States* (*HTSUS*) category into which it was classified. If the pipe does not meet any of the above identified ASTM or BS specifications (i.e., ASTM A–53, ASTM A–120, ASTM A–135, ASTM A–795, and BS–1387) or is multiple-Stencilled or multiple-certified to one of these specifications and to any other specification, although it is within the identified physical parameters described in the second paragraph of this section, our presumption is that it is not used in a standard pipe application.

Standard pipe uses include the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may carry liquids at elevated temperatures but may not be subject to the application of external heat. Standard pipe uses also include load-bearing applications in construction and residential and industrial fence systems. Standard pipe uses also include shells for the production of finished conduit and pipe used for the production of scaffolding.

Specifically excluded from this investigation are mechanical tubing, tube and pipe hollows for redrawing, the finished electrical conduit if such products are not certified to ASTM A–53, ASTM A–120, ASTM A–135, ASTM A–795, and BS–1387 specifications and are not used in standard pipe applications. Additionally, pipe meeting the specifications for oil country tubular goods is not covered by the scope of this investigation, unless also certified to a listed standard pipe specification or used in a standard pipe application.

The merchandise under investigation is currently classifiable under items 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90 of the *HTSUS*. Although the *HTSUS* subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Regarding implementation of the use provision of the scope of this investigation, and any order which may be issued in this investigation, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require use certification until such time as petitioner or other interested parties provide the Department with a reasonable basis to believe or suspect that substitution is occurring. Second, we will require use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that pipe produced to the API–5L specification is being used as standard pipe, we will require use certifications for imports of API–5L specification pipe. Third, normally we will require only the importer of record to certify to the use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

Period of Investigation

The period of investigation (POI) is October 1, 1994, through March 31, 1995.

Facts Available

Pursuant to section 776 of the Act, the Department shall use the facts otherwise available if necessary information is not available on the record, or if an interested party or any other person withholds requested information, fails to provide such information by the deadlines for submission of the information or in the form and manner requested, significantly impedes a proceeding, or provides such information but the information cannot be verified.

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of that party as the facts otherwise available. The statute also provides that such an adverse inference may be based on secondary information, including information drawn from the petition. In this case, Metanef refused the verification of its questionnaire responses. Therefore, since reliable information is not on the record, and Metanef has not acted to the best of its ability, the application of section 776(b) is warranted. As a result, we are basing adverse facts available for the Romania-wide rate, which covers Metanef, on the rate calculated for Metagrimex, which is

[1] Allied Tube & Conduit Corporation, Sawhill Tubular Division—Armco, Inc., LTV Steel Tubular Products Company, Sharon Tube Company, Laclede Steel Company, Wheatland Tube Company and Century Tube Corporation.

highest margin calculated and is higher than the rate contained in the petition.[2]

Separate Rates

As stated in our preliminary determination, Romania is a non-market economy (NME) country. To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test articulated in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) and amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, 22586, May 2, 1994) (*Silicon Carbide*). Under the separate rates criteria, the Department assigns separate cash deposit rates in nonmarket economy cases only if a respondent demonstrates the absence of both *de jure* and *de facto* governmental control over export activities.

The Department typically considers three factors which support, though do not require, a finding of *de jure* absence of central control. These factors include: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; or (3) any other formal measures by the government decentralizing control of companies. The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (*see Silicon Carbide*).

1. Absence of De Jure Control

The two cooperating exporters of the subject merchandise in this investigation, Metagrimex and Metalexportimport, have provided their business licenses issued by the Romanian Chamber of Commerce and Industry. These exporters have stated that these licenses do not require renewal, do not impose any limitations on or create any entitlements for their operations, and can only be revoked by the issuing authorities if the requirements of the license are not fulfilled. The exporters also provided copies of several trade laws which they claim provide for the elimination of the state monopoly in the economy and foreign trade. During the verification of Metagrimex and Metalexportimport, we examined these exporters' business licenses, as well as the relevant trade laws. These documents supported the absence of *de jure* control claimed by these two exporters.

2. Absence of De Facto Control

These two exporters also asserted absence of governmental control based on all the *de facto* criteria. Specifically, they stated that: (1) They establish their own export prices; (2) they negotiate contracts without guidance from any governmental entities or organizations; and (3) there are no restrictions on the use of their export revenues and they make independent decisions regarding disposition of profits or financing of losses. During our verification of these two companies, we examined sales documentation, including correspondence and contracts with the customer, as well as bank accounts and profit allocation. These documents confirmed the accuracy of the above-referenced statements.

Concerning the fourth criterion that the respondent in question has autonomy from the government in making decisions regarding the selection of management, both Metagrimex and Metalexportimport stated that they had this autonomy. During our verification of Metagrimex, we examined the membership of its Council of Administration, which selects the management and is similar to a board of directors. Our examination confirmed that this council was independent of the Romanian government or agencies thereof, and therefore, Metagrimex was able to make its own management personnel decisions.

During our verification of Metalexportimport, we also examined the membership of its Council of Administration, which also selects the management and is similar to a board of directors. We confirmed that this council, which is made up of five members, only included one member appointed by the state ownership fund (SOF) and one member appointed by the private ownership fund (POF). The SOF and the POF were created by the Romanian government to help privatize Romanian companies. We thus confirmed that this council was independent of the Romanian government or agencies thereof, and therefore, Metalexportimport was able to make its own management personnel decisions.

Consequently, we determine that the information provided by Metalexportimport and Metagrimex supports our finding that there is *de jure* and *de facto* absence of governmental control of export functions. Therefore, these two companies have met the criteria for the application of separate rates.

Respondent Metanef provided information regarding separate rates in this investigation. However, because it refused verification, we could not verify its separate rate claim.

Fair Value Comparisons

To determine whether sales of pipe from Romania to the United States by Metagrimex and Metalexportimport were made at less than fair value, we compared Export Price (EP) to the Normal Value (NV), as specified in the ''Export Price'' and ''Normal Value'' sections of this notice.

Export Price

For both exporters, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and because constructed export price under section 772(b) is not otherwise warranted on the basis of the facts of this investigation.

For Metagrimex and Metalexportimport, we calculated EP based on packed, FOB Romania port prices to unaffiliated purchasers in the United States, as appropriate, based on the same methodologies described in the preliminary determination.

Normal Value

As stated in our preliminary determination, when the Department is investigating imports from a NME, section 773(c)(1) of the Act directs us to base NV on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. Therefore, we calculated NV based on factors of production reported by Tepro, the sole producer of the subject merchandise. We made the following adjustments to the factors reported by Tepro based on our findings at verification.

[2] Because Metanef refused to have its questionnaire response verified, it is ineligible for consideration for a separate dumping margin. Accordingly, because Metanef is the only other exporter, the country-wide rate is being based on Metanef's rate (which is based on adverse facts available).

First, we used corrected wall thicknesses in matching steel coil to its surrogate value (*see* comment #5 in the ''Interested Party Comments'' section of this notice). Second, we adjusted lacquer, electricity, and thread protector factors for corrections found at verification. Third, since Tepro was unable to adequately support its claimed labor figures for pipe produced on production line 220, we disregarded the amount reported and used, as facts available, the highest verified direct labor input for the size of pipe on another verified line closest to the sizes produced on line 220 (as discussed below, indirect labor is included in the value for overhead) (*see* comment #9 in the ''Interested Party Comments'' section of this notice).

Valuation of Factors

For the final determination, we have calculated NV using Colombian and Thai prices to value Tepro's factors of production. We have multiplied the reported factor quantities by these values. Where we had information for Columbia, we used it as our primary surrogate. We have used data from Columbia because Colombia is the closest country to Romania in terms of economic development that is also a significant producer of the subject merchandise. Where we had no information for Colombia, we used Thailand as our secondary surrogate since Thailand is within the same per-capita income band of countries as Romania and Colombia and it is also a significant producer of the subject merchandise (*see* Comment #1 in the ''Interested Party Comments'' section of this notice). All values were adjusted for inflation, where appropriate.

To value hot rolled steel coil, the major material input, we again used the steel price list for sheet and coil sold to industrial users in Colombia published by Acerias Paz del Rio S.A., a Colombian producer of steel sheet and coil. To value saleable steel scrap, because we could find no Colombian PAPI, we used the percentage difference between steel coil and steel scrap from the 1994 Thai import statistics, contained in the *Foreign Trade Statistics of Thailand,* published by the Thai Customs Department (1994 Thai Import Statistics). For lacquer and marking paint, we used the basket category data for paints and varnishes for both of these factors reported in the 1994 Colombian import statistics, provided by the Instituto Colombiano de Comercia Exterior (1994 Colombian Import Statistics). For zinc, hydrochloric acid, zinc chloride and ammonium chloride, we used values in the 1994 Colombian Import Statistics. For saleable zinc scrap, because we could find no Colombian PAPI, we used the values in the 1994 Thailand Import Statistics.

To value unskilled and packing labor, we used the 1994 wage rate for the manufacturing sector published in the *Economic Guide for Investors* by the Colombian government. Since we cannot determine if the labor values in this case were for skilled or unskilled workers, we are following the method established in the *Final Determination of Sales at Less than Fair Value: Polyvinyl Alcohol from the PRC* (61 FR 14057, March 29, 1996). In that investigation, we found no basis to assume the skill level of the surrogate value, nor did we have agreement among the parties regarding the skill level. Thus, we applied a single wage rate to all reported labor factors. Since we have the same situation here, we applied a single wage rate to unskilled and packing labor factors. Further, because this value was exclusive of benefits, we increased the amount reported to include benefits. As explained above, the value for overhead includes an amount for indirect labor. Thus, we did not value the factor for indirect labor.

To value electricity, we used electricity rates for Colombian industrial users published quarterly by the Latin America Energy Organization (Organizacion Latinoamericana de Energia, or OLADE). For methane, because we were unable to find a Colombian value, we used the value of natural gas because, according to the petitioners, it has substantially the same end use as methane. We based the surrogate value for natural gas on 1992 Colombian prices shown in a 1993 OLADE publication.

For the packing materials of cold rolled strip, PVC foil and thread protectors, because we could find no Colombian PAPI, we used the values in the 1994 Thailand Import Statistics.

We were unable to locate Colombian PAPI for overhead, selling, general and administrative (SG&A) expenses, and profit. Therefore, we used the values from the *Final Results of the 1992–93 Antidumping Duty Administrative Review of Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand* (61 FR 1328, January 19, 1996) (*1992–93 Administrative Review*). The rate for overhead included an amount for indirect labor. Overhead was calculated as a factor of direct labor. SG&A expenses were calculated as a percentage of the sum of materials, labor and overhead.

We were also unable to locate Colombian PAPI for rail freight and foreign brokerage and handling. Thus, for rail freight, we used the rate contained in the *Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Romania* (57 FR 42957, September 17, 1992) (*Steel Pipe I*). This information was obtained from *The Investment Environment in Thailand* for 1991. For foreign brokerage and handling, we used the rate contained in the public version of a questionnaire response submitted in the 1994 antidumping duty investigation of *Carbon Steel Butt Weld Pipe Fittings from Thailand* (60 FR 10552, February 27, 1995). We used the rate contained in the 1994 investigation because this figure was more recent than the foreign brokerage and handling rate contained in *Steel Pipe I,* which was based on an earlier Carbon Steel Butt Weld Pipe Fittings from Thailand investigation. For a complete analysis of surrogate values used in the calculation of NV, see the May 3, 1996, memorandum from the Team to Gary Taverman, Acting Director, Office of Antidumping Investigations.

Romania-Wide Rate

As in all NME cases, the Department implements a policy whereby there is a rebuttable presumption that all exporters or producers comprise a single exporter under common government control, the ''NME entity.'' The Department assigns a single NME rate to the NME entity, unless an exporter can demonstrate eligibility for a separate rate. As stated previously, Metanef has not established entitlement to a separate rate because of its refusal to have its questionnaire response verified. Therefore, it becomes the Romania-wide rate (for a further discussion of the NME rate, see the *Final Determination of Sales at Less than Fair Value: Bicycles from the People's Republic of China* (61 FR 19026, April 30, 1996).

Verification

As provided in section 782(i) of the Act, we verified all information submitted (except that of Metanef) used in our final determination. We used standard verification procedures, including examination of relevant accounting and production records and original source documents.

Interested Party Comments

Comment 1: Selection of Surrogate Countries

The petitioners state that any surrogate country used in this investigation should be a significant

producer of comparable merchandise. Since Colombia, Thailand and the United States are the only countries on the record which have been shown to be significant producers of the subject merchandise, the petitioners state that only surrogate data from these countries can be used in the final determination.

DOC Position

We agree with the petitioners. However, for the final determination, we have only used values from Colombia and Thailand because values were found for these two countries, making the use of U.S. values unnecessary.

Comment 2: Proposed Use of the Acerias Price List to Value Steel Coil

The respondents argue that the Department should not use the price list of Acerias Paz del Rio, S.A. (Acerias) to value steel in the final determination. The petitioners argue that respondents' assertions on this matter have, for the part, been rejected by the Department in its preliminary determination and that the Department should continue to use the price list to value steel in the final determination. The arguments presented by both sides have been classified into five main areas: (1) Whether the prices on the price list were aberrational; (2) whether the price list represents actual prices; (3) whether the Department's use of this list in the preliminary determination was predictable and fair; (4) whether the problems of Acerias have an impact on its prices; and (5) whether the Department's past practice allows for the use of the price list.

Regarding whether the price list was aberrational, the respondents argue that the Acerias prices are aberrational and conflict with the other values on the record and are, therefore, not reliable. The petitioners counter that the Acerias prices are not aberrational and fall squarely in the range of the prices: (1) Provided by the respondents when one increases these prices for the increase in world steel prices; and (2) from 12 countries provided by the petitioners.

Both parties then argue about whether the price list represents actual prices. The respondents argue that the Acerias price list does not represent actual prices. They then contend the following. First, the Department relied upon a vague affidavit provided by the petitioners to establish steel prices in the preliminary determination. In contract, the affidavit, provided by respondents shows that the price list does not represents actual prices. Second, Colombia pipe producers use imported steel. Therefore, the price list has no probative value. Third the petitioners have previously argued that a price list submitted by the respondents was inconsequential since ''it is widely known that virtually all steel purchasers receive substantial discounts from price lists.''

The petitioners counter that the Acerias price is publicly available published information which represents actual prices paid for steel coil in Colombia. The petitioners argue the following to support this contention. First, petitioners' affidavit was properly sworn and consularized and was not vague in any way. Second, the two affidavits submitted by the respondents to discredit the price list rely on broad generalizations and misdirection and are not proper affidavits. Third, the petitioner' previous statements regarding the applicability of steel price lists related to U.S. lists and therefore are of no relevance to the Acerias price list.

Both parties then argue whether the Department's use of this list in this investigation was predictable and fair. The respondents assert that the use of this price list violates the Department's own precepts that NME cases be accurate, fair and predictable. To support their assertion, they argue the following. First, during the last four years, the Department has developed a PAPI hierarchy that prefers import statistics. Second, in this case, the Romanians could not have anticipated that Colombia would be selected as the surrogate country. However, even if they would have relied on Colombia import statistics or world import statistics to help them predict probable surrogate values and establish a price structure for the U.S. market, not a price list dated seven months after the POI. Third, even the Departments *Notice of Proposed Rulemaking and Request for Public Comments* (16 FR 7308, February 27, 1996) states that prices observed in international markets may better serve the Department's goals of accuracy and fairness.

The petitioners counter that the selection of Colombia as a surrogate country was very predictable. First, the Department's policy has never required that the surrogate be a major exporter in the production of comparable merchandise. Second, the fact that the surrogate countries for Romania have changed over time is attributable to economic changes in Romania. Third, there is no fixed policy preference for import statistics over all other sources in NME cases. Fourth, the Department has been willing to use world prices only where the surrogate value that would have been selected under the traditional method is aberrational, which is not the case here.

Both parties then discussed whether the problems of Acerias have an impact on its prices. The respondents argue the following. First, Acerias is currently in bankruptcy and continues to suffer the effects of strikes which took place in 1994. The Department in a previous case refused to use the annual report of an Indian bearing producer for overhead because it too, was in bankruptcy (*Final Results of Antidumping Duty Administrative Review: Tapered Roller Bearings and Parts Thereof from the Peoples Republic of China (Tapered Roller Bearings)* (56 FR 67590, December 31, 1991)). Second, Acerias is not comparable to other world steel producers because it is not representative of modern steel companies.

The petitioners counter that the Acerias price list is not unreliable. unrepresentative or distortive. To support their position, the petitioners argue the following. First, respondents have failed to demonstrate any connection between Acerias financial difficulties and the notion that this caused Acerias to charge higher prices for its products. If any connection between financial problems and prices has been established, the record shows that Acerias had to charge lower prices for its products than it normally would have. Second, respondents' claim that Acerias' production is based on old technology is inconsequential because it does not refer to whether the technology relates to the production of hot-rolled coil and does not mention the fact that Acerias has made improvements to its infrastructure in the preceding years.

Finally, both parties discuss whether the Department's past practice allows for the use of the price list. The respondents contend that the Department's acceptance of an unverified price list contravenes the Department's policy on price lists. They argue that to use a price list, the Department requires that all sales be based on the price list, an accounting firm must certify that the company adheres to the price lists, and the price list must be contemporaneous, none of which is present here. The respondents then argue that the price list is not PAPI and should not be used.

The petitioners counter that respondent's characterization of the Department's practice with respect to price lists is incorrect. The further state that the documentation provided by the respondents relates only to the use of price lists as substitute for sale-by-sale reporting of actual transaction prices.

DOC Position

We agree with the petitioners, in part. We have used the Acerias price list to value steel coil but have not made an adjustment to this list for the price trend claimed by the petitioners (*see* also Comments #3 below). In this case we have used the Acerias price list because we feel that its is more appropriate to use actual prices of a producer of a material input in the primary surrogate country rather than import statistics. We believe that Acerias prices more closely represent prices a pipe producer in a comparable market economy country would pay for this input material. Furthermore, the use of the price list was found to be reasonable when analyzing the points (discussed below) raised by the interest parties. Therefore, it is our first choice for valuation purposes.

Regarding the issue of whether the prices on the price list are aberrational, we have compared the Acerias prices to (1) Colombian import statistics provided by the respondents; (2) Thailand import statistics; [3] and (3) Latin American export prices published in the *Metal Bulletin*. Where appropriate, prices were adjusted for inflation to make them POI prices. The results of this analysis showed that the prices on the Acerias price list were reasonably close in value to those comparators (for a complete discussion of this analysis, see the May 6, 1996, issues memorandum from the Team to Barbara R. Stafford, Deputy Assistant Secretary for Investigations).

Regarding the issue of whether the price list represents actual prices, we feel confident that the prices on Acerias' list are actual prices. The affidavit provided by the petitioners states that the price list (1) Is publicly available to any person who requests it; and (2) contains actual prices charged by Acerias to industrial users in Colombia. While these industrial users receive discounts for unfinished edges, quantity purchases, and prompt payment, these discounts are clearly identified on the price list and have been deducted from the prices used in our calculations. Thus, we have utilized actual prices paid by Acerias' customers in our margin calculations.

Regarding Tepro's affidavit, we believe that the price list describes adequately the type of steel. We agree with the petitioners that ''commercial quality'' adequately describes SAE 1010 grade or its equivalent which is used by pipe producers. Furthermore, it does not matter that Acerias may: (1) Not have sold the steel to Colombian pipe producers; (2) not have sold exclusively from the price list; or (3) have sold to large customers at discounts below those listed on the price list. None of these arguments explicitly disproves that Acerias sold steel coil using the prices on its price list to customers in Colombia. We have found no evidence that the prices in the price list are not actual prices; in contrast, we believe that petitioners' affidavit demonstrates that the list prices are, indeed, actual prices.

Regarding the issue of whether the Department's use of the Acerias list was predictable and fair, we note that Colombia was used in this investigation due to its per-capita GNP similarity with Romania and the fact that it is a significant producer of the subject merchandise. While the surrogate countries have changed over time because of the economic changes of Romania and other countries, the Department has utilized the same criteria for selecting surrogate countries. The Department selects surrogate countries based on the per-capita GNP rankings of all countries listed in the *World Development Report* published by the World Bank. Therefore, we believe the selection of Colombia as the surrogate country in this investigation was both predictable and fair. Furthermore, we disagree with the respondents that the Department has developed a PAPI hierarchy in which import statistics are preferred to surrogate values from a producer of the material input in the primary surrogate country. The Department does not have a hierarchy where import statistics are used. As explained above, in this case, publicly available surrogate values from a producer of the material input in the primary surrogate country have been found to be preferable over import statistics. Finally, the Department's *Notice of Proposed Rulemaking and Request for Public Comments* stated that international markets should only be used when data from a primary and/or secondary surrogate countries were not found to be appropriate, and not as the first choice.

Regarding the issue of whether the problems of Acerias have an impact on its prices, we do not believe that the respondents have adequately demonstrated any relationship between Acerias' financial difficulties and the steel coil prices charged by Acerias. There is nothing on the record which states that Acerias charged its customers higher prices than it normally would have due to its financial difficulties. In fact, one could argue that a cause of Acerias' negative financial state is a consequence of the lower than normal prices it charged its domestic customers. Furthermore, in *Tapered Roller Bearings*, the Department refused to use the Indian roller bearing producer's data because the auditor's report for this producer noted that the financial statements were not presented in accordance with the generally accepted accounting principles of India. In addition, there are conflicting arguments on the record regarding the age of the technology used by Acerias and its resultant level of efficiency. However, there is not information on the record which proves that the technology used by Acerias has had a marked impact on its prices.

Regarding the issue of whether the Department's past practice allows for the use of the price list, we disagree with the respondents. The conditions for using a price list described in the respondents' argument only apply when the price list is used as a substitute for sale-by-sale reporting of actual transaction prices in market economy cases.

Although we have used the Acerias price list to value steel coil in this investigation and have made an adjustment to the prices in this list for inflation, we have not made the additional adjustment to the prices for the price trend claimed by the petitioners. This additional adjustment was made in the preliminary determination. However, we have determined that, after a further review of the information on the record, this adjustment is not appropriate, as the information supplied by the petitioners to substantiate it was not specific to the Colombian domestic market, but was for Latin American export prices. We have determined that there is an insufficient link between domestic Colombian prices and average Latin American export prices and, therefore, we have denied this adjustment (for a further discussion of the Department's discussion of this issue, see the May 6, 1996, issues memorandum from the Team to Barbara R. Stafford, Deputy Assistant Secretary for Investigations).

Comment 3: Proposed Use of Colombian Import Statistics To Value Steel Coil

The respondents argue that the Colombian import statistics they provided are PAPI that should be used in the final determination. They also argue the following. First, the lowest import prices are the prices paid by large industrial users and should be used by the Department in this case to

[3] Thai import statistics are used for comparison purposes because: (1) Thailand is within the same per-capita income band of countries as Romania and Columbia; (2) Thailand is a large producer of the subject merchandise; and (3) steel import statistics were available from Thailand.

value steel coil. Second, the rationale contained in the Department's November 21, 1995, steel valuation memorandum (regarding thickness and grade) is no longer relevant. Thus, the respondents argue that the Department should use the Colombian import statistics to value steel. The respondents than state that only limited adjustments need to be made if the Colombian import prices are used.

The respondents also state that petitioners' evidence showing an increase in the prices of steel during January 1994 to March 1995 is largely anecdotal or based on Metal Bulletin spot prices. The respondents argue that the U.S. import data shows no such increase in the prices of steel during this time. Furthermore, if there was such an increase, the petitioners should have been able to provide their own invoices to substantiate this. Finally, since most companies keep inventories of key raw materials, a monthly spike in prices will not necessarily affect a large user as much as a user which buys sporadically.

The petitioners counter respondents' arguments with the following. First, respondents' claim that the lowest Columbian import prices reflect the prices paid by large industrial users is sheer speculation. Furthermore, the Department had many other reasons for rejecting respondents' arguments in the steel valuation memorandum than just thickness and grade. However, the petitioners argue that if the Department chooses to use the Colombian import statistics submitted by the respondents, certain adjustments need to be made.

Finally, the petitioners argue that the evidence of the steel price surge is not anecdotal nor based on spot prices but information contained in the *Metal Bulletin*. They contend that respondent's U.S. import statistics are useless to the Department because they provide country-specific information for only a handful of exporting countries and the totals are skewed by the inclusion of cheap imports from non-market economies such as Russia. They further contend that the information on the record does not allow the Department to identify the quantity or value of NME imports so that they may be excluded. Finally, the petitioners argue that the limited information in these import statistics seems to support petitioners' information regarding steel price trends.

DOC Position

We disagree with the respondents and have not selected the Colombian import statistics to value the steel coil. As stated above in our response to Comment #2, in this case we believe that the Acerias price list is preferable to the Colombian import statistics. Accordingly, the issue about how to adjust the Colombian import statistics is therefore moot.

Comment 4: Discount for Secondary Steel

Tepro argues that the Department's rejection of a discount for the purchase of secondary steel in the preliminary determination was unreasonable and should be corrected for the final determination. To support its claim, Tepro argues the following. First, the information Tepro provided for the preliminary determination should be sufficient to warrant an adjustment. Second, the Department has now verified Tepro's gross consumption and scrap rates. These rates do not support rejection of the discount. Third, qualitative differences impact price and Tepro's supplier sold its steel at a significant discount because of qualitative differences. Fourth, the Department itself has differentiated between ''first quality'' and ''second quality'' merchandise in the *Steel Trigger Price Mechanism Procedures Manual.* Fifth, the reluctance of the Department to grant a discount for secondary steel may be based on the fear that the precedent in this case would make the Department vulnerable in other cases to similar requests for discounts based on qualitative differences in merchandise. The last argument notwithstanding, the Department has the obligation to select surrogate values which are ''accurate and fair'' and thus, the discount should be granted.

Tepro also states that the information gained at the verification proved that it was entitled to this discount. This information included: (1) The statement by an official of Tepro's supplier at verification that the quality standards for sale of hot-rolled coil to Romania in general and Tepro in particular are significantly lower than those for export and the discount to Tepro was because of differences in quality; and (2) invoices which show that Tepro bought steel during the POI at prices lower than Romanian exports to the European Union (EU). Tepro also stated that the reason the verifiers did not see physical defects in the steel in Tepro's inventory is that this steel was of Russian origin and Tepro does not purchase secondary steel from its Russian supplier. Finally, Tepro argued that the only information on the record that conflicted with Tepro's secondary steel claim is the statement from an employee of one of the petitioners who, to Tepro's knowledge, had never been to Romania, never visited Tepro or its supplier, and had no knowledge of the production process employed by Tepro. Thus, the Department's decision is not supported by evidence on the record.

The petitioners counter that Tepro's claim that the secondary steel discount should again be rejected for the final determination. To support this contention, the petitioner argues first, that nothing has been submitted to the Department since the preliminary determination to warrant a different conclusion. In particular, Tepro's reported scrap rates have not changed, nor has Tepro rebutted the results of the metallurgical tests to which the Department referred. Second, no new documents were produced at verification to substantiate the claim that Tepro uses only secondary steel. The statement on the invoices observed at verification was that the steel was ''not designated for exports to the EU.'' Respondents' interpretation of this is not buttressed by any evidence on the record. Petitioners proffer that the restriction probably arises from export controls between the EU and eastern European countries or the desire of Romanian producers to avoid triggering an EU antidumping action. Furthermore, internal prices in an NME country are irrelevant to the Department's analysis because such prices are not established by market forces.

Third, respondents cannot state that the Department's reluctance to grant a discount is based on fear of the precedent that would set since they cannot speak for the Department, and the petitioners note that the Department has previously been receptive to adjustments for qualitative differences where they have been established by substantial evidence on the record. Fourth, the petitioners had more than one piece of evidence disputing respondents' claims; in fact, the metallurgical test not mentioned by the respondents was the piece of evidence most damaging to the respondents' argument. Finally, although the employee of one of the petitioners did not visit Tepro's plant, the Department verifiers did and found no evidence to support Tepro's claims.

DOC Position

We agree with the petitioners. Since the preliminary determination, the only additional information on the record regarding this issue is the discussion in the verification report and verification exhibits. Regarding the statement by Tepro's supplier at verification that it granted Tepro a discount because of differences in quality, we do not believe

that it would be appropriate to grant a price adjustment based on statements that were not supported by physical evidence. As explained in the preliminary determination, Tepro did not provide adequate documentation to support its claimed adjustment. The only new documentation gained at the verification were invoices that state that the merchandise is not designated for exports to the EU. As noted by the petitioners, this could have been for a variety of reasons. No evidence was provided which conclusively demonstrated that Tepro received a discount for buying steel that was of a lower quality or grade than standard steel.

Regarding Tepro's other points, we note the following. First, the scrap rates of Tepro, although verified, have not changed since the preliminary determination. Furthermore, although we agree with Tepro that qualitative differences may affect price and that the Department has discussed prime versus secondary quality merchandise in the past, this is irrelevant since no such qualitative differences have been established here. In addition, Tepro's claim that ''reluctance of the Department to grant a discount for secondary steel may be based on the fear that the precedent in this case would open up the Department in other cases to similar requests for discounts based on qualitative differences in merchandise'' is not accurate. As stated above, the Department has rejected this adjustment to price because there has been no evidence placed on the record which demonstrates that Tepro received a discount for buying steel that was of a lower quality or grade than standard steel. Finally, the metallurgical test submitted by the petitioners showed that the grade of steel used by Tepro was identical to the grade of steel used by U.S. and other world producers of the subject merchandise. As noted by the petitioners, this test was not rebutted by Tepro.

Comment 5: Prices for Different Steel Sizes Matched to Proper Pipe Sizes

The petitioners contend that the Department in certain instances incorrectly matched prices for different thicknesses of steel with the wrong pipe sizes. They argue that the coil thicknesses reported by Tepro are inconsistent with the steel thicknesses specified by ASTM A–53 grade with which Tepro claims to comply. They also state that prices for 3–4mm thick coil may be applied only to pipe that is 2″ diameter or smaller.

DOC Position

We agree with the petitioners and have corrected the wall thicknesses for those products that were incorrectly listed. Furthermore, we have used the corrected wall thicknesses in the matching to the surrogate value for steel coil.

Comment 6: Use of Steel Input Quantities Reported in the Questionnaire Response

The petitioners argue that since Tepro reported its theoretical steel weight figures instead of its actual steel weight figures, it should be subject to adverse facts available. They also state that, at a minimum, the Department should not adjust downward the reported amounts by the amount of the difference noted in the verification report.

DOC Position

Since the Department only had time at verification to examine the theoretical/actual weight difference for one pipe size, we do not believe that it would be appropriate to attempt to convert all weights from theoretical to actual for all pipe sizes based on the one size examined. Also, as noted in the verification report, the theoretical weight was greater than the actual weight for the one size examined. Therefore, we have made no adjustments to the theoretical weights listed and have accepted them for purposes of the final determination.

Comment 7: Steel Scrap

The petitioners argue that the steel scrap surrogate used in the preliminary determination is aberrational and must be reduced. To support its argument, the petitioners make the following points: (1) The tariff category used for scrap in 1991 was under- or over-inclusive; (2) the 1991 scrap/coil ratio in Thailand was completely unlike that of other markets; and (3) the scrap/coil ratio has changed dramatically since 1991. The petitioners state that the scrap value to coil value in other world markets was one-third to one-half the values used in the preliminary determination and argue that the Thai scrap/coil ratios are aberrational, as well as not being contemporaneous with the POI. Thus, the Department should instead use the average of three contemporaneous ratios calculated by the petitioners.

The respondents claim that if the Colombian import statistics are used to value steel, then they do not object to the use of a lower scrap price. The respondents state that, where possible, contemporaneous prices should be used.

DOC Position

We have obtained updated Thai import values for steel coil and steel scrap and are using these values to obtain a steel scrap ratio. These values are specific to the steel used in the production of steel pipe. These values are from the Thai Import Statistics, the same source that was used in the preliminary determination, but are based on the period from January to June, 1994, and thus, the resultant ratio from these figures is more contemporaneous with the POI than the ratio used in the preliminary determination. Therefore, any change in the scrap/coil ratio since 1991 has been incorporated into this new ratio. Regarding the argument that this ratio is aberrational, we found no other information on scrap ratios for Colombia, the primary surrogate country, or Thailand, the secondary surrogate country, which show that this rate is aberrational in the surrogate countries. Furthermore, we disagree with the petitioners that we should use an average of the three scrap ratios calculated by the petitioners as these ratios are from countries that are less appropriate surrogate countries than Thailand.

Comment 8: Other Raw Materials

In addition to hot-rolled coil, the respondents contend that the Department should use Colombian import statistics on the record to value zinc, zinc chloride, ammonium chloride, hydrochloric acid and paint.

DOC Position

We agree with the respondents that we should use Colombian import statistics now on the record to value these raw materials. Colombia is our first choice as a surrogate country and we have therefore used the import statistics to value these raw materials.

Comment 9: Direct and Indirect Labor Inputs for Line 220

The petitioners state that since Tepro could not substantiate its unit labor amounts reported for each size pipe produced on its production line 220, the Department should use facts available for direct and indirect labor inputs for all subject merchandise above three inches diameter. They argue that the methodology suggested at verification is untimely, unsubstantiated and unverified and that the statute and the Department's policies forbid the use of such information. They argue that the Department should use the higher of: (1) the highest reported direct and indirect labor input reported for pipe of other

sizes; or (2) the factor used in the petition for 4″ diameter pipe.

The respondents state that the Department should use the alternative methodology suggested by Tepro at verification in order to calculate labor factors for line 220.

DOC Position

We agree with the petitioners, in part. We do not believe that the methodology suggested by the respondents at verification is appropriate because it was calculated only for one month, and does not arrive at the actual labor hours on line 220 for that month. Thus, we believe that the use of facts available is appropriate. However, we do not agree with the petitioners on the selection of adverse facts available. Instead of using the highest reported labor input reported for pipe of other sizes, we believe that it is more appropriate to use the highest verified direct labor input for the size of pipe on another verified line closest to the sizes produced on line 220 and have done so. An amount for indirect labor was not added because indirect labor is included in the overhead amount.

Comment 10: Factory Overhead, SG&A Expenses and Profit

For SC&A expenses, the respondents state that the figure used in the preliminary determination is inappropriate because it is not contemporaneous with the POI. The respondents argue that the Department should use the SG&A figure from the *1994–95 Administrative Review of Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand* (*1994–95 Administrative Review*) rather than the SG&A figure from the *1987–88 Administrative Review of Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand* (*1987–88 Administrative Review*), which was used in the preliminary determination. The respondents also argued that the petitioners' proposed new SG&A figure, when one makes the proper adjustments, serves to underscore the unreasonableness of the data used in the preliminary determination.

For profit, the respondents argue the following. First, since the steel price selected by the Department is 30–40 percent higher than the steel price paid by Thai pipe producer Saha Thai Steel Pipe Co., Ltd. (Saha Thai) in the *1994–95 Administrative Review*, the Department cannot use such high raw material prices and then hypothesize that an eight percent profit could be obtained in Thailand, since U.S. import statistics confirm that Thai producers sell steel pipe at prices similar to that paid for Romanian pipe. Second, there are questions about how the profit was calculated in the *1992–93Administrative Review* and the profit amounts in the *1994–95 Administrative Review* contradict the profit figures proposed by the petitioners from the *1992–93 Administrative Review*. Third, the Department should rely upon what is knows about the Colombian steel industry to calculate profit. Information on the record suggests that all sectors of the Colombian steel industry are not profitable. Therefore, the Department should use a zero profit margin or petitioner's own profit margins.

The petitioners state that the values used in the preliminary determination for factory overhead, SG&A expenses and profit should also be used for the final determination. The petitioners argue that the information provided by respondents for these factors was submitted for the *1994–95 Administrative Review* which has not been completed. These factors are therefore based on questionnaire responses that may have been superseded by subsequent revisions and have not yet been determined to be reliable for the case in which they were originally filed. In addition,the excerpts themselves are also incomplete. The information used in the preliminary determination does not have these defects and should therefore be used in the final determination. Alternatively, the petitioner argue that the Department should use information from the *1992–93 Administrative Review*, the most recently completed administrative review. This record of this review contains publicly-ranged figures for SG&A expenses and profit for Saha Thai. The petitioners note that if the Department decides to use information from the *1994–95 Administrative Review*, it should use the most recent amendments or revisions to such data.

Regarding profit, the petitioners contend that respondents' suggestion that the Department use the Acerias profit should be rejected because although no objectionable connection has been established between Acerias' financial problems and its prices, there is definitely a connection between those problems and its profit.

DOC Position

We agree with the petitioners that the best information to use for overhead, SG&A expenses and profit for the final determination in this case are the futures from the most recently completed administrative review of *Circular Welded Carbon Steel Pipes and Tubes from Thailand*. In this case, the most recently completed review is the *1992–93 Administrative Review*. We believe that it is not appropriate to use figures from an uncompleted review since they may be altered as the case progresses. We are therefore using the public figures from the *1992–93 Administrative Review* for overhead and SG&A expenses.

For profit, since we are using actual public overhead and SG&A expense amounts, we believe that it is also appropriate to use the actual public profit figure listed in the *1992–93 Administrative Review*, not the eight percent figure used in the preliminary determination, and have done so.

Comment 11: Inland Freight

The petitioners argue that the Department should use in the final determination the costs incurred by Tepro in non-convertible currency for domestic inland freight. They state that where surrogate values are not available, the Department should use facts available based on data in the petition.

DOC Position

In asking that the Department use the costs incurred by Tepro in non-convertible currency for foreign inland freight, the petitioners failed to note that the Department applied a surrogate value for domestic inland freight in the preliminary determination. We have followed the same methodology for purposes of the final determination. The inland freight distance between Tepro and the Romanian port was reported by Tepro in its questionnaire response.

Comment 12: Brokerage

The respondents argue that the Department should use the brokerage figure for Saha Thai contained in the *1994–95 Administrative Review of Circular Welded Carbon Steel Pipes and Tubes from Thailand* for purposes of the final determination.

DOC Position

We disagree with the respondents. As mentioned above (*see* Issue #12), we believe that it is appropriate not to use the figures from an uncompleted review where possible since these figures may be altered as the case progresses. We are therefore using the same public values we used in the final determination from *Carbon Steel Butt Weld Pipe Fittings from Thailand* to value foreign brokerage and handling.

Continuation of Suspension of Liquiation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of

circular welded non-alloy steel pipe from Romania, that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice in the Federal Register. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the export price as shown below. In accordance with section 733(d) of the Act, the suspension of liquidation based on the Department's preliminary determination may not remain in effect for more than six months (including the statutory permissible extension). In accordance with this provision, these suspension of liquidation instructions will remain in effect until May 28, 1996.

The weighted-average dumping margins are as follows:

Exporter	Weighted-average percentage margin
Metagrimex S.A	85.12
Metalexportimport S.A	77.61
Romanian-Wide Rate	85.12

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act.

Dated: May 6, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–11941 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–201–802]

Preliminary Results of Antidumping Duty Administrative Review; Gray Portland Cement and Clinker From Mexico

AGENCY: International Trade Administration/Import Administration/Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. The review covers exports of this merchandise to the United States during the period August 1, 1993, through July 31, 1994, and one firm, CEMEX, S.A. The results of this review indicate the existence of dumping margins for the period.

We invite interested parties to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Nathan Bartholomew or Donna Kinsella, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Background

On August 3, 1994, the Department of Commerce (the Department) published in the Federal Register (58 FR 41239) a notice of ''Opportunity to Request Administrative Review'' for the August 1, 1993, through July 31, 1994, period of review (POR) of the antidumping duty order on gray portland cement and clinker from Mexico (55 FR 35371, August 29, 1990). In accordance with 19 CFR 353.22, CEMEX, S.A. (CEMEX) and the petitioners, the Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement and the National Cement Co. of California, Inc., requested a review for the afore-mentioned period. On September 16, 1994, the Department published a notice of ''Initiation of Antidumping Review'' (58 FR 51053). The Department is now conducting a review of this respondent pursuant to section 751(a) of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than of being ground into finished cement. Gray portland cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29, and cement clinker is currently classifiable under number 2523.10. Gray portland cement has also been entered under number 2523.90 as ''other hydraulic cements.'' The HTS subheadings are provided for convenience and U.S. Customs Service (the Customs Service) purposes only. The written description remains dispositive as to the scope of the product coverage.

Preliminary Results of Review

Section 773(a)(1)(A) of the Tariff Act and 19 CFR 353.46(a) provide that foreign market value (FMV) shall be based on the price at which ''such or similar merchandise'' is sold in the exporting country in the ''ordinary course of trade for home consumption.'' Section 771(15) of the Tariff Act defines ''ordinary course of trade'' as ''the conditions and practices which, for a reasonable time prior to the exportation of the merchandise which is the subject of an investigation, have been normal in the trade under consideration with respect to merchandise of the same class or kind'' (*see also* 19 CFR 353.46(b)).

In the second administrative review of this order CEMEX reported home market sales of Type I, Type II, and Type V cement. Following their receipt of this information, petitioners alleged that CEMEX's home market sales of Type II and Type V cement were outside the ordinary course of trade. *See Gray Portland Cement and Clinker From Mexico: Final Results of Antidumping Duty Administrative Review,* 58 FR 47253, 47254 (Sept. 8, 1993). Pursuant to this allegation, we compared CEMEX's home market sales of Type II and Type V cement with sales of similar merchandise (namely, Type I cement) in order to analyze certain factors regarding the nature of the sales of the different types of cement, including freight expenses and profit levels. *Id.* at 47255–56. Based on this comparison, and on other factors explained in our

final determination, we concluded in the second review that CEMEX's home market sales of Type II and Type V cement were not made in the ordinary course of trade. Thus, we did not use these sales in the calculation of FMV.

In the third administrative review, the Department again required CEMEX to report sales of subject merchandise in the home market, including Type I cement. We determined that it was necessary to compare Type II and Type V cement sales in the home market with Type I cement sales in the home market in order to make the ordinary-course-of-trade determination. We also determined that the Department needed the data on home market sales of Type I cement in the event CEMEX's home market sales of Type II and Type V cement were found to be outside the ordinary course of trade. As the Department explained in the final results of the third review:

> Even if the Department had been able, using the information supplied by CEMEX in this review, to determine that the Types II and V cement sales were outside the ordinary course of trade, we would still have needed the Type I data to conduct our antidumping duty analysis.

Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review, 60 FR 26869 (May 19, 1995). When CEMEX failed to provide the information on Type I sales in the third review, the Department was required by the statute to base its determination upon the ''best information available'' (BIA). 19 U.S.C. 1677e(b); 19 CFR 353.37(a)(1). It should be noted that the factors relied upon by the Department in making the BIA determination in the second administrative review, and subsequently in the third review, were upheld by the CIT. Slip Op. 95–72 at 6–14.

In the present administrative review, the Department sent CEMEX a standard antidumping questionnaire on September 30, 1994. It instructed CEMEX to report all U.S. and home market sales of subject merchandise, which includes sales of Type I cement in Mexico. On November 22, 1994, CEMEX responded to the questionnaire. Similar to its response in the third review, CEMEX reported that it only sold Type II cement in the United States during the period covered by the review. CEMEX limited its reporting to Type II sales in the U.S. and home market, and failed to report sales of Type I cement in the home market. CEMEX claimed in its November 22, 1994 response that its home market sales of Type II cement were made in the ordinary course of trade, and that it was unnecessary for it to report home market sales of Type I cement.

On August 23, 1995, the Department issued a supplemental questionnaire which indicated that CEMEX must submit, *inter alia,* home market sales of Type I cement in bulk form. The questionnaire warned CEMEX that a failure to submit the requested information could result in the application of BIA. The Department also asked CEMEX to respond to the cost of production/constructed value (COP/CV) section of the questionnaire at this time. The due date for the supplemental information and the Type I sales data was September 14, 1995, and the COP/CV response was due September 30, 1995.

CEMEX requested, in a September 5, 1995 letter, an extension of two weeks for its response to the Department's August 23, 1995, supplemental questionnaire and an additional four-week extension for the submission of Type I sales data. In that letter CEMEX also requested a six-week extension for the submission of COP/CV data. The stated reason for the extension request was the ''enormous'' burden related to the collection and preparation of sales and cost data for Type I cement.

On September 6, 1995, the Department notified CEMEX that its request to extend the deadline for submitting the supplemental response (including the information on Type I cement) was denied, but that it was granted a three-week extension regarding the COP/CV submission.

CEMEX submitted its supplemental questionnaire response on September 14, 1995. In its response, CEMEX failed to include the required information pertaining to Type I sales. On October 5, 1995, CEMEX submitted its COP/CV questionnaire response, and again failed to include information pertaining to sales of Type I cement. In both cases, the explanation for the lack of information on home market sales of Type I cement was the size of the reporting burden and in both cases CEMEX claimed that the Type I information would be forthcoming as soon as possible.

Four months later, on February 8, 1996, CEMEX advised the Department that it was prepared to provide a listing of its home market sales of Type I cement in bulk form. In a letter dated February 15, 1996 the Department informed CEMEX that the administrative record was closed and that no new information would be accepted.

Given the Department's determination that CEMEX's sales of Type II and Type V cement in the home market were outside the ordinary course of trade during the second administrative review, we believe that it is necessary (was the case in the third administrative review) to address the same issue in the fourth administrative review. CEMEX, however, has not provided timely information regarding its Type I sales in the home market. Not having the home market Type I sales information prevents the Department from determining whether CEMEX's sales of Type II cement in the home market were made in the ordinary course of trade.

Best Information Available

CEMEX argues that it should not be required to provide Type I cement sales data. Its failure to provide this essential information in a timely manner has prevented the Department from determining whether home market sales of Type II cement were in the ordinary course of trade. In the instant review, we requested data on sales of such (Type II cement) and similar (Type I) merchandise in order to conduct the same type of analysis that we conducted in the prior review, and to determine whether CEMEX's home market sales of Type II cement during the instant period of review had been made in the ordinary course of trade. CEMEX did not comply with the Department's repeated requests for Type I sales data.

As in the previous review, where CEMEX also failed to provide data pertaining to sales of Type I cement in the home market, we are unable to ascertain conclusively whether or not CEMEX's sales of Type II and Type V cement were within the ordinary course of trade precisely because CEMEX denied us the requisite information regarding sales of Type I cement to arrive at such a decision. Therefore we must resort to the use of BIA in accordance with Section 776(c) of the Tariff Act. *See Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review,* 60 FR 26865 (May 19, 1995).

In connection with our use of BIA, we note that we have established a ''two-tier'' system:

> 1. When a company refuses to cooperate with the Department or otherwise significantly impedes the proceedings, we use as BIA the higher of (a) the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less than fair value investigation (LTFV) or prior administrative review or (b) the highest rate found in this review for any firm for the same class or kind of merchandise in the same country of origin.
>
> 2. When a company substantially cooperates with our requests for information, but fails to provide the information requested in a timely manner or in the form required,

we use as BIA the higher of (a) the highest rate (including the ''all others'' rate) ever applicable to the firm for the same class or kind of merchandise from either the LTFV investigation or a prior administrative review, or (b) the highest calculated rate in this review for any firm for the class or kind of merchandise from the same country of origin.

See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, 57 FR 28360, 28379 (June 24, 1992); *see also Allied-Signal Company* v. *United States, 996 F.2d 1185 (Fed. Cir. 1993).* In this case, we are using first-tier BIA because CEMEX was uncooperative. The BIA rate is the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the LTFV investigation, as amended, *i.e.,* CEMEX's rate of 61.85 percent. Thus, as a result of our review, we preliminarily determine the dumping margin for CEMEX for the period August 1, 1993, through July 31, 1994, to be 61.85 percent.

Case briefs and/or written comments from interested parties may be submitted no later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 37 days after the date of publication of this notice.

Within 10 days of the date of publication of this notice, interested parties to this proceeding may request a disclosure and/or a hearing. The hearing, if requested, will take place no later than 44 days after publication of this notice. Persons interested in attending the hearing should ascertain with the Department the date and time of the hearing.

The Department will subsequently publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be the rate determined in the final results of review; (2) for previously reviewed or investigated companies not mentioned above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 59.91 percent, as explained below.

On May 25, 1993, the CIT in *Floral Trade Council* v. *United States,* 822 F. Supp. 766 (CIT 1993), and *Federal-Mogul* v. *United States,* 839 F. Supp 864 (CIT 1993), determined that once an ''all others'' rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement these decisions, it is appropriate to reinstate the original ''all others'' rate from the LTFV investigation (or that rate as amended for correction of clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders for the purposes of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping duty order, the ''all others'' rate for this order will be 59.91 percent, which was the ''all others'' rate established in the final notice of the LTFV investigation by the Department (55 FR 29244, July 18, 1990).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 26, 1996.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–11939 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–803]

Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Amendment of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment of final results of antidumping duty administrative review.

SUMMARY: We are amending our final results of administrative review of the antidumping duty order on heavy forged hand tools, finished or unfinished, with or without handles (HFHTs), from the People's Republic of China published on April 4, 1996, to reflect the correction of a ministerial error made in the margin calculation in those final results. We are publishing this amendment to the final results in accordance with 19 CFR 353.28(c)(1995).

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Tom Prosser or Maureen Flannery of the Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The review covers two resellers of the subject merchandise to the United States, Fujian Machinery & Equipment Import & Export Corporation (FMEC) and Shandong Machinery Import & Export Corporation (SMC), and the period February 1, 1993 through January 31, 1994. The Department of Commerce (the Department) published the preliminary results on August 16, 1995 (60 FR 42516), and the final results on April 4, 1996 (61 FR 15028).

Scope of Review

Imports covered by this review are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars

over 18 inches in length, track tools and wedges (bars and wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel woodsplitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. This review covers two exporters of HFHTs from the PRC, FMEC and SMC. The review period is February 1, 1993 through January 31, 1994.

Amended Final Results

On April 4, 1996, the respondents alleged that the Department had committed a ministerial error in calculating the final antidumping duty margin. The respondents alleged that the Department had miscalculated the wholesale price index (WPI) for India for the period April 1993 through December 1993. We have reviewed this allegation, and agree with the respondents. We have therefore amended our final results for this ministerial error.

Final Results of Review

Upon review of the allegation submitted, the Department has determined that the following margins exist for the period February 1, 1993 through January 31, 1994:

Manufacturer/exporter	Time period	Margin (percent)
Fujian Machinery & Equipment Import & Export Corporation:		
Axes/Adzes	2/1/93–1/31/94	12.90
Bars/Wedges	2/1/93–1/31/94	30.36
Hammers/Sledges	2/1/93–1/31/94	18.61
Shandong Machinery Import & Export Corporation:		
Bars/Wedges	2/1/93–1/31/94	45.19
Hammers/Sledges	2/1/93–1/31/94	16.49
Picks/Mattocks	2/1/93–1/31/94	68.43

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above which have separate rates will be the rates for those firms as stated above for the classes or kinds of merchandise listed above; (2) for picks/mattocks from FMEC and axes/adzes from SMC, which are not covered by this review, the cash deposit rates will be the rates established in the most recent review of those classes or kinds of merchandise in which those companies received separate rates—that is, the February 1, 1992 through January 31, 1993 review; (3) for all other PRC exporters, the cash deposit rates will be the PRC rates established in the LTFV investigation; and (4) the cash deposit rates for non-PRC exporters of the subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. The PRC rates established in the LTFV investigations are 45.42 percent for hammers/sledges, 31.76 percent for bars/wedges, 50.81 percent for picks/mattocks, and 15.02 percent for axes/adzes. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under section 353.26 of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice is in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: May 6, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–11942 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–588–836, A–570–842, A–583–824]

Notice of Antidumping Orders: Polyvinyl Alcohol From Japan, the People's Republic of China, and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Erik Warga, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–0922, respectively.

Scope of Order

The merchandise covered by these orders is polyvinyl alcohol. Polyvinyl alcohol is a dry, white to cream-colored, water-soluble synthetic polymer. This product consists of polyvinyl alcohols hydrolyzed in excess of 85 percent, whether or not mixed or diluted with defoamer or boric acid. Excluded from this investigation are polyvinyl alcohols covalently bonded with acetoacetylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, and polyvinyl alcohols covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. Polyvinyl alcohol in fiber form is not included in the scope of these orders.

The merchandise under these orders is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under these orders is dispositive.

Antidumping Duty Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), the Department of Commerce (the Department) made its final determination that polyvinyl alcohol from Japan, the People's Republic of China (PRC), and Taiwan is being sold at less than fair value (61 FR 14057–14063, March 29, 1996). On May 6, 1996, the International Trade Commission (ITC) notified the Department of its final determination, pursuant to section 735(b)(1)(A)(ii) of the Act, that an industry in the United States is threatened with material injury by reason of imports of the subject merchandise from Japan, the PRC, and Taiwan. The ITC did not determine, pursuant to section 735(b)(4)(B) of the Act, that, but for the suspension of liquidation of entries of the subject merchandise, the domestic industry would have been materially injured.

When the ITC finds threat of material injury, and makes a negative ''but for'' finding, the ''Special Rule'' provision of section 736(b)(2) applies. Therefore, only unliquidated entries of polyvinyl alcohol from Japan, the PRC, and Taiwan, except for imports from the PRC manufactured and sold to the United States by Sinopec Sichuan Vinylon Works, entered or withdrawn from warehouse, for consumption *on or after* the date on which the ITC published its notice of final determination of threat of material injury in the Federal Register are liable for the assessment of antidumping duties.

Accordingly, the Department will direct the Customs Service to terminate the suspension of liquidation for entries of polyvinyl alcohol imported from Japan, the PRC, and Taiwan, entered, or withdrawn from warehouse, for consumption *before the date* on which the ITC published its notice of final determination of threat of material injury in the Federal Register, and to release any bond or other security, and refund any cash deposit, posted to secure the payment of estimated antidumping duties with respect to these entries.

In accordance with section 736(a)(1) of the Act, the Department will direct Customs officers to assess, upon further advice by the administering authority, antidumping duties equal to the amount by which the foreign market exceeds the United States price for all relevant entries of polyvinyl alcohol from Japan, the PRC, and Taiwan, except for imports from the PRC manufactured and sold to the United States by Sinopec Sichuan Vinylon Works. Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. The ''All Others'' rate listed for each country applies to all exporters of polyvinyl alcohol not specifically listed below.

The ad valorem weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Japan:	
Kuraray Co. Ltd.	77.49
Nippon Synthetic Chemical	77.49
Industry Co. Ltd.	77.49
Shin-Etsu Chemical Co.	77.49
Unitika Ltd.	77.49
All Others	77.49
PRC:	
Guangxi GITIC Import/Export	116.75
Sinopec Sichuan Vinylon Works (also known as Sichuan Vinylon Works)	[1] 000.00
PRC-Wide rate	116.75
Taiwan:	
Chang Chun Petrochemical	19.21
All Others	19.21

[1] Excluded.

Allegations of ministerial errors were made with respect to the Department's final determinations for polyvinyl alcohol from the PRC and Taiwan. Upon review, the Department determined that certain corrections to these determinations were appropriate. However, these corrections did not alter the margin percentages; therefore, no amendments to the final determinations were necessary.

This notice constitutes the antidumping duty orders with respect to polyvinyl alcohol from Japan, the PRC, and Taiwan. The Department of Commerce is excluding from the application of the order products from the PRC that are manufactured *and* sold to the United States by Sinopec Sichuan Vinylon Works. However, the ad valorem weighted-average dumping margin applicable to polyvinyl alcohol manufactured by any other PRC manufacturer and exported by Sinopec Sichuan Vinylon Works is 116.75 percent (the PRC-wide rate).

Interested parties may contact the Central Records Unit, Room B–099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

These orders are published in accordance with section 736(a) of the Act.

Dated: May 9, 1996.

Paul L. Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–12098 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–122–815]

Pure and Alloy Magnesium from Canada; Extension of Time Limit for Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for preliminary and final results of the third administrative review of the countervailing duty order on pure and alloy magnesium from Canada. This extension is made pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

EFFECTIVE DATE: May 14, 1996

FOR FURTHER INFORMATION CONTACT: Cynthia Thirumalai or Kristie Strecker, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue NW. Washington, D.C., 20230; telephone: (202) 482–4087 or 3174 respectively.

POSTPONEMENT: Under the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. The Department finds that it is not practicable to complete the third administrative review of pure and alloy magnesium from Canada within this time limit.

In accordance with section 751(a)(3)(A) of the Act, the Department will extend the time for completion of the preliminary results of this review from a 245-day period to no later than a 365-day period and for completion of the final results of this review from a 120-day period to no later than a 180-day period.

Dated: May 6, 1996.

Barbara R. Stafford,

Deputy Assistant Secretary for Investigations.

[FR Doc. 96–11936 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

National Institute of Standards and Technology Manufacturing Extension Partnership (MEP) Program Evaluation Survey

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 15, 1996.

ADDRESSEES: Direct written comments to Linda Engelmeier, Acting Departmental Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW., Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Elizabeth Bury, Manufacturing Extensions Partnership, Building 301, Room C–100, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, 301–975–3944 phone, and 301–926–3787 fax.

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a new submission by the U.S. Department of Commerce's National Institute of Standards and Technology (NIST). Previously, the information collection was administered by the U.S. Department of Commerce's Census Bureau. This collection activity is being conducted in partnership with the Census Bureau.

The Manufacturing Extension Partnership (MEP) is a growing nationwide system of services and support for smaller manufacturers giving them unprecedented access to new technologies, resources, and expertise. Sponsored by NIST, the MEP is comprised of a network of locally based Manufacturing Extension Centers.

Obtaining specific information from clients about the impact of MEP services is essential for NIST MEP officials to evaluate program strengths and weaknesses and plan improvements in program effectiveness and efficiency. This information is not available from existing programs or other sources.

II. Method of Collection

The survey will be administered using Computer Assisted Telephone Interviewing (CATI) technology.

III. Data

OMB Number: 0607–0016 currently approved for Census.

Form Number: None.

Type of Review: Regular submission for a new submission from NIST. This is a currently approved collection at Census.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 8,460.

Estimated Time Per Response: 12.5 minutes.

Estimated Total Annual Burden Hours: 1,800.

Estimated Total Annual Cost: The estimate of the total cost for this survey for fiscal year 1997 and future years is $228,500. The total cost is being paid by NIST. The annual costs include administration of the survey, and updating of the CATI system, and development of tabulations and analyses of the data from the survey results.

IV. Requests for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: May 8, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–11943 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–13–P

National Oceanic and Atmospheric Administration

[I.D. 050796C]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Caribbean Fishery Management Council's Administrative Committee will hold a meeting.

DATES: The meeting will be held on May 29, 1996, from 10 a.m. until 4 p.m.

ADDRESSES: The meeting will be held at the Travelodge Hotel, in San Juan, PR.

Council Address: Caribbean Fishery Management Council, 8 Muñoz Rivera Avenue, Suite 1108, San Juan, PR 00918–2577.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council; telephone: (809) 766–5926.

SUPPLEMENTARY INFORMATION: The Administrative Committee will hold this meeting to discuss adjustments to the FY 96 budget and other administrative matters.

The meeting is open to the public, and will be conducted in English.

Special Accommodations

This meeting is physically accessible to people with disabilities. For more information or requests for sign

language interpretation and/or other auxiliary aids please contact Mr. Miguel A. Rolón, Executive Director, (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: May 7, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11961 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 050696B]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting.

DATES: This meeting will be held on June 10, 1996, from 8 a.m. to 5 p.m.

ADDRESSES: This meeting will be held at the Isle of Capri Casino Crowne Plaza Resort, 151 Beach Boulevard (Hwy. 90E), Biloxi, MS; telephone: 601–435–5400.

Council address: Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Richard Leard, Senior Fishery Biologist; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to review Draft Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters with Supplemental Environmental Impact Statement, Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis, and Social Impact Assessment (SIA). The amendment is intended to address the Council's commitment to reduce the bycatch mortality of red snapper, particularly juveniles, from shrimp trawls. The amendment includes a review of previous actions and their effects on bycatch as well as various alternatives.

The Shrimp Advisory Panel (AP) will review the draft amendment with various management alternatives for gear including: (1) Status Quo - no change to existing gear regulations; and (2) Requiring Bycatch Reduction Devices (BRDs) in all areas of the exclusive economic zone. They will also look at area specific usage of BRDs including requiring BRDs: (1) inside the 100 fathom contour; (2) inside the 100 fathom contour and west of Cape San Blas, Florida; and (3) between the 10 and 100 fathom contours. Other alternatives that will be discussed include: area closures, seasonal closures, BRD testing criteria, and a protocol for BRD certification. The Shrimp AP will also consider a RIR, which mainly reviews the economic ramifications of the proposed amendment; a SIA; and any environmental consequences. Also considered will be the effects of other Federal laws and regulations.

The AP is comprised of fisherman and other user groups who advise the Council on fishery issues.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by June 3, 1996.

Dated: May 7, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11960 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 050796B]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Southern Habitat Panel will hold a public meeting.

DATES: The meeting will be held on May 29, 1996, beginning at 10 a.m.

ADDRESSES: The meeting will be held at the offices of the Gulf of Farallones National Marine Sanctuary, Building 991 located at Crissy Field (the old Coast Guard Station), The Presidio, San Francisco, CA 94129; telephone: (415) 556–3509.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: John Coon, Fishery Management Coordinator (Salmon); telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss and develop recommendations for Council action on regional habitat issues which merit consideration at this time.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Eric Greene at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: May 8, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–11962 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 050496E]

Marine Mammals; Scientific Research Permit (P612)

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Kimberlee Beckmen, Institute of Arctic Biology, University of Alaska, Fairbanks, P.O. Box 757000, Fairbanks, AK 99775–7000, has applied in due form for a permit to take Northern fur seals, (Callorhinus ursinus) for purposes of scientific research.

DATES: Written comments must be received on or before June 13, 1996.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668.

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal

Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*), and fur seal regulations at 50 CFR part 215.

The applicant requests to capture and release 100 fur seals. The fur seals will be capture, weighed and marked. Some animals will be sampled and tagged, and up to 50 will be recaptured at a later time. Up to 9,900 fur seals may be incidentally harassed in the course of the project.

Dated: May 7, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–12072 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–22–F

International Trade Administration

[A–122–605]

Color Picture Tubes From Canada; Notice of Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Antidumping Duty Administrative Review.

SUMMARY: On February 20, 1996, the Department of Commerce (the Department) published in the Federal Register (61 FR 6347) a notice announcing the initiation of an administrative review of the antidumping duty order on color picture tubes from Canada covering the period January 1, 1995, through December 31, 1995, and one manufacturer/exporter of the subject merchandise, Mitsubishi Electronics Industries Canada, Inc. (Mitsubishi). This review has now been terminated as a result of the withdrawal of the request for administrative review by the interested parties.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Valerie Turoscy, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 1996, we received a request from the petitioners in this case, the International Association of Machinists and Aerospace Workers, the International Brotherhood of Electrical Workers, the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers, the United Steelworkers of America, the AFL–CIO, and the Industrial Union Department, AFL–CIO (the Unions), to conduct an administrative review of Mitsubishi pursuant to section 19 CFR 353.22(a)(1994) of the Department's regulations. On February 20, 1996, we published in the Federal Register (61 FR 6347) the notice of initiation of administrative review.

Termination of Review

On April 26, 1996, we received a timely request for withdrawal of the request for administrative review from the Unions. Because there were no other requests for administrative review from any other interested party, in accordance with section 353.22(a)(5) of the Department's regulations, we have terminated this administrative review.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 353.22(a)(5).

Dated: May 7, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary For Compliance.

[FR Doc. 96–12097 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the United Arab Emirates

May 8, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: May 16, 1996.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being increased, variously, for carryforward and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 9982, published on March 12, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 8, 1996.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 5, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the United Arab Emirates and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on May 16, 1996, you are directed to amend the directive dated March 5, 1996 to increase the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
219	1,158,912 square meters.
226/313	1,981,770 square meters.
317	31,969,984 square meters.
326	1,870,794 square meters.
334/634	225,545 dozen.
335/635/835	154,955 dozen.
340/640	345,836 dozen.

Category	Adjusted twelve-month limit [1]
341/641	317,116 dozen.
342/642	251,930 dozen.
347/348	433,948 dozen of which not more than 216,973 dozen shall be in Categories 347–T/348–T [2].
351/651	181,074 dozen.
352	333,806 dozen.
363	6,235,980 numbers.
369–S [3]	82,896 kilograms.
369–O [4]	596,189 kilograms.
638/639	233,874 dozen.
647/648	338,530 dozen.
847	212,565 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

[2] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2010, 6104.62.2025, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6304.69.9010. 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–12060 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

May 8, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 15, 1996.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of of each Customs port or call (202) 927–6714. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 62393, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 8, 1996.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on May 15, 1996, you are directed to amend the November 29, 1995 directive to adjust the limits for the following categories, as provided for under the terms of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	312,930 dozen.
239	1,287,405 kilograms.
331/631	2,192,586 dozen pairs.
338	4,591,310 dozen.
339	1,216,966 dozen.
359–C/659–C [2]	1,157,246 kilograms.
638/639	264,049 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–12061 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced of Manufactured in Korea

May 8, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: May 16, 1996.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of of each Customs port or call (202) 927–6707. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being reduced for carryforward used during 1995.

A description of the textile and apparel categories in terms of HTS

numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 60 FR 62408, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on May 16, 1996, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Sublevel within Group I	
200	424,728 kilograms.
Sublevels within Group II	
338/339	1,146,047 dozen.
342/642	207,676 dozen.
435	33,823 dozen.
444	53,372 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–12062 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits and Guaranteed Access Levels for Certain Cotton, Wool, and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

May 7, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing import limits and guaranteed access levels.

EFFECTIVE DATE: May 8, 1996.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

On the request of the Government of the Dominican Republic, the U.S. Government agreed to increase certain 1996 Guaranteed Access Levels. Also, the limits for certain categories are being increased for carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 1359, published on January 19, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Dated: May 8, 1996.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 7, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 11, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on May 8, 1996, you are directed to increase the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted import restraint limit [1]
339/639	974,394 dozen.
340/640	842,928 dozen.
347/348/647/648	2,017,807 dozen of which not more than 960,368 dozen shall be in Categories 647/648.
352/652	9,744,029 dozen.
433	22,763 dozen.
442	79,655 dozen.
443	143,720 numbers.
444	79,655 numbers.
448	41,034 dozen.
633	120,253 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

The 1996 Guaranteed Access Levels (GALs) for Categories 340/640, 347/348/647/648, 352/652, 442 and 448 remain unchanged. The GALs for textile products in the following categories shall be increased:

Category	Amended Guaranteed Access Level
338/638	1,650,000 dozen.
339/639	1,650,000 dozen.
433	61,000 dozen.
443	100,000 numbers.
444	130,000 numbers.
633	100,000 dozen.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–12064 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Slovak Republic

May 8, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 15, 1996.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port of call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 6, 1995). Also see 60 FR 62409, published on December 6, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Dated: May 9, 1996.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 8, 1996.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool textile products, produced or manufactured in the Slovak Republic and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on May 15, 1996, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
410	379,110 square meters.
443	100,925 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1995.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–12065 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DR–M

Availability of the Correlation: Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States for 1996

May 7, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

The Committee for the Implementation of Textile Agreements (CITA) announces that the 1996 Correlation, based on the Harmonized Tariff Schedule of the United States, is now available. Also, the 1996 Correlation is available on the Internet via the Wide World Web. The Office of Textiles and Apparel (OTEXA) Homepage address is http://ita.doc.gov/industry/textiles/.

Copies of the Correlation may be purchased from the U.S. Department of Commerce, Office of Textiles and Apparel, 14th and Constitution Avenue, NW., room H3100, Washington, DC 20230, ATTN: Correlation, at a cost of $30 per copy. Checks or money orders should be made payable to the U.S. Department of Commerce.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–12063 Filed 5–13–96; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of the Department of the Navy Draft Environmental Impact Statement for a Container System for the Management of Naval Spent Nuclear Fuel; and Announcement of Public Hearings

SUMMARY: The Department of the Navy (Navy) is giving notice of the availability of the Draft Environmental Impact Statement (EIS) for a Container System for the Management of Naval Spent Nuclear Fuel.

The draft EIS was prepared in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA); Council on Environmental Quality regulations implementing NEPA, 40 CFR Parts 1500–1508; and the Chief of Naval Operations Environmental and Natural Resources Program Manual, OPNAV Instruction 5090.1B. The Navy will conduct public hearings and receive comments on the draft EIS which addresses the need, alternatives, and environmental impacts of manufacturing containers; loading containers; handling, and storage of naval spent nuclear fuel at the Idaho National Engineering Laboratory (INEL); transportation of naval spent nuclear fuel loaded containers to a notional repository or centralized interim storage site; and the storage, handling, and transportation of certain radioactive waste associated with naval spent nuclear fuel management. The Department of Energy is a cooperating agency for this draft EIS.

General distribution of the document is complete and the Navy has filed the draft EIS with the Environmental

Protection Agency prior to publishing this Notice of Availability in the Federal Register. The draft EIS is available to the public in reading rooms and designated information locations which are identified in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The Navy invites interested agencies, organizations, and the general public to provide comments on the draft EIS. The Navy is providing a 45 day public comment period and all comments on the draft EIS are due by July 3, 1996. Oral comments will be accepted at the public hearings to be held at the times and locations listed below.

ADDRESSES: Comments should be sent to: Mr. William Knoll of the Naval Nuclear Propulsion Program of the Department of the Navy, Code NAVSEA 08U, 2531 Jefferson Davis Highway, Arlington, VA 22242–5160, Telephone: 703–602–8229. Copies of the draft EIS may be obtained by following instructions given below in the **SUPPLEMENTARY INFORMATION** section.

Hearing Schedule and Locations: Six public hearings at three locations will be held during the 45 day comment period. The locations and dates of these public hearings are: (1) Fort Hall, Idaho, on Monday, June 3, 1996 from 1:00 p.m. to 5:00 p.m. and 7:00 p.m. to 11:00 p.m. at the Shoshone-Bannock Tribes' Tribal Business Center, Pima Drive; (2) Boise, Idaho, on Wednesday, June 5, 1996 from 1:00 p.m. to 5:00 p.m. and 7:00 p.m. to 11:00 p.m. at The Boise Centre on the Grove, 850 West Front Street; and (3) Salt Lake City, Utah, on Friday, June 7, 1996 from 1:00 p.m. to 5:00 p.m. and 7:00 p.m. to 11:00 p.m. at the Best Western Olympus Hotel, 161 West 600 South.

FOR FURTHER INFORMATION CONTACT: For further information on this draft EIS, please contact Mr. William Knoll of the Naval Nuclear Propulsion Program, Department of the Navy, Code NAVSEA 08U, 2531 Jefferson Davis Highway, Arlington, VA 22242–5160, Telephone: 703–602–8229.

SUPPLEMENTARY INFORMATION: On October 24, 1994, the DOE published in the Federal Register (59 FR 53442) a Notice of Intent to prepare an EIS for a multi-purpose canister system for the management of civilian spent nuclear fuel. Under the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101 *et seq.*), DOE is responsible for disposal of civilian spent nuclear fuel and high-level radioactive waste in a geologic repository. DOE is also responsible for any monitored retrievable storage (centralized interim storage) prior to disposal, and transportation of civilian spent nuclear fuel in connection with disposal or storage. As part of carrying out these responsibilities, DOE was in the process of evaluating in an EIS the environmental impacts of fabricating and deploying a standardized container system to enable storage, transportation, and possible disposal of spent nuclear fuel.

During the scoping process for the multi-purpose canister EIS, the scope of the EIS was broadened, based on a comment by the Navy, to include naval spent nuclear fuel. The total amount of naval spent nuclear fuel projected to be in existence by the year 2035 is 65 metric tons heavy metal, which is less than 0.1% of the commercial spent nuclear fuel expected by that date (approximately 85,000 metric tons). In addition to its responsibility for civilian spent nuclear fuel, DOE is also responsible for the management of spent nuclear fuel derived from atomic energy defense activities, including that from the Naval Nuclear Propulsion Program (42 U.S.C. 2121(a)(3)). Since naval spent nuclear fuel is rugged, well characterized and compatible with standardized container system technology, DOE determined that naval spent fuel should be included in the EIS. This determination was announced in the Implementation Plan issued by DOE in August 1995 under DOE's NEPA regulations. The availability of the Implementation Plan was announced in the Federal Register on August 30, 1995 (60 FR 45147).

In October 1995, DOE advised the Navy that because of insufficient funding in Congress' fiscal year 1996 appropriation to the DOE Office of Civilian Radioactive Waste Management, DOE would withdraw its proposal to fabricate and deploy a multi-purpose canister based system. As a result, DOE ceased preparation of the Environmental Impact Statement for a Multi-Purpose Canister System for Management of Civilian and Naval Spent Nuclear Fuel.

The Navy decided to proceed with that part of the multi-purpose canister EIS covering naval spent nuclear fuel. The Navy announced it would assume lead responsibility for the EIS in the Federal Register on December 7, 1995 (60 FR 62828). DOE is participating as a cooperating agency since naval spent nuclear fuel is managed at DOE facilities. Unlike civilian spent nuclear fuel which is stored in plants throughout the country, all naval spent nuclear fuel, after removal from naval reactors, is shipped to one place, the INEL, for examination and temporary storage as set forth in the Department of Energy Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs Final Environmental Impact Statement and in the associated Record of Decision issued June 1, 1995 and amended Record of Decision issued March 8, 1996. Therefore, the container system EIS evaluations for the storage and transportation of naval spent nuclear fuel at INEL make use of information specific to that location.

The range of alternatives considered in the EIS did not change as a result of the reduction in scope covering naval spent fuel only. Thus, no additional scoping was needed as a result of the EIS being limited to naval spent nuclear fuel. The six container system alternatives considered are:

(1) *No-Action Alterative*—Use of existing technology to handle, store, and subsequently transport naval spent nuclear fuel to a geologic repository or a centralized interim storage site using the Navy M–140 transportation cask. Prior to shipment to a repository or centralized interim storage site, naval spent nuclear fuel would be managed at INEL in water pools or dry containers, then loaded into M–140 transportation casks. At the repository, the naval spent fuel would be unloaded from the M–140 transportation casks and placed in a geologic repository's surface facilities for loading into disposal containers. Following unloading, the M–140 transportation casks would be returned to INEL for reuse.

(2) *Multi-Purpose Canister Alternative*—Use of large multi-purpose canisters, such as those currently being designed under a DOE contract, for storage, transportation, and disposal of naval spent nuclear fuel, without repackaging or further handling of individual spent nuclear fuel assemblies. In addition to the sealed metal canisters, specialized casks or overpacks would be required for different stages of the process, such as on-site transfer, dry storage, transportation to a geologic repository or a centralized interim storage site, and disposal.

(3) *Current Technology/ Supplemented by High Capacity Rail Alternative*—Use of existing M–140 transportation casks, but with redesigned internal structures to accommodate a larger amount of naval spent nuclear fuel per cask, thus reducing the total number of shipments required.

(4) *Transportable Storage Cask Alternative*—Use of an existing, commercially available cask for storage at INEL and shipment of naval spent

nuclear fuel to a geologic repository or centralized interim storage site. At a repository, the naval spent fuel would be unloaded from the casks and placed in a geologic repository's surface facilities for loading into disposal containers. The unloaded transportable storage casks could be returned to INEL for further storage and transport.

(5) *Dual-Purpose Canister Alternative*—Use of an existing, commercially available canister and overpack system for storage at INEL and shipment of naval spent nuclear fuel to a geologic repository or centralized interim storage site. At a repository, the naval spent fuel would be unloaded from the canisters and placed in a geologic repository's surface facilities for loading into disposal containers.

(6) *Small Multi-Purpose Canister Alternative*—Use of smaller multi-purpose canisters, such as those currently being designed under a DOE contract, rather than large multi-purpose canisters. The small multi-purpose canisters would be similar in design, operations, and function to the large multi-purpose canisters, but would offer a lower weight and size alternative for transportation and handling at a geologic repository or centralized interim storage site.

In addition, the environmental evaluations in this draft EIS include several actions which are related to the container system choice: manufacturing the container system; handling and transportation associated with the container system; modifications at INEL to support loading naval spent nuclear fuel into containers for dry storage; the location of the dry storage at INEL; and the storage, handling, and transportation of certain radioactive waste (called ''special case waste'') associated with naval spent nuclear fuel management.

The draft EIS does not contain a preferred alternative. Instead, the Navy will identify a preferred alternative in the Final EIS, and select an alternative in the Record of Decision, taking into consideration the following factors: (1) Public comments; (2) protection of human health and the environment; (3) cost; (4) technical feasibility; (5) operational efficiency; (6) regulatory impacts; and (7) storage or disposal criteria which may be established for a repository or centralized interim storage site outside the State of Idaho.

Availability of Copies of the Draft EIS

Copies of the draft EIS have been distributed to Federal, State, and local officials and agencies; and to organizations and individuals known to be interested in the EIS. Copies of the draft EIS are available for public review at the locations listed below. Copies of selected reference materials are also available in Reading Rooms and Other Information Locations listed below. Copies of the reference material may also be obtained upon request from Mr. Knoll at the address given above (see **FOR FURTHER INFORMATION CONTACT**).

Requests for copies of the draft EIS should be directed to: Argonne National Laboratory, EAD, Building 900, Mail Stop 1, 9700 South Cass Avenue, Argonne, IL 60439., ATTN: Naval Spent Fuel Container System EIS. The draft EIS, including appendices, is about 300 pages in length. Separately bound copies of the 20-page Executive Summary are available for review for those who do not wish to receive the entire draft EIS. When requesting copies of the draft EIS, please indicate whether you wish to receive only the Executive Summary, or the entire draft EIS.

Location of Reading Rooms

—Public Reading Room for U.S. DOE Headquarters; 1000 Independence Avenue, SW; Room 1E–190; Forestall Building; Washington, DC
—Public Reading Room for U.S. DOE—Idaho Operations Office; 1776 Science Center Drive; Idaho Falls, ID
—Public Reading Room for U.S. DOE—Nevada Operations Office; 3004 South Highland Drive; Las Vegas, NV
—Flagstaff Public Library; 300 West Aspen Street; Flagstaff, AZ
—Sacramento Library; Central Office; 828 I Street; Sacramento, CA
—Denver Public Library; 1357 Broadway; Denver, CO
—Boise Public Library; 715 South Capital Boulevard; Boise, ID
—Shoshone-Bannock Library; Bannock and Pima Streets; HRDC Building; Fort Hall, ID
—Idaho Falls Public Library; 457 Broadway; Idaho Falls, ID
—Pocatello Public Library; 812 East Clark Street; Pocatello, ID
—Albuquerque Bernalillo County Library; 501 Copper NW; Albuquerque, NM
—Deschutes County Library; 507 NW Wall Street; Bend, OR
—Salt Lake City Public Library; 209 East 500 South; Salt Lake City, UT
—Laramie County Library; 2800 Central Avenue; Cheyenne, WY

Other Information Locations

—Lost River Community Library; 126 South Front Street; Arco, ID
—Idaho State Library; 325 West State Street; Boise, ID
—City of Burley, Public Library; 1300 Miller Avenue; Burley, ID
—Coeur d'Alene Public Library; 201 Harrison Avenue; Coeur d'Alene, ID
—City of Emmett, Public Library; 275 South Hayes; Emmett, ID
—City of Gooding Public Library; 306 5th Avenue, West Gooding, ID
—Consolidated Free Library; 8385 North Government Way; Hayden Branch, Hayden Lake, ID
—City of Homedale, Public Library; 125 West Owyhee; Homedale, ID
—Idaho Falls Public Library; Reference Desk; 457 Broadway; Idaho Falls, ID
—Ketchum Public Library; 415 Bruce North; Ketchum, ID
—University of Idaho Library; Rayburn Street; Government Documents; Moscow, ID
—Moscow Public Library; 110 South Jefferson; Moscow, ID
—Ola District Library; 11475 Ola School Road; Ola, ID
—Clearwater Memorial Library; 402 Michigan Avenue; Orofino, ID
—Idaho State University; Documents Department; Pocatello, ID
—Salmon Public Library; 204 Main Street; Salmon, ID
—Shoshone Public Library; 211 South Rail Street; Shoshone, ID
—Twin Falls Public Library; 434 2nd Street, East; Reference Desk; Twin Falls, ID
—Caliente Public Library; 120 Depot Avenue; Caliente, NV
—Carson City Public Library; 900 North Roop Street; Carson City, NV
—Elko Public Library; 720 Court Street; Elko, NV
—Las Vegas Public Library; 833 Las Vegas Boulevard, North; Las Vegas, NV
—Brigham City Library; 20 North Main Street; Brigham City, UT
—Cedar City Library; 136 West Center; Cedar City, UT
—Delta City Library; 76 North 200 West; Delta, UT
—Logan City Library; 255 North Main; Logan, UT
—Marriott Library; University of Utah; Salt Lake City, UT

The final EIS is scheduled to be available no later than November 30, 1996.

Dated: May 3, 1996.

B. DeMars,

Admiral, USN, Director, Naval Nuclear Propulsion Program.

[FR Doc. 96–11948 Filed 5–13–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Submission for OMB review; 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 June 13, 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: May 8, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Educational Research and Improvement

Type of Review: New.

Title: Quick Response Information System (QRIS).

Frequency: One-time.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs and LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 4,308.

Burden Hours: 3,228.

Abstract: This is a request for system clearance for the QRIS survey system which consists of the Fast Response Survey System (FRSS) and, as of Fall 96, the Postsecondary Education Quick Information System (PEQIS). FRSS primarily conducts surveys of the elementary/secondary sector and public libraries while PEQIS focuses on the postsecondary education sector. The FRSS and PEQIS were established (in 1975 and 1991 respectively) to meet quick turnaround data requests of the Department of Education and others with requirements for education data that are not available elsewhere and are needed to formulate policy; to make legislative, budgetary, and planning decisions for existing programs; and to develop new programs. The surveys are characterized by short survey forms with short response time and typical sample sizes of around 1,000. It is anticipated that about five surveys will be conducted under QRIS per year.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: Forms clearance package for the Projects with Industry Program.

Frequency: Annually.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 101.

Burden Hours: 4,040.

Abstract: The purpose of collecting compliance indicator data on the Projects with Industry program is to comply with the Congressional mandate to assess project performances based on evaluation standards as established under the 1986 Rehabilitation Act Amendments.

[FR Doc. 96–11967 Filed 5–13–96; 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 May 29, 1996. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before July 15, 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, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Written comments regarding the regular clearance and 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, 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.

Dated: May 8, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Application for Grants Under the Innovative Programs Section of the Magnet Schools Assistance Program.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs and LEAs.

Annual Reporting and Recordkeeping Burden:

Responses: 150.

Burden Hours: 3,600.

Abstract: The application is used by local educational agencies to apply for funds to administer innovative programs under the Magnet Schools Program. The proposed projects must involve strategies other than magnet schools, be organized around a special emphasis, theme, or concept, and involve parent and community input.

[FR Doc. 96–11968 Filed 5–13–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Billy Shaw Dam and Reservoir

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of floodplain and wetlands involvement.

SUMMARY: This notice announces BPA's proposal to fund the construction of the Billy Shaw Dam and Reservoir in an area of floodplains and wetlands located in the Duck Valley Indian Reservation in Idaho and Nevada. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), BPA will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands. The assessment will be included in the environmental assessment being prepared for the proposed project in accordance with the requirements of the National Environmental Policy Act. A floodplain statement of findings will be included in any finding of no significant impact that may be issued following the completion of the environmental assessment.

DATES: Comments are due to the address below no later than June 1, 1996

ADDRESSES: Submit comments to the Public Involvement and Information Manager, Bonneville Power Administration - CKP, P.O. Box 12999, Portland, Oregon 97212. Internet address: comment@bpa.gov.

FOR FURTHER INFORMATION, CONTACT: Kathy Fisher - ECN, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number 503–230–4375, fax number 503–230–5699.

SUPPLEMENTARY INFORMATION: The Billy Shaw Dam and Reservoir is proposed for construction in the Billy Shaw Slough, located west of the town of Owyhee, Nevada in Section 15, T. 47 N., R. 1 E. The Shoshone-Paiute Tribes of the Duck Valley Reservation are seeking BPA funding approval to develop the Billy Shaw Dam and Reservoir as a lake fishery. The new lake fishery would substitute resident fish for the tribal loss of the salmon and steelhead fishery caused by the Hells Canyon hydropower complex.

The lowlands areas of the Billy Shaw Slough are seasonally flooded ephemeral alluvial washes. The saturated zones or intermittent riverine areas are defined as waterways of the United States. These intermittent riverine waters are winding, trend south to northwest, and occupy approximately 3 acres of the site in the narrow winding bottom of the slough. The banks are steep, undercut, and eroded with an average height of one to two feet. The bottoms are sandy, for the most part barren of vegetation, and intermittently saturated during the fall and winter months.

Maps and further information are available from BPA at the address above.

Issued in Portland, Oregon, on May 2, 1996.

Thomas C. McKinney,

NEPA Compliance Officer.

[FR Doc. 96–12050 Filed 5–13–96; 8:45 am]

BILLING CODE 6450–01–P

Watershed Restoration Program Early Action Projects

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Floodplain and Wetlands Involvement.

SUMMARY: This notice announces BPA's proposal to fund watershed restoration projects to improve salmon habitat in floodplains and wetlands located throughout the Columbia River Basin in the states of Washington, Oregon, and Idaho. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), BPA will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplains and wetlands. After BPA issues the assessment, a floodplain statement of findings will be published in the Federal Register.

DATES: Comments are due to the address below no later than May 29, 1996.

ADDRESSES: Submit comments to the Public Involvement and Information Manager, Bonneville Power Administration—CKP, P.O. Box 12999, Portland, Oregon, 97212. Internet address: comment@bpa.gov.

FOR FURTHER INFORMATION CONTACT:

Nancy Weintraub—ECN, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208–3621, phone number 503–230–5373, fax number 503–230–5699.

SUPPLEMENTARY INFORMATION: BPA is proposing to provide watershed restoration funds to several entities, including the Yakama Indian Nation, Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Indian Reservation, Nez Perce Tribe, Oregon Department of Fish and Wildlife, Umatilla County, the U.S. Bureau of Reclamation, Pendleton High School, the Umatilla Watershed Council; U.S. Forest Service, Walla Walla County Conservation District, Oregon Department of Transportation, Grande Ronde Model Watershed, Washington Model Watersheds, and Idaho Model Watersheds. Restoration projects are proposed for streams in the Deschutes, John Day, Hood, Fifteenmile, Umatilla, Walla Walla, Grande Ronde, Methow, Yakima, Clearwater, Salmon, and Imnaha watersheds. The types of projects proposed include: riparian fencing to keep cattle out of streams; suppression of noxious weeds and revegetation of denuded streambanks to provide cover and reduce erosion; removal of ''push up'' type diversion dams and installation of control structures to eliminate passage barriers; conversion of irrigation diversions from streams to groundwater and/or sprinkler systems; consolidation of irrigation ditches; woody debris placement; streambank bioengineering and stabilization; dredge tailing removal; channel restoration; erosion control and stabilization of road banks; construction of sediment traps and overwintering habitat; removal of coffer dams and debris for passage improvement; dam reconstructuring; and updating/rehabilitation of fish screens.

Further information is available from BPA at the address above.

Issued in Portland, Oregon, on May 7, 1996.

Thomas C. McKinney,

NEPA Compliance Officer for Environment, Fish and Wildlife Group.

[FR Doc. 96–12051 Filed 5–13–96; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP96–386–000]

Columbia Gas Transmission Corporation; Notice of Application

May 8, 1996.

Take notice that on April 29, 1996, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25325–1273, filed in Docket No. CP96–386–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain certificated gathering facilities by spindown to Columbia Natural Resources, Inc. (CNR), a non-jurisdictional affiliate,[1] all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia proposes to transfer to CNR certain certificated and uncertificated gathering facilities at net book value estimated to be $28 million as of December 31, 1996, pursuant to a purchase and sale agreement dated April 25, 1996. Columbia explains that it intends to credit the net sales proceeds to the Stranded Facilities Charge in accordance with the tariff provisions placed into effect in its current Section 4 general rate case in Docket No. RP95–408–000.[2] Columbia states that the facilities are located in Fayette and Somerset Counties, Pennsylvania; Dickenson, Tazewell and Buchanan Counties, Virginia; Pike, Knott, Breathitt, Magoffin, Floyd, Johnson, Lawrence, Letcher and Martin Counties, Kentucky; and Kanawha, Boone, Cabell, Logan, Putnam, Wyoming, Raleigh, Fayette, Mercer, McDowell, Mingo, Wayne and Lincoln Counties, West Virginia. It is further stated that the facilities involve eighteen gathering systems that contain 2,729 miles of low pressure, predominately small diameter pipeline, 4,475 horsepower of compression, meters, *etc*, (see the attached appendix). Columbia states that only twelve of the lines (totaling 51.4 miles of 2–12 inch pipeline) and one compressor station (900 horsepower),[3] and associated points of delivery and receipt and various appurtenant facilities,[4] have been certificated; and certain certificated facilities are currently functionalized as transmission facilities and others are recorded as gathering facilities.

Columbia states that its proposal is the result of unbundling under Order No. 636 and the subsequent elimination of its merchant function. Furthermore, the proposal is part of the transfer and sale of a larger group of gathering facilities to CNR, which will operate the facilities on an open access, nonjurisdictional basis. Columbia advises that CNR owns an interest in over 6,500 oil and gas wells; has total acreage holdings of more than 2.3 million acres; and approximately two-thirds of CNR's natural gas production flows through the gathering facilities proposed to be transferred to CNR.

Columbia advises that it would file to refunctionalize to transmission any of its gathering facilities located between the facilities sold to CNR and Columbia's transmission facilities. Such refunctionalization would eliminate the possibility that a shipper would pay gathering charges to both CNR and Columbia if, prior to the proposed abandonment, only one such gathering charge would have been paid.

As more fully set forth in its application, Columbia requests:

(1) Authorization to abandon by sale to CNR the certificated facilities as further identified in Exhibits T, Z, and Z1.

(2) Approval of the accounting treatment specified in Exhibit Y.

(3) Such other authorizations as the Commission deems necessary including, without limitation, authority to abandon, conditioned upon the receipt by Columbia of Section 4 authorization to abandon service, the Points of Delivery as identified in Exhibit T which are served from the certificated facilities and the non-certificated gathering facilities to be sold to CNR.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations

[1] CNR has filed a companion petition for declaratory order in Docket No. CP96–385–000 for a determination that the facilities will be non-jurisdictional gathering facilities upon transfer to CNR.

[2] See General Terms and Conditions Section 46, Stranded Facilities Charge, of Columbia's tariff. The sale of gathering facilities proposed by this filing is a significant first step in Columbia's exit from the gathering business and the mitigation of the associated stranded costs.

[3] The Conaway Compressor Station is certificated and functionalized as a gathering facility.

[4] Columbia identifies Columbia Gas of Kentucky, Inc., and Mountaineer Gas Company, as local distribution companies, and Columbia Gas of Pennsylvania, Inc., as being involved as mainline tap customers with certificated points of delivery located on the gathering facilities to be spundown to CNR.

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 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 Columbia to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

APPENDIX—COLUMBIA GAS TRANSMISSION CORPORATION SUMMARY OF CERTIFICATED AND UNCERTIFICATED FACILITIES TO BE SPUNDOWN BY TRANSFER AND SALE TO CNR

Gathering system	Pipeline			System pressure (psig)	Compressor (HP)
	Length (miles)	Diameter (inches)	Total No.		
1 Summit	9	2–6	8	90–200	0
2 Ohiopyle	17	2–12	5	.....	0
3 Walbridge	143	2–8	267	40–80	0
4 Hubball-Horse Creek-Nye	.....	2–20	1,322	40–80	820
5 Buff Lick	212	(1)	286	2–100	Yes
6 Inez-Kermit	635	1–18	984	40–80	959
7 Beaver Creek	93	1–12	133	10–70	0
8 Boldman	288	1–18	364	50–180	0
9 Johns Creek	21	2–8	26	35–60	300
10 Canada (P–74)	95	2–10	151	100–120	300
11 Canada (P–28)	13	2–8	9	40–100	0
12 Conaway	121	2–20	149	70–120 250–400	900
13 Majestic Thacker	152	1–10	184	30–70	950
14 Briar Mountain	16	2–6	19	20–60	300
15 Stafford	32	1–6	49	45–75	Yes
16 Huff Creek (V–38)	.....	2–10	17	75–125	Yes
17 McDowell–Tazewell	41	2–6	46	30–50	0
18 Egeria	20	2–6	37	30–50	Yes

1 Various.

[FR Doc. 96–11983 Filed 5–13–96; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. CP–96–385–000]

Columbia Natural Resources, Inc.; Notice of Petition for Declaratory Order

Take notice that on April 29, 1996, Columbia Natural Resources, Inc. (CNR),[1] P.O. Box 6070, Charleston, West Virginia 25362–0070, filed in Docket No. CP96–385–000 a petition pursuant to Section 16 of the Natural Gas Act (NGA) and Rule 207(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.207(a)(2)), for a declaratory order disclaiming Commission jurisdiction over certain facilities, operations, rates and the services provided through the facilities, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

CNR seeks a declaratory order from the Commission finding that certain certificated and uncertificated natural gas gathering facilities, and the ownership and operation of those facilities, proposed to be acquired from Columbia Gas Transmission Corporation (Columbia) would not be subject to the jurisdiction of the Commission under the NGA upon transfer of the facilities.[2] CNR seeks a determination that the Commission's authority to regulate rates under Sections 4 and 5 of the NGA does not extend to CNR's gathering system as it is proposed to be operated.

CNR states that the facilities are located in Fayette and Somerset Counties, Pennsylvania; Dickenson, Tazewell and Buchanan Counties, Virginia; Pike, Knott, Breathitt, Magoffin, Floyd, Johnson, Lawrence, Letcher and Martin Counties, Kentucky; and Kanawha, Boone, Cabell, Logan, Putnam, Wyoming, Raleigh, Fayette, Mercer, McDowell, Mingo, Wayne and Lincoln Counties, West Virginia. CNR describes the facilities as eighteen gathering systems composed of ''web-type'' or ''backbone'' configurations of lines that are of a size and operated at pressures consistent with the gathering function, located in a production area, upstream of processing facilities, and gather gas from receipt points for subsequent delivery to Columbia's transmission lines or to other points of delivery on the gathering system.

CNR asserts that the individual elements of the ''Modified Primary Function'' Test, when applied to these

[1] CNR is a wholly-owned subsidiary of the Columbia Gas System, Inc.; headquartered in Charleston, West Virginia; and incorporated in Texas and licensed to do business in the States of Illinois, Indiana, Kentucky, Maryland, Michigan, New York, Ohio, Pennsylvania, Virginia and West Virginia. CNR performs all the oil and gas drilling and production operations of The Columbia Gas System, Inc., in the Eastern United States. CNR owns an interest in over 6,500 oil and gas wells and has total acreage holdings of more than 2.3 million acres. Approximately two-thirds of CNR's natural gas production flows through the facilities subject to CNR's petition.

[2] A companion application was filed by Columbia in Docket No. CP96–386–000 for authorization to abandon the certificated portion of the facilities by sale to CNR.

eighteen gathering systems, demonstrate that these Facilities would perform a gathering function in CNR's possession. The following statements are those of CNR.

(1) Length and Diameter of the Lines—Although it is difficult to generalize about so many lines, it is clear that the great majority of these lines are small diameter, short lines, consistent with the configuration of gathering area lines. While some lines are larger than the 2.375'' to 8.625'' lines which predominate, or greater than a mile in length, such lines do not exceed a size or a length appropriate for a gathering function in similar circumstances, *e.g.*, to transport gas gathered from other lines either directly or indirectly to transmission lines.

(2) Extension Beyond a Central Point in the Field—Unlike other production areas such as those in the Southwest, the ''central point in the field test'' is not generally applicable to those systems, given the unique geography and development of the Appalachian gathering area. Therefore, this test provides little guidance in determining the primary function of Appalachian gathering systems such as those under consideration here.

(3) Location of Compressors and Processing Plants—There are no processing plants upstream of these Facilities, and only twelve compressors on these eighteen gathering systems. Those twelve compressors are either field boosters which are necessary to move gas over these low pressure systems, or compress the gas for entry into transmission lines.

(4) Geographic Configuration—An examination of the maps contained in Exhibits Z and Z1 of Columbia's abandonment application shows that these Facilities form a ''web-type'' or ''backbone'' configuration and are located in a production area where they function as a production area gathering network.

(5) Location of Wells—Each of these eighteen gathering systems collects gas from wells at production area receipt points located along or throughout each system.

(6) Operating Pressure of the Lines—The operating pressure of the lines is low, typically less than 100 psig, and in all cases entirely consistent with a gathering facility characterization in these low pressure production areas.

(7) Purpose, Location and Operation of the Facilities—The facilities are located in a production area, and used to provide gathering service by their present owner and operator. Even the few facilities functionalized on Columbia's books of account as transmission either now perform a gathering function or would do so when owned and operated by CNR.

(8) The Owner's General Business Activity—CNR, the proposed owner of these Facilities, would be a gatherer, not an interstate transporter, of gas. It intends to have no jurisdictional transmission facilities. Therefore, these Facilities would be gathering facilities after the proposed transfer.

CNR states that it would operate the facilities as an independent gas gatherer to provide gas gathering and related services on an open access, nonjurisdictional, nondiscriminatory basis to all customers. CNR states that no existing shipper on any of these eighteen gathering systems would be faced with any reduction or loss of gathering service. CNR explains that it intends to provide substitute nonjurisdictional alternatives to the service provided by Columbia in connection with its transportation service under certain rate schedules in Columbia's Second Revised Volume No. 1 FERC Gas Tariff. Further, CNR would attempt to negotiate new gathering agreements with Columbia's shippers. However, if CNR is unable to reach agreement with an existing gathering shipper, CNR would offer such existing shippers a default contract under which they would continue to be able to receive gathering service for a two-year period, under rates, terms and conditions consistent with those under which Columbia currently provides these gathering services. Proposed default gathering contracts would be submitted if the parties were unable to negotiate mutually agreeable arrangements.

CNR advises that Columbia currently utilizes certain of the Facilities to deliver gas scheduled under Rate Schedules FTS, NTS,[3] and SST to Mountaineer Gas Company (Mountaineer) and Columbia Gas of Kentucky, Inc. (CKY), at Town Border Stations. CNR plans to provide nonjurisdictional direct delivery service to Mountaineer and CKY, after the proposed sale. Negotiations are progressing with these two local distribution companies for the development of agreements for such service by CNR.

CNR advises that, in addition to direct delivery service at Town Border Stations, Columbia utilizes many of the Facilities to also deliver gas to certain Mainline Tap Consumers served by these local distribution companies and by Columbia Gas of Pennsylvania, Inc. These Mainline Tap Consumers are attached directly to Columbia gathering lines and, typically, are found in areas which are remote from the nearest measured distribution system and may own land over which Columbia's gathering lines have been laid. Upon the transfer of the Facilities to CNR, deliveries to these Mainline Tap Consumers would be continued by CNR on a nonjurisdictional basis.

CNR further advises that, in the companion application filed in Docket No. CP96–386–000, Columbia proposes to abandon two Points of Delivery at exchange points on the Facilities with CNG Transmission Corporation under Columbia's Rate Schedule X–35 and X–84. However, the remaining exchange points under these rate schedules would not be affected by the proposed transfer of the Facilities to CNR and exchange services would continue to be provided under Rate Schedules X–35 and X–84.

CNR also advises that Ashland Exploration, Inc., delivers gas from its own production into Columbia's Canada (P–28) Gathering System. Some of that gas is delivered to approximately 170 customers of Ashland located on that system. CNR intends to work with Ashland to develop an appropriate replacement, if necessary, for the service currently provided by Columbia.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 20, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 384.214 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11986 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[3] Only Mountaineer receives NTS service.

[Docket No. CP96–97–000]

Eastern Shore Natural Gas Company; Notice of Technical Conference

May 8, 1996.

Take notice that a technical conference will be convened in the above-docketed proceeding on

Wednesday, May 22, 1996, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC, 20426. Any party, as defined in 18 CFR 385.102(c), any person seeking intervenor status pursuant to 18 CFR 385.214, and any participant, as defined in 18 CFR 385.102(b), is invited to participate.

For additional information, please contact Carolyn Van Der Jagt, 202–208–2246, or Tom Gooding, 202–208–1123, at the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11984 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP91–26–014 and RP91–162–005]

El Paso Natural Gas Company; Notice of Technical Conference

May 8, 1996.

In the Commission's order issued on April 1, 1996, in the above-captioned proceeding,[1] the Commission held that the filing raises issues for which a technical conference is to be convened.

The conference to address the issues has been scheduled for Thursday, May 30, 1996, at 10:00 a.m. in a room to be designated at the offices of the Federal Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11978 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–02–M

[Docket No. CP96–488–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

May 8, 1996.

Take notice that on May 3, 1996, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas, 79978, filed in Docket No. CP96–488–000 a request pursuant to Section 157.205, and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, and 157.216) for approval to abandon certain miscellaneous tap and meter facilities and the service rendered by means thereof, under the blanket certificate issued in Docket No. CP82–435–000, 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.

El Paso states that the certificate authorizations for the construction and operation of the miscellaneous tap and meter facilities for which El Paso now seeks abandonment authorization were issued in Docket Nos. G–2363, CP69–23, CP70–78, CP74–119, and CP84–243, or installation and service was permitted under Section 2.55(c) of the Commission's Rules of Practice and Procedure. El Paso indicates that these facilities were required to facilitate, generally, the delivery and/or measurement and sale of natural gas from its interstate transmission pipeline system to certain customers for resale.

The request for authorization further states that with respect to these miscellaneous tap and meter facilities, El Paso periodically reviews, inter alia, the operating status of such facilities located on its interstate pipeline system. El Paso indicates that such review has show that there are twelve miscellaneous tap and meter facilities located in various counties in Arizona, New Mexico, and Texas that are eligible for abandonment for which El Paso now seeks abandonment.

El Paso asserts that it proposes to abandon such facilities and to thereafter remove and place in stock the salvable materials and scrap the nonsalvable items, without material change in its average cost-of-service. It is further asserted that the proposed abandonments will not result in or case any interruption, reduction, or termination of natural gas service presently rendered El Paso to any of its customers.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.295), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall 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 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson. Jr.,

Acting Secretary.

[FR Doc. 96–11981 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–486–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

May 8, 1996.

Take notice that on May 3, 1996, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed a request with the Commission in Docket No. CP96–486–000, pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to operate two existing tap and valve assemblies located in Reeves County, Texas as jurisdictional delivery points for the delivery of natural gas, authorized in blanket certificates issued in Docket Nos. CP82–435–000 and CP88–433–000, all as more fully set forth in the request on file with the Commission and open to the public inspection.

El Paso proposes to utilize two existing tap and valve assemblies which El Paso states that it installed in connection with the construction and installation of their Lockridge and Hamon-Toro Line Field Compressor Stations to facilitate the delivery of its own pipeline quality gas supply for fuel to these compressors. The compressor stations are now owned by a different entity but still require pipeline quality gas for fuel. Therefore, El Paso now seeks authorization to utilize the two existing tap and valve assemblies as jurisdictional delivery points to provide El Paso Field Service Company (Field Services) natural gas deliveries, at Field Services' request. Field Services intends to supply El Paso Gas Marketing Company (Gas Marketing) with gas for fuel at the Lockridge and Hamon-Toro Line Field Compressor Stations. In turn, Gas Marketing has requested El Paso to provide interruptible transportation to the two existing tap and valve assemblies on El Paso's mainline transmission system in Reeves Country, Texas.

El Paso states that the operation of the proposed delivery points at the Lockridge and Hamon-Toro Line Field Compressor Stations is not prohibited by El Paso's existing Volume No. 1–A Tariff and that the volumes proposed to be delivered through the two existing tap and valve assemblies would be delivered pursuant to an effective transportation arrangement between El Paso and Gas Marketing. El Paso further states that it has sufficient capacity to accomplish the deliveries specified under the Transportation Service Agreement without detriment or

[1] 75 FERC ¶ 61,007 (1996).

disadvantage to El Paso's other customers.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11982 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–147–000]

Equitrans, L.P.; Notice of Technical Conference

May 8, 1996.

In the Commission's order issued on march 22, 1996, in the above-captioned proceeding,[1] the Commission held that the filing raises issues for which a technical conference is to be convened.

The conference to address the issues has been scheduled for Tuesday, May 21, 1996, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11977 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 11574–000 CT]

City of Norwich, Department of Public Utilities; Notice Not Ready for Environmental Analysis, Notice Requesting Interventions and Protests, Notice Inviting Competing Applications, and Notice of Scoping Pursuant to the National Environmental Policy Act of 1969

May 8, 1996.

The Federal Energy Regulatory Commission (Commission) has issued a letter accepting the City of Norwich, Department of Public Utilities, application for the Occum Hydroelectric Project, located on the Shetucket River, near the City of Norwich, New London County, Connecticut.

The existing Occum Project's facilities consist of a 90-acre impoundment; a dam consisting of two adjacent spillway sections, earth embankments, and an intake structure; a 225-foot-long by 160-foot-wide forebay area; a 40-foot-long by 32-foot-wide powerhouse, housing one turbine with a total capacity of 800 kW; and appurtenant facilities. The project would have an average annual generation of about 3,750 megawatthours.

The application is not ready for environmental analysis at this time. A public notice will be issued in the future indicating its readiness for environmental analysis and soliciting comments, recommendations, terms and conditions, or prescriptions on the application, and the applicant's reply comments.

The purpose of this notice is to: (1) Invite interventions and protests; (2) advise all parties as to the proposed scope of the staff's environmental analysis, including cumulative effects, and to seek additional information pertinent to this analysis; (3) advise all parties of their opportunity for comment; and (4) to invite competing applications.

Competition

Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for this application, the competing development application or a notice of intent to file such an application. Submitting a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for a preliminary permit will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant named in this public notice.

Interventions and Protests

All filings must: (1) Bear in all capital letters the title ''PROTEST.'' ''MOTION TO INTERVENE,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' or ''COMPETING APPLICATION;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

An additional copy must be sent to: Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

All filings for any protest or motion to intervene, competing application, or notice of intent must be received 60 days from the issuance date of this notice.

Scoping Process

The Commission's scoping objectives are to:

- Identify significant environmental issues;
- Determine the depth of analysis appropriate to each issue;
- Identify the resource issues not requiring detailed analysis; and
- Identify reasonable project alternatives.

The purpose of the scoping process is to identify significant issues related to the proposed action and to determine what issues should be covered in the environmental document pursuant to the National Environmental Policy Act of 1969. The document entitled ''Scoping Document I'' (SDI) will be circulated to enable appropriate federal, state, and local resource agencies, developers, Indian tribes, non-governmental organizations (NGOs), and other interested parties to effectively participate in and contribute to the scoping process. SDI provides a brief description of the proposed action, project alternatives, the geographic and temporal scope of a cumulative effects analysis, and a list of preliminary issues identified by staff.

The Commission will decide, based on the application, and agency and public comments to scoping, whether licensing the Occum Hydroelectric Project constitutes a major federal action significantly impacting the quality of the human environment. The

[1] 74 FERC ¶ 61,309.

Commission staff will not hold scoping meetings unless the Commission decides to prepare an environmental impact statement, or the response to SDI warrants holding such meetings.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to comment on SDI and assist the staff in defining and clarifying the issues to be addressed.

All filings should contain an original and 8 copies. Failure to file an original and 8 copies may result in appropriate staff not receiving the benefit of your comments in a timely manner. See 18 CFR 4.34(h). In addition, commentors *may* submit a copy of their comments on a 3½-inch diskette formatted for MS–DOS based computers. In light of our ability to translate MS–DOS based materials, the text need only be submitted in the format and version that it was generated (i.e., MS Word, WordPerfect 5.1/5.2, ASCII, etc.). It is not necessary to reformat word processor generated text to ASCII. For Macintosh users, it would be helpful to save the documents in Macintosh word processor format then write than to files on a diskette formatted for MS–DOS machines. All comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, and should show the following captions on the first page: Occum Hydroelectric Project, FERC No. 11574–000.

Further, interested persons are reminded of the Commission's Rules of Practice and Procedures, requiring parties or interceders (as defined in 18 CFR 385.2010) to file documents on each person whose name is on the official service list for this proceeding. See CFR 4.34(b).

The Commission staff will consider all written comments and may issue a Scoping Document II (SDII). SDII will include a revised list of issues, based on the scoping process.

For further information regarding the scoping process, please contact Michael Dees, Federal Energy Regulatory Commission, Office of Hydropower Licensing, 888 First Street, N.E., Washington, D.C. 20426, or at (202) 219–2807.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11979 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–355–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

May 8, 1996.

Take notice that on April 26, 1996, as supplemented on May 1, 1996, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP96–355–000 a request pursuant to Sections 157.205 and 157.212(a)) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212(a)) for authorization to modify an existing receipt point interconnection located in LaFourche Parish, Louisiana, to also provide delivery point capabilities for Riverside Pipeline Company (Riverside), an intrastate pipeline company, under the blanket certificate issued in Docket No. CP82–413–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee states that Riverside requested modification of the existing receipt point to provide delivery point capabilities. Service will be provided pursuant to Riverside's interruptible transportation agreement with Tennessee. Tennessee proposes to replace the existing 2-inch 600# RF X RF check valve with a 2.375-inch O.D. spool pieced and install a 2-inch orifice restriction plate. Tennessee will continue to own, operate, and maintain the side valve assembly. Riverside will own, operate, and maintain the meter facility and will own the new installation of a 2-inch orifice tube. The estimated cost of this project is $20,705, 100% reimbursable to Tennessee.

Tennessee states that there is no proposed increase in the maximum contract quantity for Riverside. Tennessee notes that there will be no impact on peak day or annual deliveries. Tennessee states that once the proposed facilities are in place, it will deliver from 500–750 Dekatherms per day. Tennessee asserts that the end-user of the gas will be Riverside and LLOG Exploration. Tennessee asserts that the establishment of the new delivery point is not prohibited by its existing tariff. Tennessee states that it has sufficient capacity to accomplish deliveries at the requested point without detriment or disadvantage to any other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to 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 authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11985 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–692–004, et al.]

TransCanada Power Corporation, et al.; Electric Rate and Corporate Regulation Filings

May 8, 1996.

Take notice that the following filings have been made with the Commission:

1. TransCanada Power Corporation

[Docket No. ER95–692–004]

Take notice that on April 18, 1996, TransCanada Power Corporation tendered for filing a letter stating that TransCanada-Northridge Power Ltd.'s name has been changed to TransCanada Power Corporation.

Comment date: May 23, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Louis Dreyfus Energy, ACME Power Marketing, Inc., Calpine Power Services Company, ATG Trading Corporation, Aquila Power Corporation, Eastex Power Marketing, Inc., Energy West Power Co., LLC

[Docket Nos. ER92–850–016, ER94–1538–006, ER94–1545–006, ER94–1691–009, ER95–216–009, ER96–118–003, and ER96–392–002 (not consolidated)]

Take notice that the following informational filings have been filed with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 30, 1996 Louis Dreyfus Energy filed certain information as required by the Commission's December 2, 1992 order in Docket No. ER92–850–000.

On April 10, 1996 ACME Power Marketing, Inc. filed certain information as required by the Commission's October 18, 1994 order in Docket No. ER94–1538–000.

On April 30, 1996 Calpine Power Services Company filed certain information as required by the Commission's March 9, 1995 order in Docket No. ER94–1545–000.

On April 22, 1996 ATG Trading Corporation filed certain information as required by the Commission's January 19, 1995 order in Docket No. ER94–1691–000.

On April 30, 1996 Aquila Power Corporation filed certain information as required by the Commission's January 13, 1995 order in Docket No. ER95–216–000.

On April 30, 1996 Eastex Power Marketing, Inc. filed certain information as required by the Commission's November 28, 1995 order in Docket No. ER96–118–000.

On April 30, 1996 Energy West Power Co., LLC filed certain information as required by the Commission's December 28, 1995 order in Docket No. ER96–392–000.

3. Milford Power Limited Partnership, Electric Clearinghouse, Inc., MidCon Power Services Corp., National Power Management Company, Energy Services Inc., USGen Power Services, L.P., Wicor Energy Services, Inc.

[Docket Nos. ER93–493–004, ER94–968–013, ER94–1329–007, ER95–192–006, ER95–1021–003, ER95–1625–003, and ER96–34–002 (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 May 6, 1996, Milford Power Limited Partnership filed certain information as required by the Commission's September 17, 1993 order in Docket No. ER93–493–000.

On May 2, 1996, Electric Clearinghouse, Inc. filed certain information as required by the Commission's April 7, 1994 order in Docket No. ER94–968–000.

On April 30, 1996, MidCon Power Services Corp. filed certain information as required by the Commission's August 11, 1994 order in Docket No. ER94–1329–000.

On May 6, 1996, National Power Management Company filed certain information as required by the Commission's January 4, 1995 order in Docket No. ER95–192–000.

On May 2, 1996, Energy Services Inc. filed certain information as required by the Commission's June 13, 1995 order in Docket No. ER95–1021–000.

On April 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 April 30, 1996, Wicor Energy Services, Inc. filed certain information as required by the Commission's November 9, 1995 order in Docket No. ER96–34–000.

4. CRSS Power Marketing, Inc., JEB Corporation, CNG Power Services Corporation, Gulfstream Energy, L.L.C., Standard Energy Corporation, CNB Olympic Gas Corporation, Cogentrix Energy Power Marketing, Inc.

[Docket Nos. ER94–142–009, ER94–1432–007, ER94–1554–008, ER94–1597–006, ER95–362–005, ER95–964–004, and ER95–1739–002 (not consolidated)]

Take notice that the following informational filings have been filed with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 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 April 30, 1996, JEB Corporation filed certain information as required by the Commission's September 8, 1994 order in Docket No. ER94–1432–000.

On April 30, 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 April 30, 1996, Gulfstream Energy, L.L.C. filed certain information as required by the Commission's November 21, 1994 order in Docket No. ER94–1597–000.

On April 26, 1996, Standard Energy Corporation filed certain information as required by the Commission's February 24, 1995 order in Docket No. ER95–362–000.

On April 30, 1996, CNB/Olympic Gas Services filed certain information as required by the Commission's July 10, 1995 order in Docket No. ER95–964–000.

On April 30, 1996, Cogentrix Energy Power Marketing, Inc. filed certain information as required by the Commission's October 13, 1995 order in Docket No. ER95–1739–000.

5. EDC Power Marketing, Inc., Westcoast Power Marketing, Inc., Alliance Strategies, Proler Power Marketing, Inc., Greenwich Energy Partners, L.P., Seagull Power Services Inc., Heat Petra Resources, Inc.

[Docket Nos. ER94–1538–006, ER95–378–004, ER95–1381–002, ER95–1433–002, ER96–116–001, ER96–342–000, and ER96–381–002 (not consolidated)]

Take notice that the following informational filings have been filed with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On April 26, 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 April 26, 1996, Westcoast Power Marketing, Inc. filed certain information as required by the Commission's April 20, 1995, order in Docket No. ER95–378–000.

On April 26, 1996, Alliance Strategies filed certain information as required by the Commission's August 25, 1995, order in Docket No. ER95–1381–000.

On April 26, 1996, Proler Marketing, Inc. filed certain information as required by the Commission's October 16, 1995, order in Docket No. ER95–1433–000.

On April 18, 1996, Greenwich Energy Partners, L.P. filed certain information as required by the Commission's December 20, 1995, order in Docket No. ER96–116–000.

On April 29, 1996, Seagull Power Services Inc. filed certain information as required by the Commission's February 15, 1996, order in Docket No. ER96–342–000.

On April 26, 1996, Heath Petra Resources, Inc. filed certain information as required by the Commission's December 20, 1995, order in Docket No. ER96–381–000.

6. Citizens Lehman Power Sales, Koch Power Services, Inc., Hartford Power Sales L.L.C., Tenneco Energy Marketing, Company, TransCanada Power Corporation, Southern Energy Marketing, Inc., Paragon Gas Marketing

[Docket Nos. ER94–1685–007, ER95–218–005, ER95–393–008, ER95–428–005, ER95–692–004, ER95–976–004, and ER96–380–002 (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 April 26, 1996, Citizens Lehman Power Sales filed certain information as

required by the Commission's February 2, 1995 order in Docket No. ER94–1685–000.

On April 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 April 26, 1996, Hartford Power Sales L.L.C. filed certain information as required by the Commission's February 22, 1995 order in Docket No. ER95–393–000.

On April 30, 1996, Tenneco Energy Marketing Company filed certain information as required by the Commission's March 30, 1995 order in Docket No. ER95–428–000.

On April 30, 1996, TransCanada Power Corporation filed certain information as required by the Commission's June 9, 1995 order in Docket No. ER95–692–000.

On April 30, 1996, Southern Energy Marketing Inc. filed certain information as required by the Commission's September 29, 1995 order in Docket No. ER95–976–000.

On April 26, 1996, Paragon Gas Marketing filed certain information as required by the Commission's December 20, 1995 order in Docket No. ER96–380–000.

7. Public Service Electric & Gas Company

[Docket No. ER96–1070–000]

Take notice that on May 2, 1996, Public Service Electric & Gas Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Southwestern Public Service Company

[Docket No. ER96–1449–000]

Take notice that on April 24, 1996, Southwestern Public Service Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Kentucky Utilities Company

[Docket No. ER96–1668–000]

Take notice that on April 15, 1996, Kentucky Utilities Company tendered for filing information on transactions that occurred during March 16, 1996 through March 31, 1996, pursuant to the Power Services Tariff accepted by the Commission in docket No. ER95–854–000.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Florida Power & Light Company

[Docket No. ER96–1673–000]

Take notice that on April 29, 1996, Florida Power & Light Company (FPL), tendered for filing a document entitled Letter of Agreement Between Florida Power & Light Company (FPL) and Jacksonville Electric Authority (JEA) Regarding Operational Treatment of Jacksonville Electric Authority's Import and Export Capability at the Florida Southern Interface (JOP Letter Agreement).

FPL states that the JOP Letter Agreement establishes an efficient operational procedure with regards to JEA's use of its 500 Kv and 230 kV facilities connecting JEA's respective system to the Florida-Southern Interface and to FPL (Joint Tie-Line Facilities). For purposes of operational efficiency, FPL and JEA through the JOP Letter Agreement agree to an operational procedure that would be implemented in certain instances in which JEA's import or export capability is being used at the Joint Tie-Line Facilities.

FPL requests that waiver of 35.3 of the Commission's Regulations be granted and that the JOP Letter Agreement be made effective on May 14, 1996. FPL states that copies of the filing were served on JEA.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Arizona Public Service Company

[Docket No. ER96–1674–000]

Take notice that on April 29, 1996, Arizona Public Service Company (APS), tendered for filing the proposed Power Sale Agreement between APS and the City of Vernon (Vernon).

The agreement proposes that APS will make available to Vernon, 25 MW of firm capacity and associated energy during the months of October, November, December, January, February, March and April, commencing on October 1, 1996 and ending April 30, 2000.

A copy of this filing has been served on Vernon and the Arizona Corporation Commission.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. PECO Energy Company

[Docket No. ER96–1675–000]

Take notice that on April 29, 1996, PECO Energy Company (PECO), filed a Service Agreement dated April 19, 1996, with Taunton Municipal Lighting Plant (TAUNTON) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds TAUNTON as a customer under the Tariff.

PECO requests an effective date of April 19, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to TAUNTON and to the Pennsylvania Public Utility Commission.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Maine Public Service Company

[Docket No. ER96–1678–000]

Take notice that on April 29, 1996, Maine Public Service Company, submitted an agreement under its Umbrella Power Sales tariff.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. O'Brien (Parlin) Cogeneration, Inc.

[Docket No. ER96–1679–000]

Take notice that on April 29, 1996, O'Brien (Parlin) Cogeneration, Inc. (Parlin) filed an initial rate schedule with the Federal Energy Regulatory Commission. Pursuant to the initial rate schedule, Parlin proposes to sell power at wholesale in accordance with the terms of the Amended And Restated Agreement for Purchase And Sale of Electric Power Between O'Brien (Parlin) Cogeneration, Inc. And Jersey Central Power & Light Company.

Parlin requests waiver of the 60-day prior notice requirement. Parlin also requests waiver of the Commission's filing requirements contained in Parts B and C of 18 CFR Part 35 (except 35.12(a), 35.13 and 35.16). Finally, Parlin requests: (1) waiver of Parts 41, 101 and 141 of the Commission's regulations; (2) waiver of the full requirements of Part 45 of the Commission's regulations to permit abbreviated filings; and (3) blanket approval under Part 34 of the Commission's regulations of all future issuances of securities and assumptions of obligations or liabilities.

A copy of this filing was served upon Jersey Central Power & Light Company.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. O'Brien (Parlin) Cogeneration, Inc.

[Docket No. ER96–1680–000]

Take notice that on April 29, 1996, O'Brien (Parlin) Cogeneration, Inc. (Parlin) filed an initial rate schedule with the Federal Energy Regulatory Commission. Pursuant to the initial rate schedule, Parlin proposes to sell power at wholesale in accordance with the

terms of the Electricity Purchase Contract between O'Brien (Parlin) Cogeneration, Inc. and NRG Parlin, Inc.

Parlin requests waiver of the 60-day prior notice requirement. Parlin also requests waiver of the Commission's filing requirements contained in Parts B and C of the 18 CFR Part 35 (except 35.12(a), 35.13(b), 35.15 and 35.16). Finally, Parlin requests: (1) waiver of Parts 41, 101 and 141 of the Commission's regulations; (2) waiver of the full requirements of Part 45 of the Commission's regulations to permit abbreviated filings; and (3) blanket approval under Part 34 of the Commission's regulations of all future issuances of securities and assumptions of obligations of liabilities.

A copy of this filing was served upon NRG Parlin Inc.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Commonwealth Edison Company

[Docket No. ER96–1681–000]

Take notice that on April 30, 1996, Commonwealth Edison Company (ComEd), submitted for filing three Service Agreements, establishing Florida Power Corporation (FPC), dated March 1, 1996, KN Marketing, Inc., (KN Marketing), dated March 25, 1996 and South Carolina Public Service Authority, (Santee Cooper), dated March 26, 1996 as customers under the terms of ComEd's Power Sales Tariff PS–1 (PS–1 Tariff). ComEd also submitted for filing four Service Agreements, establishing National Gas & Electric L.P. (National), dated January 5, 1996; Florida Power Corporation (FPC) dated March 1, 1996; Western Power Services, Inc. (WPS), dated April 1, 1996; and KN Marketing, Inc. (KN Marketing), dated April 4, 1996, as customers under the terms of ComEd's Flexible Transmission Service Tariff (FTS–1 Tariff). The Commission has previously designated the FS–1 Tariff as FERC Electric Tariff, Original Volume No. 2, and the FTS–1 Tariff as FERC Electric Tariff, Second Revised Volume No. 3.

ComEd requests an effective date of March 31, 1996, for the three PS–1 Service Agreements, and an effective date of April 4, 1996, for the four FTS–1 Service Agreements, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon FPC, KN Marketing, Santee Cooper, National, WPS and the Illinois Commerce Commission.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Cinergy Services, Inc.

[Docket No. ER96–1682–000]

Take notice that on April 30, 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 Toledo Edison Company.

Cinergy and the Toledo Edison Company are requesting an effective date of May 6, 1996.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Cinergy Services, Inc.

[Docket No. ER96–1683–000]

Take notice that on April 30, 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 Cleveland Electric Illuminating Company.

Cinergy and The Cleveland Electric Illuminating Company are requesting an effective date of May 6, 1996.

Comment date: May 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11976 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2000–008 New York]

New York Power Authority; Notice of Availability of Environmental Assessment

May 8, 1996.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for approval of change in land rights and removal of lands from the project boundary. New York Power Authority proposes to convey five land parcels totaling approximately 670 acres to the Town of Waddington, New York, for low-density residential and tourism-related commercial and recreational development.

The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that the licensee's proposal would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, Room 2A, of the Commission's Offices at 888 First Street, NE, Washington, D.C., 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–11980 Filed 5–13–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5504–6]

Ozone, Particulate Matter and Regional Haze Implementation Program Subcommittee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: On September 11, 1995 (60 FR 47172) the EPA announced the establishment of the Ozone, Particulate Matter and Regional Haze Implementation Programs Subcommittee under the Clean Air Act Advisory Committee (CAAAC). The CAAAC was established on November 8, 1990 (55 FR 46993) pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. app I). The purpose of the Subcommittee is to provide advice and recommendations on integrated approaches for implementing potentially new national ambient air quality standards (NAAQS) for ozone and particulate matter, as well as a regional haze program.

OPEN MEETING DATES: Notice is hereby given that the Subcommittee for Development of Ozone, Particulate Matter and Regional Haze Implementation Programs will hold its next open meeting on Thursday, May

30, 1996, from 8:00–5:00 p.m., at the Omni Durham Hotel, 201 Foster Street, Durham, North Carolina. Seating will be available on a first come, first served basis. To assist EPA in planning the public meeting, persons interested in attending should register with EPA by contacting Susan Cooke at Science Applications International Corporation by telephone at 919–544–2848 or by faxing your name and address to her attention at 919–544–4175.

The public is invited to submit written views and recommendations on new integrated approaches for implementing these programs. Such comments should be submitted (in duplicate) to docket A–95–38. The docket is open for public inspection and copying between 8:30 a.m. and 5:30 p.m., weekdays, at the Air and Radiation Docket and Information Center (6102), room M–1500, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. William F. Hamilton, Designated Federal Officer for the Subcommittee, at 919–541–5498, or by mail at U.S. EPA, Office of Air Quality Planning and Standards, MD–12, Research Triangle Park, North Carolina 27711. A copy of the draft meeting agenda can be downloaded from the Ozone/Particulate Matter/Regional Haze FACA Bulletin Board, which is located on the Office of Air Quality Planning and Standards Technology Transfer Network (OAQPS TTN) or by contacting Denise M. Gerth (919) 541–5550.

Dated: May 6, 1996.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 96–12075 Filed 5–13–96; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2131]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

May 9, 1996.

A Petition for reconsideration has been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed by May 29, 1996. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Implementation of Sections 202(f), 202(i) and 301(i) of the Telecommunications Act of 1996; Cable Television Antitrafficking, Network and MMDS/SMATV Cross-ownership Rules (CS Docket No. 96–56)

Number of Petitions Filed: 1

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–12048 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–M

[Correction to Report No. 2129]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

May 9, 1996.

Report No. 2129, released May 1, 1996 omitted the below Petition for Reconsideration, therefore this petition is hereby added and the opposition date remains the same.

Subject: Preemption of Local Zoning Regulation of Satellite Earth Stations (IB Docket No. 95–59)

Number of Petitions Filed: 9

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–12049 Filed 5–13–96; 8:45 am]

BILLING CODE 6712–01–M

NUCLEAR REGULATORY COMMISSION

Federal Emergency Management Agency

Draft Document: Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (Criteria for Emergency Planning in an Early Site Permit Application)

The Nuclear Regulatory Commission (NRC) and the Federal Emergency Management Agency (FEMA) have jointly prepared guidance for the development, review, and approval of emergency information and plans to be submitted with an early site permit (ESP) application in a proposed Supplement 2 to NUREG–0654/FEMA–REP–1, Rev. 1, entitled, ''Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants (Criteria for Emergency Planning in an Early Site Permit Application).'' This document is available for public review and comment.

The NRC staff's views on how emergency planning will be addressed at each phase of nuclear power plant licensing under 10 CFR Part 52: ESPs, standard design certifications, and combined licenses, are discussed in a Commission paper, ''Emergency Planning Under 10 CFR Part 52,'' SECY–95–090, issued on April 11, 1995. A draft of this paper was noticed for comment in the Federal Register on May 20, 1994 (59 FR 26530).

For ESP applications, Subpart A to 10 CFR Part 52 states requirements and procedures for issuing an ESP that approves a site for one or more nuclear power plants separate from the filing of an application for a construction permit or a combined license. The application for an ESP must, as a minimum, identify physical characteristics unique to the proposed site, such as limitations on egress from the area surrounding the site, that could pose a significant impediment to the development of emergency plans. In addition, the application must include a description of contacts and arrangements made with local, State, and Federal government agencies that have emergency planning responsibilities. The application *may also* propose major features of the emergency plans, such as the exact size of the emergency planning zones, that can be reviewed and approved by the NRC in consultation with FEMA, *or* may propose complete and integrated emergency plans for the site for review and approval by the NRC in consultation with FEMA.

Proposed Supplement 2 to NUREG–0654/FEMA–REP–1 provides guidance for meeting the mandatory emergency planning requirement and for addressing the two additional emergency planning options of the ESP rule. The proposed supplement recommends an approach for an ESP applicant to identify unique site physical characteristics that could be an impediment to the development of emergency plans. An ESP applicant that chooses the option of proposing major features of the emergency plans will be evaluated against selected and modified planning standards and evaluation criteria from NUREG–0654/FEMA–REP–1 which are given in proposed Supplement 2. An applicant for an ESP that chooses the option of submitting complete and integrated emergency plans for review and approval will be

evaluated against the applicable provisions of 10 CFR 50.47 and Appendix E to 10 CFR Part 50, and the full evaluation criteria of NUREG–0654/FEMA–REP–1.

The regulations in 10 CFR Part 52 do not include a requirement for updating emergency planning information and plans approved as part of an ESP. The NRC staff discussed this matter in the final Commission paper on 10 CFR Part 52 and indicated that it would be deferred until a review is conducted to determine any necessary revisions to Part 52 after the first standard design certification rulemakings are completed.

Comments on Draft Supplement 2 to NUREG–0654/FEMA–REP–1 may be submitted for consideration by the NRC and FEMA staffs. Comments should be submitted within 120 days of the date of this Federal Register notice to: Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6D59, Washington, DC 20555–0001.

Comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

For a copy of the Draft Supplement 2 to NUREG–0654/FEMA–REP–1, write: Distribution Services, Printing and Mail Services Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington DC 20555. A copy of Draft Supplement 2 to NUREG–0654/FEMA–REP–1 is available for inspection and copying for a fee in the NRC Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC 20555.

For further information contact: Falk Kantor, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–2907, or Nancy Goldstein, Preparedness, Training and Exercises Directorate, Federal Emergency Management Agency, Washington, DC 20472. Telephone: (202) 646–4285.

Dated at Rockville, Maryland, this 25th day of April 1996.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission.

For the Federal Emergency Management Agency

Kay C. Goss,

Associate Director for Preparedness, Training, and Exercises, Federal Emergency Management Agency.

[FR Doc. 96–12042 Filed 5–13–96; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–006200–034.

Title: U.S. Atlantic & Gulf Australia-New Zealand Conference.

Parties: Blue Star (North America) Ltd., Hamburg-Sudamerikanische Dampfschifffahrts-Gesellaschaft Eggert & Amsinck (Columbus Line).

Synopsis: The proposed amendment adds foreign inland points to the geographic scope of the agreement.

Agreement No.: 232–011184–006.

Title: EMC/Italia/CGM Space Charter and Sailing Agreement.

Parties: Evergreen Marine Corporation (Taiwan) Ltd., Compagnie Generale Maritime, Italia di Navigazione SpA.

Synopsis: The proposed amendment (1) deletes Compagnie Generale Maritime as a party; (2) authorizes space to be chartered on vessels of a party to Agreement No. 203–011305 instead of Agreement No. 203–011171 and deletes the restriction applicable to U.S.-flag vessels; (3) deletes references to Agreements No. 203–011171 and 203–011217; (4) clarifies the authority to use other carriers for the carriage of containers in the trade and substitutes Agreement No. 203–011305 for Agreement No. 203–011171; (5) deletes the restriction for cargoes reserved to Spanish flag vessels; (6) deletes the withdrawal provision pertaining to CGM; (7) provides that the duration of the Agreement will be for a minimum of 2 years from the effective date of this Amendment No. 006; (8) deletes Article 14(B) as it applies to arbitration among more than two parties; (9) makes other non-substantive changes; and (10) restates the Agreement. The parties have requested a shortened review period.

Agreement No.: 232–011321–005.

Title: Maersk/Sea-Land Pacific Agreement.

Parties: A.P. Moller-Maersk Line, Sea-Land Service, Inc.

Synopsis: The proposed amendment (1) Changes the name of the Agreement to the Maersk/Sea-land U.S./Far East and Middle East Agreement; (2) revises the geographic scope to include the Middle East; (3) deletes any country with which persons subject to U.S. jurisdiction are prohibited to trade; (4) revises Article 5.7 to make agreement on conference membership optional; (5) revises Article 9.2 to provide for an initial period of four years beginning January 21, 1996; and (6) restates the Agreement.

Agreement No.: 207–011416–001.

Title: Med-Pacific Express Joint Service Agreement.

Parties: Italia di Navigazione S.p.A., d'Amico Societa di Navigazione per Azioni.

Synopsis: The proposed amendment revises the geographic scope of the Agreement to include all of South America.

Agreement No.: 203–011452–005.

Title: Trans-Pacific Policing Agreement.

Parties: American President Lines, Ltd., A.P. Moller-Maersk Line, Cho Yang Line, China Ocean Shipping Company, DSR-Senator Joint Service, Evergreen Marine Corp., Hyundai Merchant Marine Co., Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nedlloyd Lijnen B.V., Neptune Orient Lines, Ltd., Nippon Yusen Kaisha Line, Orient Overseas Container Line, Inc., Sea-Land Service, Inc., Transportacion Maritima Mexicana, S.A. de C.V., Wilhelmsen Lines AS, Yang Ming Marine Transport Corp.

Synopsis: The proposed amendment extends the term of the Agreement with the Neutral Body through June 30, 1998.

Agreement No.: 224–200986.

Title: BCL/Tilbury Terminal Agreement.

Parties: Bermuda Container Line Ltd. (''BCLL''), Tilbury Toad Associates, Inc. (''Tilbury'').

Synopsis: The proposed Agreement permits Tilbury to provide preferential berthing, stevedoring, and other terminal services to BCLL.

Dated: May 9, 1996.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–12035 Filed 5–13–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 28, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Gregory J. Dahlgren , Vergas, Minnesota; to retain a total of 30 percent of the voting shares of Vergas Bancorporation, Inc., Vergas, Minnesota, and thereby indirectly retain shares of Vergas State Bank, Vergas, Minnesota.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. James L. Truck, Kingwood, Texas; to acquire an additional 3.2 percent, for a total of 27.1 percent of the voting shares of Brazosport Corporation, Corpus Christi, Texas, and thereby indirectly acquire First Commerce Bank, Corpus Christi, Texas.

Board of Governors of the Federal Reserve System, May 8, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–11988 Filed 5-13-96; 8:45 am]

BILLING CODE 6210-01-F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 7, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Gulf Coast Holding Company, New Orleans, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Gulf Coast Bank & Trust Company, New Orleans, Louisiana.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First United Bancshares, Inc., El Dorado, Arkansas; to merge with Carlisle Bancshares, Inc., Little Rock, Arkansas, and thereby indirectly acquire Citizens Bank & Trust Company, Carlisle, Arkansas; Firstbank of Arkansas, Brinkley, Arkansas; and Hazen First State Bank, Hazen, Arkansas.

2. Porter Bancorp, Inc., Shepherdsville, Kentucky; to merge with Green River Bancorp, Inc., Shepherdsville, Kentucky, and thereby indirectly acquire Green River Bank, Morgantown, Kentucky.

3. Porter Bancorp, Inc., Shepherdsville, Kentucky; to merge with Pioneer Bancshares, Inc., Shepherdsville, Kentucky; and thereby indirectly acquire Pioneer Bank, Canmer, Kentucky.

4. Porter Bancorp, Inc., Shepherdsville, Kentucky; to acquire a total of 66.4 percent of the voting shares of Mammoth Bancorp, Inc., Brownsville, Kentucky; and thereby indirectly acquire Brownville Deposit Bank, Brownsville, Kentucky.

5. Porter Bancorp, Inc., Shepherdsville, Kentucky; to acquire a total of 25.0 percent of the voting shares of BBA, Inc., Shepherdsville, Kentucky, and thereby indirecty acquire Bullitt County Bank, Shepherdsville, Kentucky.

6. Porter Bancorp, Inc., Shepherdsville, Kentucky; to acquire a total of 79.8 percent of the voting shares of Greensburg Bancorp, Inc., Shepherdsville, Kentucky, and thereby indirectly acquire Peoples Bank and Trust Company, Greensburg, Kentucky.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Duke Financial Group, Inc., St. Paul, Minnesota; to acquire a total of 65 percent of the voting shares of Inland Empire National Bank, Riverside, California.

Board of Governors of the Federal Reserve System, May 8, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–11989 Filed 5-13-96; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely

related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 28, 1996.

A. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. BankAmerica Corporation, San Francisco, California; to engage *de novo* through its subsidiary, BankAmerica Community Development Corporation, San Francisco, California, in community development activities, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 8, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–11987 Filed 5–13–96; 8:45 am]

BILLING CODE 6210–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 noon, Monday, May 20, 1996.

PLACE: Marrier S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 10, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–12232 Filed 5–10–96; 3:15 pm]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Office of Policy, Planning, and Evaluation, FAR Secretariat; Stocking of Standard Form, SF 294, Subcontracting Report for Individual Contracts and SF 295, Summary Subcontract Report

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration/Office of Policy, Planning and Evaluation recently revised Standard Form, SF 294, Subcontracting Report for Individual Contracts and SF 295, Summary Subcontract Report. These forms are now authorized for local reproduction. You can obtain the camera copy in two ways:

On the internet. Address: http://www.gsa.gov/forms, or;

From CARM, Attn.: Barbara Williams, (202) 501–0581. You can request camera copy of both forms from General Services Administration (CARM), Attn.: Barbara Williams, (202) 501–0581.

FOR FURTHER INFORMATION CONTACT: Ms. Victoria Moss, General Services Administration, (202) 501–4764. This contact is for information on completing the form and interpreting the FAR only.

DATES: Effective May 14, 1996.

Dated: May 6, 1996.

Theodore D. Freed,

Chief, Forms Management Branch.

[FR Doc. 96–12000 Filed 5–13–96; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[R–193, R–44, R–194]

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, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Existing collection in use without an OMB control number; *Title of Information Collection:* An Important Message from Medicare; *Form No.:* HCFA R–193; *Use:* Hospitals participating in the Medicare program have agreed to distribute ''An Important message from Medicare'' to each beneficiary for each admission. *Recordkeeping:* As needed; *Affected Public:* Individuals or Households, Business or other for-profit; Not-for-profit institutions, Federal Government, and State, Local or Tribal Government; *Number of Respondents:* 6,700; *Total Annual Responses:* 11,000,000; *Total Annual Hours Requested:* 183,333.

2. *Type of Information Collection Request:* Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Title Conditions of Participation for Rehabilitation Agencies and Conditions for Coverage for Physical Therapists in Independent Practice; *Form No.:* HCFA R–44; *Use:*

This information is needed to determine if an agency or therapist is in compliance with published health and safety requirements. Respondents are outpatient clinics, rehabilitation agencies, public health agencies, and therapists in independent practice. *Frequency:* On occasion; *Affected Public:* Business or other for-profit; *Number of Respondents:* 9,634; *Total Annual Responses:* 9,634; *Total Annual Hours Requested:* 26,397.

3. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Medicare Disproportionate Share Adjustment Procedure and Criteria; *Form No.:* HCFA R–194; *Use:* Regulation sets up an alternative process for hospitals that choose to have their disproportionate share adjustment statistics calculated based on their cost reporting periods rather than the Federal fiscal year. *Frequency:* On occasion; *Affected Public:* Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 100; *Total Annual Responses:* 100; *Total Annual Hours Requested:* 100.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Office designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 7, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–11997 Filed 5–13–96; 8:45 am]

BILLING CODE 4120–03–P

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority

Part A (Office of the Secretary), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Chapter AA ''Office of the Secretary'' as last amended at 60 FR 52403, dated October 6, 1995; Chapter ABC ''Office of the Deputy Under Secretary for Intergovernmental Affairs'' as last amended at 46 FR 3284, dated January 14, 1981; and Chapter AD ''Office of the Regional Director'' as last amended at 55 FR 5072, dated February 13, 1990 is being revised. Also, Chapter HD ''Public Health Service Regional Offices'' as last amended at 60 FR 48164, dated September 18, 1995 is being deleted in its entirety.

Part A is being amended to reflect the role and responsibility of the Office for Intergovernmental Affairs and to place the Regional Health Administrators within the Office of the Regional Directors. The specific amendments are:

I. Make the following changes to Chapter AA ''Office of the Secretary,'' paragraph AA.10 Organization: Delete the Office of the Deputy Under Secretary for Intergovernmental Affairs and insert the Office for Intergovernmental Affairs.

II. Delete Chapter ABC in its entirety and replace with the following:

ABC.00 Mission. The Director of the Office for Intergovernmental Affairs (IGA) serves as the principal advisor and Assistant to the Secretary and Deputy Secretary on intergovernmental affairs, with the responsibility for facilitating the coordination and implementation of Administration and Secretarial initiatives as they pertain to intergovernmental affairs at the headquarters, regional, State, tribal, local and community levels. The Director for Intergovernmental Affairs is the central point of reference in the Department for issues, problems and questions involving these matters. The Director for Intergovernmental Affairs provides leadership, coordination, evaluation, and administrative direction to the Regional Director; also provides general guidance and direction to the Office of Veterans Affairs and Military Liaison; and to special initiatives, such as, Human Service Transportation Coordination and the National Rural Development Partnership. As directed the Director provides coordination services for functions and activities of the Deputy Secretary.

ABC.10 Organization. the Office for Intergovernmental Affairs is under the direction and control of the Director for Intergovernmental Affairs, who reports directly to the Secretary and Deputy Secretary.

ABC.20 Functions. The Director for Intergovernmental Affairs undertakes a variety of assignments for the Secretary and Deputy Secretary on critical intergovernmental problems which are beyond the authority of the Regional Director or which cross program/agency/departmental lines.

Advises on State, tribal and local impact of proposed Departmental action whether in legislation, regulation, or administrative decision. Serves as the point of contact between the Regional Directors (RDs) and the Secretary and Deputy Secretary. Responds to Secretarial initiatives having regional, State and local implications by directing the RDs to take specific actions.

Ensures a full and timely opportunity for the RDs to contribute to the planning, development and implementation of Departmental policy. In consultation with OPDIV heads ensures the resolution of policy issues involving intergovernmental concerns of operating divisions and the regional offices. Resolves intergovernmental problems and situations that cut across the OPDIVs in headquarters and in the regions. Formulates and recommends Departmental policies on the delivery of services to States and communities. Serves as a focal point for coordinated HHS efforts to deal with community problems as a whole. Has primary responsibility to ensure consistency of approach, administration, and action of programs within HHS as they impact on state and local governments.

Represents the Secretary and Deputy Secretary with officials of other Federal agencies, officials of State, tribal and local governments, and non-governmental organizations including national associations which represent State and local general purpose governments and relevant subdivisions in functions which cut across program lines. Develops strategies to strengthen intergovernmental relationships and collaborates with Governors, their key officials, county and city officials, on national goals and programs in health and human services. Serves as liaison with the White House on intergovernmental matters and concerns through the Assistant to the President for Intergovernmental Affairs.

Under the Direction of the Director for Intergovernmental Affairs, the Office of Veterans Affairs and Military Liaison provides advice and counsel and appropriate information and liaison to the White House, the Secretary, and veteran's and military organizations and associations; develops initiatives within the Department to improve services to veterans and the military; and focuses health and human resources on the needs of all veterans and military families as part of a Health and Human Services/Department of Veterans Affairs/Department of Defense initiative to better serve their health and human service needs. Provides coordinative support relating to sick, disabled and disadvantaged veterans/military for research targeted toward specific areas.

As directed, the Director IGA coordinates program and management functions and activities that the Deputy

Secretary is responsible for. The Director IGA represents the Department in special initiatives, such as the Human Services Transportation Coordination and the National Rural Development Partnership initiatives.

III. Delete Chapter AD in its entirety and replace with the following:

AD.00 Mission. The Regional Director serves as the direct personal representative of the Secretary with the responsibility for carrying out the Secretary's policies in the Region. The Regional Director provides leadership for the Secretary's special initiatives and coordination of the complex activities of the Region.

AD.10 Organization. The Office of the Regional Director is under the direction and control of the Regional Director, who reports directly to the Secretary and Deputy Secretary through the Director for Intergovernmental Affairs, and consists of the following:

Regional Director AD(1–X)
Regional Health Administrator ADA(1–X)

AD.20 Function. A. The Regional Director serves as the Secretary's representative in direct official dealings with State, tribal and local government organizations, non-government officials and their respective representative organizations. Establishes and maintains effective relationships with Governors, mayors, county officials, and other key State and local officials; furnishes advice and assistance and strives to develop a mutually beneficial Federal-State-local partnership; provides guidance and coordination to the efforts of all regional staff members on the priorities, emphasis, and merits of various programs based on the expression of needs and analyses by Governors, mayors, and other key officials. In consultation with the Office of the Assistant Secretary for Legislation, provides a central focus in the Region for department relations with Congressional delegations and individual members of Congress. Promotes general public understanding of programs, policies, and objectives of the Department; participates in developing and carrying out a region-wide public information program; and provides regional clearance on official public communiques.

Assesses the effectiveness of Department activities and makes reports and recommendations to the Secretary, Deputy Secretary, Director of Intergovernmental Affairs, and other Departmental officials concerning the application or improvement of policies and service delivery systems. Serves as coordinator, facilitator, and expediter in solving cross-cutting issues to assure effective, efficient, and responsible actions in the interest of total service to the public. Advises the Secretary on the potential effect of proposed Department action, whether legislative, regulatory, or administrative decision. Provides input into policy decisions and strategy regarding the concerns and interests of State and local governments and non-government organizations as derived from their key officials. In conjunction with the Regional Health Administrators, develops plans for emergency preparedness and directs all Departmental activities necessary to ensure continuity of essential functions within the Region in case of an emergency due to enemy action or natural disaster.

B. The Regional Health Administrator ADA(1–X)—Reports to the Secretary's Regional Director, receives professional guidance from the Assistant Secretary for Health, Director, Office of Public Health and Science (OPHS) programs. The Regional Health Administrator and associated staff are a component of the U.S. Public Health Service, along with the OPHS and PHS Operating Divisions.

Participates in policy development and implementation; directs and coordinates regionally based programs of OPHS, including the offices of Emergency Preparedness, Minority Health, Women's Health, and Population Affairs. Develops regional goals and objectives consistent with the needs of the population and in conformity with national health priorities and objectives and Departmental plans and programs. Serves as the principal official in the assigned area of jurisdiction to provide oversight and coordination for Public Health Service programs. Solicits and provides input from regional, State, and local health, mental health and substance abuse professional organizations to assist the Regional Director, the Assistant Secretary for Health, Director, OPHS, Director IGA and PHS Operating Divisions (OPDIVs) in the formulation, development, analysis, and evaluation of PHS OPDIV field programs and cross cutting Departmental initiatives in public health.

IV. Under Part H, delete Chapter HD in its entirety.

Dated: April 11, 1996.

John J. Callahan,

Assistant Secretary for Management and Budget.

[FR Doc. 96–11946 Filed 5–13–96; 8:45 am]

BILLING CODE 4150–04–M

Agency for Health Care Policy and Research

Meeting of the National Advisory Council for Health Care Policy, Research, and Evaluation

AGENCY: Agency for Health Care Policy and Research.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the National Advisory Council for Health Care Policy, Research, and Evaluation.

DATES: The meeting will be open to the public on Thursday, May 30, 1996, from 9:00 a.m. to 3:45 p.m. A closed portion of the Council will meet from 4:00 p.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Omni Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.

FOR FURTHER INFORMATION CONTACT: Deborah L. Queenan, Executive Secretary of the Advisory Council at the Agency for Health Care Policy and Research, 2101 East Jefferson Street, Suite 603, Rockville, Maryland 20852, (301) 594–1459.

In addition, if sign language interpretation or other reasonable accommodation for a disability is needed, please contact Linda Reeves, the Assistant Administrator for Equal Opportunity, AHCPR, on (301) 594–6665 no later than May 23, 1996.

SUPPLEMENTARY INFORMATION:

I. Purpose

Section 921 of the Public Health Service Act (42 U.S.C. 299c) establishes the National Advisory Council for Health Care Policy, Research, and Evaluation. The Council provides advice to the Secretary and the Administrator, Agency for Health Care Policy and Research (AHCPR), on matters related to AHCPR activities to enhance the quality, appropriateness, and effectiveness of health care services and access to such services through scientific research and the promotion of improvements in clinical practice and in the organization, financing, and delivery of health care services.

The Council is composed of public members appointed by the Secretary. These members are: Robert A. Berenson, M.D.; F. Marian Bishop, Ph.D.; Linda Burnes Bolton, Dr. P.H.; John W. Danaher, M.D.; Helen Darling, M.A.; Nancy J. Kaufman, M.S.; William S. Kiser, M.D.; Robert M. Krughoff; Risa J. Lavizzo-Mourey, M.D.; W. David Leak, M.D.; Harold S. Luft, Ph.D.; Barbara J.

McNeil, M.D.; Walter J. McNerney, M.H.A.; Edward B. Perrin, Ph.D; Louis F. Rossiter, Ph.D.; Albert L. Siu, M.D.; and Ellen B. White, M.B.A.

There also are Federal ex-officio members. These members are: Administrator, Substance Abuse and Mental Health Services Administration; Director, National Institutes of Health; Director, Centers for Disease Control and Prevention; Administrator, Health Care Financing Administration; Commissioner, Food and Drug Administration; Assistant Secretary of Defense (Health Affairs); and Chief Medical Director, Department of Veterans Affairs.

II. Agenda

On Thursday, May 30, 1996, the meeting will begin at 9:00 a.m. with the call to order by the Council Chairman. The Administrator, AHCPR, will update the status of current Agency issues and program initiatives. The Council will then discuss issues concerning the guideline program, public/private sector collaboration, and improvements to the large grant program. The Council will recess at 3:45 p.m. The Council will begin the closed portion of the meeting to review grant applications from 4:00 p.m. to 5:00 p.m.

The meeting will adjourn at 5:00 p.m. Agenda items are subject to change as priorities dictate.

Dated: May 8, 1996.

Clifton R. Gaus,

Administrator.

[FR Doc. 96–12066 Filed 5–13–96; 8:45 am]

BILLING CODE 4160–90–M

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Request for Emergency OMB Approval of Information Collection Under the Paperwork Reduction Act.

OMB No.: New.

Description: The State and Tribal JOBS plans are statutorily mandated and serve as the agreement between the State or the Tribal grantee and the Federal government for how JOBS programs will operate. The State/Tribal plans provide assurances that the JOBS program will be administered and operated in conformity with titles IV–A and IV–F of the Social Security Act, pertinent Federal regulations, and other applicable instructions or guidelines issued by ACF. This new State and Tribal JOBS plan section is being added in response to the President's recent directive requiring States to address the needs of teen parents so that they stay in school and become self-sufficient.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Tribal JOBS	76	1	5	380
State JOBS	54	1	5	270

Estimated Total Annual Burden Hours: 650.

Additional Information

ACF is requesting that OMB grant a 90 day approval for this information collection under procedures for emergency processing by May 9, 1996. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Roberta Katson at (202) 401–5756.

Comments and questions about the information collection described above should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paperwork Reduction Project, 725 17th Street NW., Washington, DC 20503, (202) 395–7316.

Dated: May 8, 1996.

Roberta Katson,

Director, Office of Information Resource Management Services.

[FR Doc. 96–11946 Filed 5–13–96; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

FDA Form 3439, Interim Form for Application to Market a New Drug, Biologic, or Antibiotic Drug for Human Use; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of FDA Form 3439 entitled, ''Application to Market a New Drug, Biologic, or Antibiotic Drug for Human Use.'' This form is intended for use by applicants for licenses for specified biotechnology and specified synthetic biological products. FDA Form 3439 has received interim approval from the Office of Management and Budget (OMB) for use by applicants pending the availability of a harmonized form for use by applicants requesting approval of drugs, biological products, and antibiotics. The development of the harmonized form and this action are part of FDA's continuing effort to achieve the objectives of the President's ''Reinventing Government'' initiatives.

EFFECTIVE DATE: The FDA Form 3439 may be used May 24, 1996.

ADDRESSES: Submit written requests for single copies of FDA Form 3439 to Division of Congressional and Public Affairs (HFM–44), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. The form may also be obtained by FAX by calling the CBER Voice Information System at 1–800–835–4709. FDA Form 3439 is available for public examination in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Annette A. Ragosta, Center for Biologics Evaluation and Research (HFM–630), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA is making available FDA Form 3439, Application to Market a New Drug,

Biologic, or Antibiotic Drug for Human Use, for use in accordance with part 601 (21 CFR part 601), by applicants for licenses for specified biotechnology and specified synthetic biological products. In the final rule, ''Elimination of Establishment License Application for Specified Biotechnology and Specified Synthetic Biological Products,'' published elsewhere in this issue of the Federal Register, FDA is amending § 601.2 (a) and adding new § 601.2 (c) to create a licensing scheme for specified biotechnology and specified synthetic biological products. The final rule requires an applicant seeking marketing approval for specified biotechnology and specified synthetic biological products to submit a single biologics license application to CBER. FDA Form 3439 has received interim approval from OMB for use by applicants subject to the above-referenced final rule.

In the November 1995 report entitled, ''Reinventing the Regulation of Drugs Made from Biotechnology'' report, the President and Vice-President announced a series of regulatory reform initiatives, including FDA's intention to use a single harmonized application form for all licensed biological products and all drug products. The harmonized form will be made available for public comment and submitted to OMB for review and approval. FDA also intends to develop guidance to assist applicants in completing the harmonized application. Once it is approved for use by OMB, the harmonized form will supersede FDA Form 3439. Until that time, applicants for licenses for specified biotechnology and specified synthetic biological products may use the interim FDA Form 3439.

Under the Paperwork Reduction Act of 1995 (Pub. L. 104–13), all forms requesting a collection of information on identical items from 10 or more public respondents must be approved by OMB and must display a valid OMB control number and expiration date. FDA Form 3439 was approved under OMB control number 0910–0316. The expiration date for the form is December 31, 1997.

Dated: May 9, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–12145 Filed 5–10–96; 10:13 am]

BILLING CODE 4160–01–F

[Docket No. 95N–0227]

Direct-to-Consumer Promotion

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is publishing a notice making clear that the agency does not require preclearance of prescription product promotion (advertising and promotional labeling) of human or animal drugs, biologics, or restricted medical devices directed toward consumers. FDA is also requesting comments on its intent to consider certain FDA-approved patient labeling as adequate to fulfill the brief summary requirement in consumer-directed advertisements. Finally, FDA is soliciting comments concerning several issues related to consumer-directed promotion of prescription biologics, human and animal drugs, and restricted medical devices to help guide policy decisions.

DATES: Written comments by August 12, 1996.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy M. Ostrove, Division of Drug Marketing, Advertising and Communications (HFD–40), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, rm. 17–B04, Rockville, MD 20857, 301–827–2828, or via Internet at Ostrove@cder.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Federal Food, Drug, and Cosmetic Act (act) and the Public Health Service Act, the Food and Drug Administration (FDA) has responsibility for regulating the labeling and advertising of prescription drugs (animal and human), biologics, and restricted medical devices. Labeling and advertising must follow certain requirements, as defined by the Act and implementing regulations.

Under section 502(n)of the act (21 U.S.C. 352(n)), an advertisement for a prescription drug must contain, in addition to the product's established name and quantitative composition, ''such other information in brief summary relating to side effects, contraindications, and effectiveness * * *.'' This requirement is further defined in prescription drug advertising regulations at § 202.1(e) (21 CFR 202.1(e)). Under section 502(r) of the act (21 U.S.C. 352(r)), an advertisement for a restricted medical device must contain, in addition to the established name, ''a brief statement of the intended uses of the device and relevant warnings, precautions, side effects, and contraindications * * *.''

The act and FDA's advertising regulations do not distinguish between targeted audiences. FDA recognizes, however, that there are differences between the information needs of health care professionals and consumers resulting from differences in medical and pharmaceutical expertise, and differences in roles as potential recipients of medications or prescribers of medications, that may affect their perceptions, comprehension, and interpretation of promotional claims. In light of these differences, FDA is continuing to evaluate its policies and regulations.

In the Federal Register of August 16, 1995 (60 FR 42581), FDA announced a part 15 (21 CFR part 15) hearing to be held on October 18 and 19, 1995. In that document, the agency solicited oral testimony and written responses to a series of questions concerning direct-to-consumer (DTC) promotion of prescription drugs. At the hearing, the agency heard testimony from representatives of consumer and patient groups, advertising associations, and foreign governments, as well as from individual academicians, attorneys, marketers, and pharmaceutical manufacturers. The agency accepted written comments until December 29, 1995. FDA is currently evaluating the testimony, comments, and issues raised by both the public hearing and citizen petitions submitted prior to the hearing.

While this evaluation proceeds, FDA is providing clarification of two of its policies and soliciting additional information to help in the development of overall policy. FDA views these efforts as part of a comprehensive process designed to encourage meaningful communication to consumers about prescription drugs, biologics, and restricted medical devices, while continuing to help ensure that consumers are adequately protected from false, misleading or otherwise violative promotion.

II. Preclearance

One issue raised in oral testimony, written comments, and citizen petitions was an objection to the perceived requirement for manufacturers to obtain prior clearance from the agency for all prescription drug and biological DTC promotion. There is, in fact, no such requirement. Given public and congressional concern since the early 1980's about prescription drug DTC promotion, together with the inexperience of the pharmaceutical industry in producing DTC advertising, FDA had informally requested manufacturers to submit, on a voluntary basis, proposed DTC promotional

labeling and advertising for review and comment prior to use. See § 202.1(j)(4), which provides that ''any advertisement may be submitted to the Food and Drug Administration prior to publication for comment.''

FDA wishes to clarify that it has never required preclearance of consumer-directed prescription drug promotion, or advertising for restricted devices. Under sections 502(n) and 502(r) of the act, FDA may require prior approval of prescription drug and medical device advertisements only in ''extraordinary circumstances.'' (See, e.g., § 202.1(j)(1)—prior approval will be required when a sponsor or FDA receives information, not widely publicized in medical literature, that a drug may cause fatalities or serious injuries, and despite notification from FDA, the sponsor fails to publicize adequately such information.)

FDA believes that industry's desire for agency guidance on proposed DTC promotion and applicable regulatory requirements, and the cost of developing corrective materials or campaigns explains the high rate of submission of DTC promotional materials for prior review and comment. However, it appears that the agency's request that manufacturers voluntarily obtain advice on proposed DTC materials has been misinterpreted as a requirement. FDA reiterates that it does not now require, nor has it ever required, manufacturers to submit DTC promotional labeling and advertising for preclearance. [1]

III. Patient Labeling in Fulfillment of the ''Brief Summary'' Requirement

FDA recognizes that many consumers do not have the technical background to understand fully the information typically included in prescription drug and biological advertisements to fulfill the ''brief summary'' requirement. To meet the ''brief summary'' requirement, sponsors typically reprint, in small type, whole sections of the professional labeling, which is generally written in terms that are not easily understood by the average consumer.

Some prescription drugs and biological products have FDA-approved labeling, in addition to that written for health professionals, that contains information intended to be understandable to patients. This patient labeling contains information that comprehensively, although not exhaustively, describes the safety and efficacy of the product. Although it is less comprehensive than professional labeling, patient labeling is intended to provide patients prescribed the medication with information that will help them use their medication effectively and safely. It should also, therefore, provide potential users with appropriately written product information they may want to consider.

FDA believes that such FDA-approved patient labeling generally meets the brief summary requirements, and, because it is written for patients, is a more appropriate vehicle for communicating risk information to consumers than the technically-written brief summary. FDA is requesting comment on its intention to consider the reprinting of certain FDA-approved patient labeling as adequate to fulfill the brief summary requirement in consumer-directed advertisements for prescription drug and biological products. The following products offer prototypical examples of such comprehensive patient labeling: Oral contraceptives, estrogenic products, Cardura®, Fosamax®, Glucophage®, Hytrin®, Proscar®, Seldane®, and Ticlid®.

Not all FDA-approved patient labeling, however, generally meets the brief summary requirements. Some approved patient labeling primarily is intended to give instructions for use (e.g., directions on how to use medications delivered via inhalation, nasal spray, patch, or injection). Other patient labeling focuses primarily on a single warning (e.g., Accutane® , the class auxiliary warning labels on angiotensin-converting-enzyme (ACE) inhibitors and isoproterenol inhalers). In both of these instances, the patient labeling has a narrow focus that is not intended to offer comprehensive risk information to patients. Because of this narrow focus, such patient labeling would not generally meet the brief summary requirements and would not be considered acceptable consumer brief summaries.

FDA also notes that many manufacturers have voluntarily produced informational brochures and other product-specific materials for patients that are disseminated through various outlets. These materials are typically submitted to the agency either for prior review and comment, or through the postmarketing review process specified in 21 CFR 314.81(b)(3)(i). Such materials that have not been through the formal labeling review process should not be considered automatically acceptable as a consumer brief summary. Instead, they may be used as brief summaries only if they fulfill all of the applicable requirements in § 202.1(e).

IV. Requests for Comments on Other Issues

Many complex public health issues are raised by DTC promotion. In the August 16, 1995, Federal Register document, FDA solicited broad public comment on the major issues concerning DTC promotion and whether the agency's current regulatory approach should be modified. Some of these issues were specifically addressed in testimony and written comments. These raised additional questions, about which FDA is now soliciting public comment.

1. Currently, § 202.1(e) states that the brief summary shall include information relating to side effects, warnings, precautions, contraindications, and other risk information. In print advertising, this requirement is generally fulfilled by including the risk-related sections of the approved labeling in, or adjacent to, the advertisement. For advertisements broadcast through media such as radio, television, and telephone communications systems, § 202.1(e)(1) provides that the advertisement ''shall include information relating to the major side effects and contraindications of the advertised drugs in the audio or audio and visual parts of the presentation and unless adequate provision is made for dissemination of the approved or permitted package labeling in connection with the broadcast presentation shall contain a brief summary of all necessary information related to side effects and contraindications.''

In addition, section 502(r) of the act requires that advertisements for restricted devices contain a brief statement of the intended uses of the device and relevant warnings, precautions, side effects, and contraindications.

Much testimony, petitions, and comments questioned the usefulness, for consumers, of the existing ''brief summary'' of risk information that results from application of these requirements. Many comments contended that, for consumer advertising, a shorter, more focused presentation of user-friendly information could meet the statutory requirement and also provide appropriate risk-related information. Some comments suggested that a consumer brief summary should include ''information relating to the major side effects and contraindications'' of the product, as currently required in prescription drug and biological product

[1] This does not apply to submissions required in a premarket notification submission or premarket approval application (PMA) under 21 CFR 807.87(e) and 814.20(b)(10) or submissions required in connection with accelerated approval under 21 CFR 314.550 and 601.45.

broadcast advertising. (This information has colloquially been referred to as the ''major statement.'')

If FDA required or permitted more limited risk information in place of the current brief summary, what specific information should be included? What criteria should be used by manufacturers and the agency to identify the ''major'' risk information for any particular product? FDA is also interested in empirical research that specifically addresses the issues of how much and what kind of risk information can and should be communicated in DTC advertising of prescription drug and biological products.

2. Some comments suggested that risk information could be communicated to consumers through standardized general disclosures. This kind of disclosure would not reference particular characteristics of a product. Instead, such statements would reference one or more general risks, such as the fact that all prescription drug and biological products have side effects; that they are only available from a physician or other prescribing health care professional; that they have significant benefits, but may have significant risks; that patients should discuss product risks with a physician, etc.

Such disclosures, however, are susceptible to habituation or ''wear-out,'' which results in the viewer quickly learning to ignore the message, thus lowering its effectiveness. In addition, such messages may not be perceived as risk messages at all, but instead interpreted as reassurances. If the latter is the case, these messages would not fulfill the purpose of the brief summary requirement, which helps ensure that advertising conveys a balanced impression about the product's benefits and risks.

FDA solicits comments on the effectiveness of such standardized general disclosures at transmitting risk information. FDA is especially interested in any research that addresses the issue of the effectiveness of general risk disclosures of the type described above.

3. Promotional materials appear in very different media that each have distinctive characteristics (e.g., print, broadcast, telephone communications, facsimile, Internet). Should FDA require or permit different disclosures for consumer-directed promotion of prescription drug and biological products that appears in different media, to reflect the capabilities of these varying media, or should the disclosure be the same regardless of medium? For example, should print media contain longer and more complete information than broadcast media because such information could be made readily available at minimal cost and because consumers of print media may be more willing, able, and/or desirous of obtaining more complete information?

4. Different products have different degrees of effectiveness. In some cases, a product that works for a relatively small percentage of the appropriate patient population is approved either because it is the only available therapy for a condition; because all other therapies for the condition also have only modest benefits; or because it has relatively few risks. Should FDA require the communication of the degree of product effectiveness in DTC promotion? How could this information be communicated most effectively?

5. It has been suggested that toll-free telephone numbers are one way that product sponsors could make required information available to audiences. FDA requests comments and information from consumers, health professionals, product sponsors and other interested individuals regarding: (a) How useful toll-free numbers are as a mechanism for obtaining or disseminating information about medical products, and (b) the costs to a sponsor of using toll-free numbers as a means of disseminating information.

FDA welcomes comments on all of the issues described above and especially invites the submission of relevant empirical research.

Dated: May 8, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–12022 Filed 5–13–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96E–0043]

Determination of Regulatory Review Period for Purposes of Patent Extension; EPIVIR™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for EPIVIR™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application of the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product EPIVIR™ (lamivudine). EPIVIR™ in combination with Retrovir® (zidovudine) is indicated for the treatment of human immunodeficiency virus infection when therapy is warranted based on clinical and/or immunological evidence of disease progression. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for EPIVIR™ (U.S. Patent No. 5,047,407) from Glaxo Wellcome, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 1, 1996, FDA advised the Patent and Trademark Office that this human

drug product had undergone a regulatory review period that the approval of EPIVIR™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for EPIVIR™ is 1,582 days. Of this time, 1,448 days occurred during the testing phase of the regulatory review period, while 134 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: July 21, 1991. The applicant claims July 24, 1991, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was July 21, 1991, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: July 7, 1995. The applicant claims June 29, 1995, as the date the new drug application (NDA's) for EPIVIR™ (NDA's 20–564 and 20–596) were initially submitted. However, FDA records indicate that NDA's 20–564 and 20–596 were submitted on July 7, 1995 (the date the User Fee checks were received by the agency). Both NDA's were originally received by the agency on June 30, 1995, unaccompanied by the appropriate User Fee checks. Review of a NDA does not begin until the correct amount of User Fee money has been received by the agency from the sponsor of the NDA.

3. *The date the application was approved*: November 17, 1995. FDA has verified the applicants's claim that NDA's 20–564 and 20–596 were approved on November 17, 1995.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 836 days of patent term extension..

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 15, 1996, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 12, 1996, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 26, 1996.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 96–12092 Filed 5–13–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95E–0408]

Determination of Regulatory Review Period for Purposes of Patent Extension; TRUSOPT®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for TRUSOPT® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product TRUSOPT® (dorzolamide hydrochloride). TRUSOPT® is indicated in the treatment for elevated intraocular pressure in patients with ocular hypertension or open-angle glaucoma. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for TRUSOPT® (U.S. Patent No. 4,797,413) from Merck & Co., Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated January 26, 1996, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of TRUSOPT® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for TRUSOPT® is 2,101 days. Of this time, 1,736 days occurred during the testing phase of the regulatory review period, while 365 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: March 11, 1989. FDA has verified the applicant's claim that the date that the investigational new drug application (IND) became effective was March 11, 1989.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act*: December 10, 1993. FDA has verified the applicant's claim that the new drug application (NDA) for TRUSOPT® (NDA 20–408) was initially submitted on December 10, 1993.

3. *The date the application was approved*: December 9, 1994. FDA has verified the applicant's claim that NDA 20–408 was approved on December 9, 1994.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,232 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 15, 1996, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before November 12, 1996, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 26, 1996.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 96–12093 Filed 5–13–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[ORD–086–N]

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: February and March 1996

AGENCY: Health Care Financing Administration (HCFA).

ACTION: Notice.

SUMMARY: This notice lists new proposals for Medicaid demonstration projects submitted to the Department of Health and Human Services during the months of February and March 1996 under the authority of section 1115 of the Social Security Act. This notice also lists proposals that were approved, disapproved, pending, or withdrawn during this time period. (This notice can be accessed on the Internet at HTTP://WWW.HCFA.GOV/ORD/ORDHP1.HTML.)

COMMENTS: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove any new proposal for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: Mail correspondence to: Susan Anderson, Office of Research and Demonstrations, Health Care Financing Administration, Mail Stop C3–11–07, 7500 Security Boulevard, Baltimore, MD 21244–1850.

FOR FURTHER INFORMATION CONTACT: Susan Anderson, (410) 786–3996.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1115 of the Social Security Act (the Act), the Department of Health and Human Services (HHS) may consider and approve research and demonstration proposals with a broad range of policy objectives. These demonstrations can lead to improvements in achieving the purposes of the Act.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the Federal Register (59 FR 49249) that specified (1) The principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

As part of our procedures, we publish a notice in the Federal Register with a monthly listing of all new submissions, pending proposals, approvals, disapprovals, and withdrawn proposals. Proposals submitted in response to a grant solicitation or other competitive process are reported as received during the month that such grant or bid is awarded, so as to prevent interference with the awards process.

II. Listing of New, Pending, Approved, and Withdrawn Proposals for the Months of February and March 1996

A. Comprehensive Health Reform Programs

1. New Proposals: The following comprehensive health reform proposal was received during the month of February.

Demonstration Title/State: Medicaid Demonstration Project for Los Angeles County—California.

Description: The State is pursuing a section 1115 demonstration designed to stabilize the Los Angeles County health care system, and to foster a restructuring process that is responsive to the needs of the community in the development of a more cost effective system.

Date Received: February 29, 1996.

State Contact: John Rodriguez, Deputy Director, Medical Care Services, Department of Health Services, 714/744 P Street, P.O. Box 942732, Sacramento, CA 94234–7320, (916) 654–0391.

Federal Project Officer: Gina Clemons, Health Care Financing Administration, Office of Research and Demonstrations, Office of State Health Reform Demonstrations, Mail Stop C3–18–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

No new proposals were received during the month of March.

2. Pending, Approved, and Withdrawn Proposals: We did not approve or disapprove any proposals during February or March nor were any proposals withdrawn during those months. The one new pending proposal added to the month of March is: Medicaid Demonstration Project for Los Angeles County—California. See above II.A.1. for further description. Pending proposals for the month of November 1995 published in the Federal Register on January 23, 1996, 61 FR 1769, remain unchanged with the addition of above for the months of February and March.

B. Other Section 1115 Demonstration Proposals

1. New Proposals: The following new proposal was received during the month of February.

Demonstration Title/State: Wisconsin Partnership Program—Wisconsin.

Description: Wisconsin has submitted Medicare section 222 demonstration and Medicaid section 1115 waiver requests to implement the ''Wisconsin Partnership Program'' in specific counties of the State. This program will test two innovative models of care, one for frail elderly and one for persons with disabilities, utilizing a multi-disciplinary team to manage care. The team is to include the beneficiary, a nurse practitioner, the beneficiary's choice of primary care physician, and a social worker or independent living coordinator. Consumer choice of care, settings and the manner of service delivery is a key component of the program. The demonstration will test the use of consumer-defined quality indicators to measure and improve the quality of service provided to people who are elderly and people with disabilities.

Date Received: February 28, 1996.

State Contact: Mary Rowin, State of Wisconsin, Department of Health and Social Services, 1 West Wilson Street, P.O. Box 7850, Madison, WI 53707, (608) 261–8885.

Federal Contact: William Clark, Health Care Financing Administration, Office of Research and Demonstrations, Office of Beneficiary and Program Research and Demonstrations, Mail Stop C3–21–06, 7500 Security Boulevard, Baltimore, MD 21244–1850.

No new proposals were received in March.

2. Pending, Approved, and Withdrawn Proposals: We did not approve or disapprove any Comprehensive Health Reform Programs or Other Section 1115 Demonstration Proposals during February or March nor were any proposals withdrawn during those months. The one new pending proposal added to the month of March is: Wisconsin Partnership Program—Wisconsin. See above II.B.1. for further description. Pending proposals for the month of November 1995 published in the Federal Register on January 23, 1996, 61 FR 1769, remain unchanged with the addition of above for the months of February and March.

III. Requests for Copies of a Proposal

Requests for copies of a specific Medicaid proposal should be made to the State contact listed for the specific proposal. If further help or information is needed, inquiries should be directed to HCFA at the address above.

(Catalog of Federal Domestic Assistance Program, No. 93.779; Health Financing Research, Demonstrations, and Experiments.)

Dated: April 24, 1996.

Barbara Cooper,

Acting Director, Office of Research and Demonstrations.

[FR Doc. 96–12018 Filed 5–13–96; 8:45 am]

BILLING CODE 4120–01–P

Health Resources and Services Administration

Advisory Council; Notice of Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of June 1996.

Name: National Advisory Council on the National Health Service Corps.

Date and Time: June 6–9, 1996.

Place: Adams Mark Denver Hotel, 1550 Court Place, Denver, Colorado.

The meeting is open to the public.

Agenda: Agenda items include status of NHSC programs and budget, reports on the NHSC alumni study and the NHSC alumni and support network, meetings of NHSC workgroups on State activities, health systems liaison, and alliance development, and site visits to community health centers in the Denver area.

The meeting will begin on Thursday, June 6 at 4:00 p.m. and adjourn at 8:00 p.m. Site visits will occur on Friday morning followed by an afternoon business meeting which will conclude about 5:00 p.m. On Saturday, the meeting will begin at 8:00 a.m. and adjourn at 5:00 p.m. and Sunday's meeting will begin at 8:00 a.m. and adjourn at 12:00 noon.

The meeting is open to the public; however, no transportation will be provided for the site visits. For further information, call Ms. Jewel Davis at (301) 594–4144.

Anyone requiring information regarding the subject Council should contact Ms. Jewel Davis, National Advisory Council on the National Health Service Corps, 8th floor, 4350 East West Highway, Rockville, Maryland 20857, Telephone (301) 594–4144.

Name: Council on Graduate Medical Education.

Date and Time: June 12, 1996, 1:00 p.m.–5:00 p.m.; June 13, 1996, 8:30 a.m.–4:00 p.m.

Place: Omni Shoreham Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.

This meeting is open to the Public.

Agenda: The agenda will include two plenary panels to discuss (1) Minorities in Medicine and (2) Medical Education Consortia. There will be reports and updates on the Work Groups: Minorities in Medicine; Geographic Distribution/Medical Education Consortia; Physician Competencies in a Managed Care World; and IMG entry and Participation in the physician workforce.

Anyone requiring information regarding the subject should contact F. Lawrence Clare, M.D., M.P.H., Deputy Executive Secretary, telephone (301) 443–6326, Council on Graduate Medical Education, Division of Medicine, Bureau of Health Professions, Health Resources and Service Administration, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Agenda Items are subject to change as priorities dictate.

Dated: May 9, 1996.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 96–12094 Filed 5–13–96; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Notice is hereby given of the meeting of the National Cancer Institute Board of Scientific Advisors Cancer Centers Program Working Group, May 24, 1996 at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA.

This meeting will be closed to the public from 8:30 am to adjournment for discussion of confidential issues relating to the review, discussion and evaluation of individual programs and projects conducted by the Cancer Centers Extramural Program. These discussions will reveal confidential trade secrets or commercial property such as patentable material, and personal information including consideration of personnel qualifications and performance, the competence of individual investigators and similar matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Information pertaining to the meeting may be obtained from Dr. Paulette Gray, Executive Secretary, National Cancer Institute Board of Scientific Advisors, National Cancer Institute, 6130 Executive Blvd., EPN, Rm. 600, Bethesda, MD 20892, (301–496–4218).

Dated: May 8, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–12059 Filed 5–13–96; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Notice of closed meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Behavioral and Neurosciences.

Date: May 24, 1996.

Time: 2:00 p.m.

Place: NIH, Rockledge 2, Room 5172, Telephone Conference.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Biological and Physiological Science.

Date: June 14, 1996.

Time: 9:00 a.m.

Place: DoubleTree Hotel-National Airport, Arlington, VA.

Contact Person: Dr. Mushtaq Khan, Scientific Review Administrator, 6701 Rockledge Drive, Room 4124, Bethesda, Maryland 20892, (301) 435–1778.

Name of SEP: Multidisciplinary Sciences.

Date: June 23–24, 1996.

Time: 7:00 p.m.

Place: Holiday Inn-Georgetown, Washington, DC.

Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

Name of SEP: Multidisciplinary Sciences.

Date: July 14–16, 1996.

Time: 7:00 p.m.

Place: Rime Garden Suites, Washington, DC.

Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Behavioral and Neurosciences.

Date: May 13, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Leonard Jakubczak, Scientific Review Administrator, 6701 Rockledge Drive, Room 5172, Bethesda, Maryland 20892, (301) 435–1247.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Microbiological and Immunological Sciences.

Date: June 4–5, 1996.

Time: 8:30 a.m.

Place: Holiday Inn, Gaithersburg, MD.

Contact Person: Dr. Garrett Keefer, Scientific Review Administrator, 6701 Rockledge Drive, Room 4190, Bethesda, Maryland 20892, (301) 435–1152.

Name of SEP: Biological and Physiological Sciences.

Date: July 1–3, 1996.

Time: 7:00 a.m.

Place: Bethesda Marriott, Bethesda, MD.

Contact Person: Dr. Nabeeh Mourad, Scientific Review Administrator, 6701 Rockledge Drive, Room 5110, Bethesda, Maryland 20892, (301) 435–1168.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 8, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–12058 Filed 5–13–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–0525.

Tobacco Regulation for Substance Abuse Prevention and Treatment—45 CFR 96—Reinstatement with change of a previously approved collection—This final rule will provide guidance to States regarding compliance with section 1926 of the Public Health Service Act related to sale and distribution of tobacco to minors. The final rule will implement section 1926 by specifying annual reporting requirements to be in compliance with this section. The reporting burden shown below represents the average total hours to assemble, format, and produce the new block grant provision on minors' access to tobacco, in accordance with the requirements of 45 CFR 96. Estimates for FY 1997 vary depending on which applicable year a State is in. These burden hours will be counted towards the total burden for the FY 1997 SAPT Block Grant Application Format for which separate approval will be requested. The average annual burden over the requested three year approval period is 1,798 hours.

	Number of respondents	Responses/respondent	Hours/response	Total hour burden
FY 1997				
Annual Report:				
96.122(f)	59	1	0	[1] 0
96.130(e)(1–3)	52	1	15	[2] 520
96.130(e)(1–3)	7	1	10	[2] 70
State Plan:				
96.122(g)(21)	0	0	0	[3] 0
96.130(e)(4,5)	59	1	14	[4] 826
96.130(g)	52	1	0	[5] 0
Total			29	1,416
FY 1998				
Annual Report:				

	Number of respondents	Responses/respondent	Hours/response	Total hour burden
96.122(f)	59	1	0	[1] 0
96.130(e)(1–3)	59	1	15	885
State Plan:				
96.122(g)(21)	0	0	0	[3] 0
96.130(e)(4,5)	59	1	14	[2] 826
96.130(g)	7	1	0	[5] 0
96.130(g)	52	1	5	[6] 260
Total			34	1,971
FY 1999 and thereafter				
Annual Report:				
96.122(f)	59	1	0	[1] 0
96.130(e)(1–3)	59	1	15	885
State Plan:				
96.122(g)(21)	0	0	0	[3] 0
96.130(e)(4,5)	59	1	14	[4] 826
96.130(g)	59	1	5	[6] 295
Total			34	2,006

[1] This section describes requirements for the first applicable year. For seven States, FY 1995 is the first applicable year. States are required to provide a copy of the statute enacting the law and are asked to provide a description of the previous year's activities, if they so desire. For the second and subsequent fiscal years, States are to provide a copy of any amendments. No burden is associated with these requests.

[2] This is the burden associated with completing the annual report reflecting use of a probability sample of outlets. For seven States, FY 1997 is the second applicable year; therefore, they are not required to report on a probability sample inspection basis.

[3] This section duplicates the information collection language in section 96.130(e). The burden is shown for 96.130(e).

[4] This is the burden associated with completing the State Plan narrative.

[5] This section describes the submission of the interim performance target beginning with the fourth applicable year.

[6] This section describes evidence of progress toward achieving or surpassing a performance objective in the interim performance target objective.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Virginia Huth, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10236, Washington, D.C. 20503.

Dated: May 8, 1996.

Richard Kopanda,

Executive Officer SAMHSA.

[FR Doc. 96–11995 Filed 5–13–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Notice of Intent To Negotiate an Agreement Among the Central Utah Water Conservancy District, Wasatch County Water Service Area No. 1, Utah Reclamation Mitigation and Conservation Commission, and Department of the Interior for Implementation of the Wasatch County Water Efficiency Project/Daniels Replacement Project of the Central Utah Project, Utah

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate an agreement among the Central Utah Water Conservancy District (CUWCD), Wasatch County Water Service Area No. 1 (WCWSA1), Utah Reclamation Mitigation and Conservation Commission (URMCC), and Department of the Interior (DOI) for implementation of the Wasatch County Water Efficiency Project/Daniels Replacement Project (WCWEP/DRP) of the Central Utah Project, Utah.

SUMMARY: Public Law 102–575, Sections 202(a)(3), 207(e), and 303(b) authorize construction of WCWEP/DRP for the purposes of increasing irrigation efficiency in the Heber Valley, conserving water, and eliminating the diversion of water from the upper Strawberry tributaries to Heber Valley. A negotiated agreement among CUWCD, WCWSA1, URMCC, and DOI will allow for implementation of WCWEP/DRP.

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION CONTACT: Additional information on matters related to this Federal Register notice can be obtained at the address and telephone number set forth below: Mr. Reed Murray, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, Telephone: (801) 379–1237, Internet: rmurray@uc.usbr.gov

Dated: May 8, 1996.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 96–12014 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–RK–P

Notice of Intent To Negotiate Contracts Among the Central Utah Water Conservancy District, Wasatch County Water Service Area No. 1, and Department of the Interior for Irrigation Water and Municipal and Industrial Water From the Bonneville Unit of the Central Utah Project, Utah

AGENCY: Office of the Assistant Secretary—Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate contracts among the Central Utah Water Conservancy District (CUWCD), Wasatch County Water Service Area No. 1 (WCWSA1), and Department of the Interior (DOI) for Irrigation Water and Municipal and Industrial Water from the Bonneville Unit of the Central Utah Project.

SUMMARY: Public Law 102–575 Section 202(a)(3)(E) stipulates that: ''Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental

irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.'' Subparagraph B relates to construction of the Wasatch County Water Efficiency Project, Central Utah Project. A negotiated contract among CUWCD, WCWSA1, and DOI will meet the requirements of Section 202(a)(3)(E).

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION CONTACT: Additional information on matters related to this Federal Register notice can be obtained at the address and telephone number set forth below: Mr. Reed Murray, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, Telephone: (801) 379–1237, Internet: rmurray@uc.usbr.gov

Dated: May 8, 1996.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 96–12013 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–RK–P

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of receipt of applications.

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.*).

Permit No. 779910

Applicant: William E. Haas, San Diego, California.

The applicant requests an amendment to their permit to include taking (harass by survey, capture, band, color-band, withdraw blood, and release) the southwestern willow flycatcher (*Empidonax traillii extimus*) throughout the species' range in California to conduct presence or absence surveys, population monitoring, and genetic studies for the purpose of enhancing its survival.

Permit No. 778100

Applicant: Pacific Southwest Biological Services, San Diego, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) to determine its presence or absence, and take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) to conduct population monitoring studies in Ventura, Los Angeles, San Bernardino, Riverside, Orange, Kern, and San Diego Counties, California for the purpose of enhancing their survival.

Permit No. 811615

Applicant: Cynthia A. Jones, Huntington Beach, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) throughout the range of the species in the states of California, Arizona, Utah, New Mexico, and Nevada to determine its presence or absence for the purpose of enhancing its survival.

Permit No. 812206

Applicant: Robin Church, San Diego, California.

The applicant requests a permit to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) to conduct population monitoring studies in Riverside, Orange, and San Diego Counties, California for the purpose of enhancing its survival.

Permit No. 797259

Applicant: Chris Wilcox, Davis, California.

The applicant requests an amendment of their permit to take (harass by survey, and collect and sacrifice voucher specimens) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool tadpole shrimp (*Lepidurus packardi*), and vernal pool fairy shrimp (*Branchinecta lynchi*) to extend presence or absence surveys and population monitoring in vernal pools throughout the species' range in California, and to include taking (harass by survey, and collect and sacrifice voucher specimens) the Riverside fairy shrimp (*Streptocephalus woottoni*) for similar purposes throughout its range in California for the purpose of enhancing their survival.

Permit No. 780692

Applicant: Lisa Embree, San Diego, California.

The applicant requests an amendment of their permit to include taking (harass by survey, and locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) and least Bell's vireo (*Vireo bellii pusillus*) in San Diego, Riverside, Orange, San Bernardino, and Imperial Counties, California to conduct presence or absence surveys and population monitoring for the purpose of enhancing their survival.

Permit No. 814225

Applicant: Anthony A. Echelle, Stillwater, Oklahoma.

The applicant requests a permit to take (capture, handle, and sacrifice) the desert pupfish (*Cyprinodon macularius*) in Imperial and Riverside Counties, California, and the Owens pupfish (*Cyprinodon radiosus*) in Inyo County, California for genetic studies to enhance their survival.

Permit No. 787924

Applicant: Markus Spiegelberg, San Diego, California.

The applicant requests an amendment of their permit to include taking (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in Riverside and San Diego Counties, California to conduct presence or absence surveys for the purpose of enhancing its survival.

Permit No. 785564

Applicant: Harland Bartholomew & Associates.

The applicant requests an amendment of their permit to include taking (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus)* throughout the species' range in California to conduct presence or absence surveys for the purpose of enhancing its survival.

Permit No. 781545

Applicant: P & D Consultants, Orange, California.

The applicant requests an amendment of their permit to include taking (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus)* throughout the species' range in California, Nevada, Utah, Arizona, New Mexico, and Colorado to conduct presence or absence surveys for the purpose of enhancing its survival.

Permit No. 814222

Applicant: California Department of Parks and Recreation, San Diego, California.

The applicant requests a permit to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) on State Park lands within southern California while conducting population management activities for the purpose of enhancing its survival.

Permit No. 799557

Applicant: Robert Hamilton, Trabuco Canyon, California.

The applicant requests an amendment of their permit to include taking (harass

by survey) the southwestern willow flycatcher (*Empidonax traillii extimus)* in San Diego, Los Angeles, Riverside, San Bernardino, Orange, Ventura, Santa Barbara, San Luis Obispo, and Kern Counties, California to conduct presence or absence surveys for the purpose of enhancing its survival.

Permit No. 814220

Applicant: Sapphos Environmental, Pasadena, California.

The applicant requests a permit to take (capture, translocate, and release) the El Segundo blue butterfly [*Euphilotes* (=*Shijimiaeoides*) *battoides allyni*] in Los Angeles County, California for the purpose of conducting population management studies to enhance its survival.

Permit No. 814219

Applicant: Claude Edwards, San Diego, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus)* to conduct presence or absence surveys, and to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) while conducting population monitoring studies in Los Angeles, Riverside, San Bernardino, Orange, San Diego, and Imperial Counties, California for the purpose of enhancing their survival.

Permit No. 814219

Applicant: David Haupt, Monterey, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests, capture, band, attach radio telemeters, and release) the least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus)*, California least tern (*Sterna antillarum browni*), western snowy plover (*Charadrius alexandrinus nivosus*), light-footed clapper rail (*Rallus longirostris levipes*), and California clapper rail (*Rallus longirostris obsoletus*) throughout the species' range in California to conduct presence or absence surveys and population studies for the purpose of enhancing their survival.

Permit No 814216

Applicant: Mark Holmgren, Santa Barbara, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests, capture, band, and release) the southwestern willow flycatcher (*Empidonax traillii extimus)*, California least tern (*Sterna antillarum browni*), western snowy plover (*Charadrius alexandrinus nivosus*), and least Bell's vireo (*Vireo bellii pusillus*) in Monterey, San Luis Obisopo, Santa Barbara, Ventura, Kern, Los Angeles, Riverside, San Diego, San Bernardino, Imperial, and Orange Counties, California to conduct presence or absence surveys and population monitoring studies for the purpose of enhancing their survival.

Permit No. 677215

Applicant: Resource Management International, Inc., San Rafael, California.

The applicant requests an amendment of their permit to include taking (harass by survey, collect and sacrifice voucher specimens) the California freshwater shrimp (*Syncaris pacifica*) in Marin, Napa, and Sonoma Counties, California to conduct presence or absence surveys for the purpose of enhancing its survival.

Permit No. 812792

Applicant: Julie M. Vanderwier.

The applicant requests a permit to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*), and take (harass by survey, collect and sacrifice voucher specimens) the Riverside fairy shrimp (*Streptocephalus woottoni*), Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), vernal pool tadpole shrimp (*Lepidurus packardi*), and vernal pool fairy shrimp (*Branchinecta lynchi*), and remove and reduce to possession the San Diego mesa mint (*Pogogyne abramsii*), Otay mesa mint (*Pogogyne nudiuscula*), California Orcutt grass (*Orcuttia californica*), and San Diego buttoncelery (*Eryngium aristulatum* var. *parishii*) throughout the species' range in California to conduct presence or absence surveys, and population monitoring and management for the purpose of enhancing their survival.

Permit No. 812739

Applicant: Zev Labinger, Goleta, California.

The applicant requests a permit to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*), California least tern (*Sterna antillarum browni*), and western snowy plover (*Charadrius alexandrinus nivosus*) in San Luis Obispo, Santa Barbara, Ventura, Los Angeles, and Kern Counties, California to conduct presence or absence surveys for the purpose of enhancing their survival.

Permit No. 780566

Applicant: Ruben S. Ramirez, Diamond Bar, California.

The applicant requests an amendment of their permit to include taking (capture, mark, and release) the arroyo toad (*Bufo microscaphus californicus*) within the Angeles National Forest in California to conduct abundance and distribution studies for the purpose of enhancing its survival.

Permit No. 800926

Applicant: California Department of Transportation, San Bernardino, California.

The applicant requests an amendment of their permit to include taking (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in San Diego, Los Angeles, Orange, San Bernardino, and Riverside Counties, California while conducting presence or absence surveys for the purpose of enhancing its survival.

Permit No. 802821

Applicant: Kern River Research Center, Weldon, California.

The applicant requests an amendment of their permit to include authorization to withdraw blood from the southwestern willow flycatcher (*Empidonax traillii extimus*) in Kern County, California for genetic research for the purpose of enhancing its survival.

Permit No. 813548

Applicant: Harold A. Wier, Encinitas, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) and least Bell's vireo (*Vireo bellii pusillus*) throughout the species' range in California to conduct presence or absence surveys and population monitoring for the purpose of enhancing their survival.

Permit No. 813545

Applicant: Brock Ortega, Encinitas, California.

The applicant requests a permit to take (harass by survey, locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*) and least Bell's vireo (*Vireo bellii pusillus*) throughout the species' range in California to conduct presence or absence surveys and population monitoring for the purpose of enhancing their survival.

Permit No. 785108

Applicant: Tierra Madre Consultants, Inc., Riverside, California.

The applicant requests an amendment of their permit to include taking (harass by survey, capture, band, and release)

the southwestern willow flycatcher (*Empidonax traillii extimus*) in Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties, California to conduct presence or absence surveys and population management activities for the purpose of enhancing its survival.

Permit No. 769931

Applicant: James M. Greaves, Santa Barbara, California.

The applicant requests an amendment of their permit to include taking (harass by survey, locate and monitor nests, and capture, band, and release) the southwestern willow flycatcher (*Empidonax traillii extimus*), California least tern (*Sterna antillarum browni*), and western snowy plover (*Charadrius alexandrinus nivosus*) in San Luis Obispio, Santa Barbara, Ventura, Los Angeles, Riverside, Kern, Orange, San Diego, Monterey, and San Benito Counties, California for presence or absence surveys and population monitoring activities for the purpose of enhancing their survival.

Permit No. 793646

Applicant: Clifford M. Anderson, Bow, Washington.

The applicant requests an amendment of their permit to take (harass by survey, capture, band, and release) the peregrine falcon (*Falco peregrinus*) to include King, Snohomish, and Pierce Counties, Washington while conducting population monitoring activities for the purpose of enhancing its survival.

Permit No. 799558

Applicant: Idaho Power Company, Boise, Idaho.

The applicant requests an amendment of their permit to take (collect, release, sacrifice voucher specimens) the Snake River physa snail (*Physa natricina*), Idaho springsnail (*Fonteliecella idahoensis*), Utah valvata snail (*Valvata utahensis*), and Banbury Springs Limpet (*Lanx* n. sp.) in the Snake River, Idaho, and its tributaries to extend the area of activities to (and including) river mile 525 (Clover Creek) while conducting presence or absence surveys and various life history and ecological studies for the purpose of enhancing their survival.

Permit No. 787644

Applicant: William J. Vanherweg, Bakersfield, California.

The applicant requests an amendment of their permit to include taking (capture and release) the Stephens' kangaroo rat (*Dipodomys stephensi*) and Pacific pocket mouse (*Perognathus longimembris pacificus*) throughout the species' range in California to conduct presence or absence surveys for the purpose of enhancing their survival.

Permit No. 813431

Applicant: Peter Famolaro, Spring Valley, California.

The applicant requests a permit to take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) and to take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) throughout the species' range in California to conduct presence or absence surveys and population monitoring for the purpose of enhancing their survival.

Permit No. 811081

Applicant: Bureau of Land Management, Las Vegas, Nevada.

The applicant requests a permit to take (euthanize) desert tortoises (gopherus agassizii) that test positive for the Upper Respiratory Tract Disease (for the purpose of enhancing the survival of the species. These tortoises were previously captured, removed from the wild, and placed at the Desert Tortoise Conservation Center, Las Vegas, Nevada pursuant to permit numbers PRT–747182 and PRT–756360, and biological opinions 1–5–91–F–112 and 1–5–91–F–25.

Permit No. 812740

Applicant: Ingri S. Quon, Sand Diego, California.

The applicant requests a permit to take (harass by survey, and locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*), and California least tern (*Sterna antillarum browni*) in San Diego, Orange, Riverside, and Imperial Counties, California to conduct presence or absence surveys and population monitoring for the purpose of enhancing their survival.

DATES: Written comments on the permit applications must be received by June 13, 1996.

ADDRESS: Written data or comments should be submitted to the Chief, Division of Consultation and Conservation Planning, Ecological Services, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181. Please refer to the respective permit number for each application when submitting comments. All comments, including names and addresses, received will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: 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, within 30 days of the date of publication of this notice, to the following office: U.S. Fish and Wildlife Service, Ecological Services, Division of Consultation and Conservation Planning, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181. Telephone: 503–231–2063; FAX: 503–231–6243. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: May 7, 1996.

Thomas Dwyer,

Deputy Regional Director, Region 1, Portland, Oregon.

[FR Doc. 96–11996 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–55–M

Availability of Draft Recovery Plan for the Maui Plant Cluster for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft Maui Plant Cluster Recovery Plan. This plan addresses 21 taxa of plants. Twelve of the taxa are or were endemic to the Hawaiian island of Maui. The plants that are not endemic to Maui are or were also found on the islands of Niihau, Kauai, Oahu, Molokai, Lanai and Hawaii.

DATES: Comments on the draft recovery plan must be received on or before July 15, 1996 to receive consideration by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations: U.S. Fish and Wildlife Service, room 6307, 300 Ala Moana Blvd., P.O. Box 50167, Honolulu, Hawaii 96850 [telephone (808) 541–2749); U.S. Fish and Wildlife Service, Regional Office, Ecological Services, 911 N.E. 11th Ave., Eastside Federal Complex, Portland, Oregon 97232–4181 [telephone (503) 231–6131]; the Wailuku Public Library, 251 High Street, Wailuku, Maui 96793; the Kauai Public Library, 4344 Hardy Street, Lihue, Kauai 96766; and, the Kailua-Kona Public Library, 75–138 Hualalai Road, Kailua-Kona, Hawaii 96740. Requests for copies of the draft recovery plan and written comments and materials regarding this plan should be addressed to Brooks Harper, Field

Supervisor, at the above Honolulu address.

FOR FURTHER INFORMATION CONTACT: Heather McSharry, Fish and Wildlife Biologist, at the above Honolulu address, telephone (808) 541–2749.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised Recovery Plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The 21 taxa being considered in this recovery plan are: *Acaena exigua* (liliwai), *Alectryon macrococcus* (mahoe), *Argyroxiphium sandwicense* ssp. *macrocephalum* (Haleakala silversword, 'ahinahina), *Bidens micrantha* ssp. *kalealaha* (ko'oko'olau), *Clermontia oblongifolia* ssp. *mauiensis* ('oha wai), *Cyanea lobata* (haha), *Cyanea mceldowneyi* (haha), *Geranium arboreum* (nohoanu), *Geranium multiflorum* (nohoanu), *Hedyotis coriacea* (kio'ele), *Huperzia mannii* (wawae'iole), *Lipochaeta kamolensis* (nehe), *Lysimachia lydgatei* (no common name (NCN)), *Melicope adscendens* (alani), *Melicope balloui* (alani), *Melicope mucronulata* (alani), *Melicope ovalis* (alani), *Remya mauiensis* (NCN), *Scaevola coriacea* (Dwarf naupaka), *Schiedea haleakalensis* (NCN) and *Tetramolopium capillare* (NCN).

Twelve of the taxa are or were endemic to the Hawaiian island of Maui; the exceptions are or were found on the Hawaiian islands of Niihau, Kauai, Oahu, Molokai, Lanai and Hawaii as well as Maui. The 21 plant taxa and their habitats have been variously affected or are currently threatened by one or more of the following: habitat degradation by feral and domestic animals (e.g., goats, pigs, axis deer and cattle); competition for space, light, water, and nutrients by introduced vegetation; erosion of substrate produced by human- or animal-caused disturbance; recreational and agricultural activities; habitat loss from fires; disease; loss of pollinators; and predation by animals (goats, rats and mice). Due to the small number of existing individuals and their very narrow distributions, these taxa are subject to an increased likelihood of extinction and/or reduced reproductive vigor from stochastic events.

The taxa included in this plan were historically distributed throughout the island of Maui, and nine of the taxa also occur on one or more of the islands of Niihau, Kauai, Oahu, Molokai, Lanai and Hawaii. They grow in a variety of vegetation communities (grassland, shrubland, and forests), elevational zones (coastal to montane), and moisture regimes (dry to wet). Most of the taxa included in this plan persist on steep slopes, precipitous cliffs, valley headwalls, and other regions where unsuitable topography has prevented agricultural development or where inaccessibility has limited encroachment by alien animal and plant taxa.

The objective of this plan is to provide a framework for the recovery of these 21 taxa so that their protection by the Act is no longer necessary. Immediate actions necessary for the prevention of extinction of these taxa include fencing for exclusion of ungulates, alien plant control, protection from fire, population and plant community monitoring and management, *ex situ* propagation, and augmentation of populations, as appropriate. Long-term activities necessary for the perpetuation of these taxa in their natural habitats additionally include public education, maintenance of fenced areas, long-term monitoring and management of populations and communities, and reestablishment of populations within the historic ranges of some taxa. Further research on current range, growth requirements, reproduction and reproductive status, pollinators, life history, limiting factors, habitat requirements, and minimum viable population sizes is needed to facilitate appropriate management decisions regarding the long-term perpetuation of each of these taxa.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of these plans.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: May 8, 1996.

Thomas Dwyer,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

[FR Doc. 96–11992 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–55–P

Geological Survey

Federal Geographic Data Committee (FGDC): Application Notice Establishing the Closing Date for Transmittal of Applications Under the FGDC National Spatial Data Infrastructure (NSDI) Framework Demonstration Projects Program for Fiscal Year (FY) 1996

AGENCY: Geological Survey, Interior.

ACTION: Notice inviting applications for competitive cooperative agreement awards for fiscal year 1996.

SUMMARY: The purpose of the FGDC National Spatial Data Infrastructure (NSDI) Framework Demonstration Projects Program task is to facilitate and provide resources for the development and implementation of the NSDI framework concept. Under this FY 1996 program announcement, applications are to be directed towards projects that test the framework concept. These projects will demonstrate the sustained ability, over a geographic area, to supply data to the greater geospatial data community from locally available data sources through the implementation of the framework process. These projects will provide practical examples in implementation, suggest innovative alternative approaches to accomplish the goals outlined in the framework report, and indicate topics for future research and development. Applicants are being sought who are establishing long-term organizational structures, and cooperative arrangements with other organizations in sustained efforts to

build, maintain, and disseminate framework data resources.

Outcomes of these projects will include information that will provide guidance on policies and practices for the establishment of operational framework sites. The projects will also act as examples of applied framework for other implementers and as starting points for future framework research and development.

The deliverable will be a report from the project site describing the successes and failures in implementing the framework concept; alternatives that were developed; descriptions of institutional and technical practices; evaluations of user satisfaction; and suggestions for future efforts.

Authority for this program is contained in the 1996 Congressional Act entitled ''Omnibus Consolidated Rescissions and Appropriation Act of 1996'' that furnishes the appropriation for the Department of the Interior as well as other agencies. Applications may be submitted by State and local government agencies, educational institutions, private firms, private foundations, and Federally acknowledged or state-recognized Native American tribes or groups. Each project must involve two or more organizations.

DATES: The program announcement and application forms are expected to be available on or about May 29, 1996. Applications must be received on or before June 28, 1996.

ADDRESSES: Copies of Program Announcement 1434–HQ–96–PA–00003 may be obtained by writing to Patrick N. Robertson, U.S. Geological Survey. Office of Acquisition and Federal Assistance, Mail Stop 205A, 12201 Sunrise Valley Drive, Reston, Virginia 22092, facsimile telephone number (703) 648–7901.

FOR FURTHER INFORMATION CONTACT: Patrick N. Robertson, U.S. Geological Survey, Office of Acquisition and Federal Assistance, Mail Stop 205A, 12201 Sunrise Valley Drive, Reston, Virginia 22092, voice telephone number (703) 648–7368, facsimile telephone number (703) 648–7901.

SUPPLEMENTARY INFORMATION: Applications of digital geospatial data vary greatly, but users have a recurring need for a few common themes of data. The framework concept outlined in the report ''Development of a National Digital Geospatial Data Framework'' (April, 1995) proposes a means by which the geospatial data community can work together to produce and maintain commonly needed data for national, regional, state, and local analyses. The report and additional information about the framework are available from the FGDC Secretariat. The materials can be retrieved from the committee's World Wide Web page at http://www.fgdc.gov, or by contacting the committee by mail at the U.S. Geological Survey, 590 National Center, Reston, Virginia 22092; by Internet at gdc@usgs.gov; by facsimile at (703) 648–5755; or by voice telephone at (703) 648–5514. There will be up to 4 awards each not exceeding $125,000. The awards will be cooperative agreements and not contracts.

Within the geospatial data community, multi-agency, and multi-sector partnerships are being established in local and regional areas to collaboratively leverage resources and funding, and coordinate data collection, utilization, and access. The framework concept builds on these activities by identifying a basic information content, and the technical, operational, and business contexts by which a distributed, collaborative data collection and maintenance effort for the framework would operate. The information content proposed for framework consists of geodetic control, digital orthoimagery, elevation, transportation, hydrography, governmental units, and cadastral data categories.

While the framework concept has been well received by the geospatial data community, questions remain as to its practical implementation, and the modifications in approach that will be necessary as the concept is tested. This program is a means by which the FGDC facilitates, and provides resources, for the development and implementation of the NSDI Framework concept.

This program will fund the development and testing of institutions and technology needed for framework operations. Proposals should be from multiple parties in geographic areas that have data to share for at least a subset of the framework data content. Project activities may include establishment of the following institutional roles: evaluating, developing and implementing technical standards; coordinating data creation, maintenance, and dissemination for a geographic area; ensuring updates of framework data from local data contributions; developing data quality certification policies; and ensuring data integration among themes, and geographic areas. Technical development and applications may include the following: permanent feature-based identification; the support of multiple resolution data; mechanisms for maintaining the users' data investment when updating their data holding from the framework; processes for gathering and evaluating user satisfaction to the framework; and the evaluation of methods for implementing metadata (including data quality information) required for the framework data.

Dated: May 3, 1996.

Richard E. Witmer,

Acting Chief, National Mapping Division.

[FR Doc. 96–12015 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–31–M

Bureau of Land Management

[OR–130–1020–00; GP6–0154]

Notice of Meeting of the Eastern Washington Resource Advisory Council

AGENCY: Bureau of Land Management, Spokane District.

ACTION: Meeting of the Eastern Washington Resource Advisory Council; June 13 and 14, 1996, in Odessa, Washington, and Spokane, Washington.

SUMMARY: The Eastern Washington Resource Advisory Council will meet at 10:00 a.m., June 13, 1996 at the Odessa Community Center, 21 East First Avenue, Odessa, Washington 98823 for the purpose of a field trip to Bureau of Land Management public lands in the local area. If weather is inclement or if the Council wishes, the field trip may be canceled and the council will meet at the Odessa Community Center to discuss rangeland issues. The meeting and/or field trip will recess at approximately 4:00 p.m. on June 13, 1996 or upon completion of business. The meeting will reconvene at 9:00 a.m., June 14, 1996, at Cavanaughs Inn at the Park, 303 West North River Drive, Ballroom ''D'', Spokane, Washington 99201, 509–326–8000. Public comments will be received from 10:00 a.m. to 10:30 a.m., on June 14, 1996.

At an appropriate time, on June 14, 1996, the meeting will adjourn for approximately one hour for lunch. The meeting will conclude at 4:00 p.m. or upon conclusion of business. The topics to be discussed are Standards for Rangeland Health and Livestock Grazing Guidelines, and the Interior Columbia Basin Ecosystem Management Project.

FOR FURTHER INFORMATION CONTACT: Richard Hubbard, Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, Washington 99212; or call 509–536–1200.

Dated: May 9, 1996.

Joseph K. Buesing,

District Manager.

[FR Doc. 96–12149 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–33–P

[OR–130–1020–00; GP6–0161]

Notice of Meeting of the Interior Columbia Basin Ecosystem Management Plan Subgroup of the Eastern Washington Resource Advisory Council

AGENCY: Bureau of Land Management, Spokane District, Interior.

ACTION: Meeting of the Interior Columbia Basin Ecosystem Management Plan Subgroup of the Eastern Washington Resource Advisory Council; June 12, 1996, in Spokane, Washington.

SUMMARY: A meeting of the Interior Columbia Basin Ecosystem Management Plan Subgroup of the Eastern Washington Resource Advisory Council will be held on June 12, 1996. The meeting will convene at 9:00 a.m., at the Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, Washington, 99212–1275. The meeting will adjourn at approximately 4:00 p.m. or upon completion of business. At an appropriate time, the meeting will recess for approximately one hour for lunch. Public comments will be received from 10:00 a.m. to 10:30 a.m. The purpose of the meeting is to familiarize the Subgroup with the progress and status of the overall Interior Columbia Basin Ecosystem Management Plan effort.

FOR FURTHER INFORMATION CONTACT: Richard Hubbard, Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, Washington, 99212; or call 509–536–1200.

Dated May 9, 1996.

Joseph K. Buesing,

District Manager.

[FR Doc. 96–12150 Filed 5–14–96; 8:45 am]

BILLING CODE 4310–33–P

CA–058–1020–00

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the next meeting of the of the Ukiah Resource Advisory Council will be held on Thursday, May 30, and Friday, May 31, 1996 in Ukiah, California.

DATES: The meeting is scheduled for Thursday, May 30 and Friday, May 31, 1996.

SUPPLEMENTARY INFORMATION: The meeting on Thursday will begin at 10:00 a.m. at the Clear Lake Resource Area Office conference room, 2550 North State Street, Ukiah, CA. It will begin with a four hour training session on the basics of rangeland health. The remainder of Thursday will be spent in a tour of the Scotts Creek Allotment in Lake County. Friday, May 31 will be spent on finalizing standards and guidelines for rangeland health for public lands administered by the Bureau of Land Management in northwestern California.

The meeting is open to the public with a public comment period scheduled for 1:00–2:00 p.m., Friday, May 31. Depending on the number of persons wishing to speak, a time limit may be imposed. Summary minutes of the meeting will be maintained at the Arcata, Clear Lake and Redding Resource Area Offices.

FOR MORE INFORMATION CONTACT: Renee Snyder, Bureau of Land Management, Clear Lake Resource Area, 2550 N. State St., Ukiah, CA 95482, 707–468–4000.

Valerie Parker,

Acting Clear Lake Resource Area Manager.

[FR Doc. 96–12024 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–40–P

[CA–010–1430–01; CACA 7620, CACAAA 160028]

Public Land Order No. 7196; Partial Revocation of Secretarial Orders Dated October 11, 1902, and April 22, 1922; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial Order insofar as it affects 10 acres of lands withdrawn for Power Site Classification No. 28, and another Secretarial Order insofar as it affects 640 acres of lands withdrawn for the purpose of determining the suitability of including those lands in a forest reserve. The lands are no longer needed for these purposes, and the revocation is necessary to permit completion of a land exchange under Section 206 of the Federal Land Policy and Management Act of 1976. The lands are temporarily segregated by a pending land exchange and will not be opened at this time. The lands have been and will remain open to mineral leasing. Both the Federal Energy Regulatory Commission and the Forest Service have concurred with this revocation.

EFFECTIVE DATE: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office (CA–931.4), 2800 Cottage Way, Sacramento, CA 95825, 916–979–2858.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Secretarial Order dated April 22, 1922, which withdrew public lands for Power Site Classification No. 28, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 23 N., R. 3 E.,
Sec. 14, SE¼SW¼NW¼.

The area described contains 10 acres in Butte County.

2. The Secretarial Order dated October 11, 1902, which withdrew public lands for the purpose of determining the suitability of including those lands in a forest reserve, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 44 N., R. 4 W.,
Sec. 26.

The area described contains 640 acres in Siskiyou County.

3. The lands described in paragraphs 1 and 2 are temporarily segregated by a pending land exchange and will not be opened by this order.

4. In regards to the land described in paragraph 1, the State of California has waived its right of selection in accordance with the provisions of Section 24 of the Act of June 10, 1920, as amended, 16 U.S.C. 818 (1988).

Dated: April 30, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–12016 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–40–P

[AK–050–06–1430–01; AA–77919]

Recreation and Public Purposes (R&PP) Act Classification in Slana, AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; Recreation and Public Purposes (R&PP) Act classification.

SUMMARY: Pending concurrence from the State of Alaska, pursuant to Sec. 906(k) of the Alaska National Interest Lands Conservation Act, the following public lands in Slana, Alaska have been

examined and found suitable for classification for lease to the Slana Community Corporation, under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.).

Copper River Meridian, Alaska

T. 11 N., R 8E., Sec. 34

SW¼ NE¼ SW¼ NE¼ SE¼, S½ NW¼ SW¼ NE¼ SE¼, SW¼ SW¼ NE¼ SE¼, W½ SE¼ SW¼ NE¼ SE¼, SE¼ NE¼ SE¼ NW¼ SE¼, E½ SE¼ SE¼ NW¼ SE¼, NE¼ NE¼ NE¼ SW¼ SE¼, N½ NW¼ NW¼ SE¼ SE¼, NW¼ NE¼ NW¼ SE¼ SE¼.

Containing 10 Acres, more or less.

DATES: Until June 28, 1996, interested persons may submit comments regarding the proposed lease or classification to the Glennallen District Management Team. 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.

ADDRESSES: Comments must be submitted to the Glennallen District Management Team, P.O. Box 147, Glennallen, AK 99588–0147.

FOR FURTHER INFORMATION CONTACT: David Mushovic, (907) 822–3217.

SUPPLEMENTARY INFORMATION: The purpose of the classification and lease of these lands is for the Slana Community Corporation to construct, operate, and maintain a corporate office, fire hall, medical clinic, and recreational facilities for the community.

When issued, the lease will be subject to the following terms:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. Rights-of-Way thereon 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. All minerals shall be reserved to the United States. Such resources will not be subject to exploration, prospecting, mining and removal.

The lands involved have been and remain closed to location and entry under the United States mining laws. Upon publication of this notice in the Federal Register, the lands will be segregated from all other forms of public land laws including the mineral leasing laws.

The proposed lease is consistent with Southcentral Management Framework Plan. The land is not needed for any Federal purposes.

Dated: May 6, 1996.

David Mushovic,

Realty Specialist.

[FR Doc. 96–12026 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–JA–M

National Park Service

Cooperative Management Plan/ Environmental Impact Statement for Lower St. Croix National Scenic Riverway, Minnesota and Wisconsin

JOINT LEAD AGENCIES: National Park Service, Minnesota Department of Natural Resources, Wisconsin Department of Natural Resources.

ACTION: Notice of Intent to prepare an environmental impact statement for the Cooperative Management Plan for the Lower St. Croix National Scenic Riverway, Minnesota and Wisconsin.

SUMMARY: The National Park Service, Minnesota Department of Natural Resources, and Wisconsin Department of Natural Resources will serve as joint lead agencies in the preparation of an environmental impact statement to assess the impacts of alternative management concepts for a cooperative management plan for the Lower St. Croix National Scenic Riverway. The purpose of a cooperative management plan is to set forth the basic management philosophy for the riverway and provide the strategies for addressing issues and achieving identified management objectives. The Cooperative Management Plan/ Environmental Impact Statement (CMP/ EIS) will evaluate the environmental impacts of a range of alternatives to address distinct management issues for the riverway, such as resource protection, riverway uses, and development. As a conceptual framework for formulating these alternatives, the riverway's purposes, significant resources, and the management goals will first be identified.

The first of a series of public meetings to develop the plan were conducted in February and April 1996. Additional scoping opportunities such as public meetings, newsletters, etc. will be provided. This Notice will also serve as an additional scoping method. Persons who may be interested in or affected by the proposed plan/EIS are invited to participate in the scoping process by responding to this Notice with written comments. The scoping process will help define issues or problems facing the riverway.

The draft plan and environmental impact statement are expected to be completed and available for public review by the fall of 1998. The final plan, environmental impact statement, and Record of Decision are expected to be completed within one year of the release of the draft document.

The responsible officials are Bill Schenk, Field Director, Midwest Field Area, National Park Service; Rod Sando, Commissioner, Minnesota Department of Natural resources, and George Meyer, Secretary Wisconsin Department of Natural Resources.

DATES: Written comments concerning the CMP/EIS should be received on or before July 15, 1996.

ADDRESSES: Written comments concerning the plan/environmental impact statement should be sent to the Planning Coordinator, Coordination Office, 117 Main street, Stillwater, Minnesota 55082.

FOR FURTHER INFORMATION CONTACT: Kate Hanson, Planning Coordinator, at the above address or at telephone number (612) 439–7122.

Dated: May, 3, 1996.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 96–12095 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 4, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by May 29, 1996.

Carol D. Shull,

Keeper of the National Register.

Alabama

Dale County, Dowling, Samuel Lawson, House, 311 Owens St., Ozark, 96000594

Jefferson County, Parham Apothecary Building, 401 60th St., Fairfield, 96000595

Lauderdale County, Florence Wagon Works Site, S of Dekalb Ave. between Main and Spurr Sts., Florence, 96000596

Madison County, Fowler's Department Store (Downtown Huntsville MPS), 116 Washington and 214 Holmes Sts., Huntsville, 96000597

Georgia

Richmond County, Lamar, Joseph Rucker, Boyhood Home, 415 7th St., Augusta, 96000598

Indiana

Dearborn County, Stevens, Levi, House, 122 5th St., Aurora, 96000599
Jay County, Portland Commercial Historic District, Roughly, Meridian St. from Arch St. to the S. Meridian St. Bridge, and Main and Walnut Sts. from Ship to Court Sts., Portland, 96000600
Marion County, Recker, Carlos and Anne, House, 59 N. Hawthorne Ln., Indianapolis, 96000601
Morgan County, Morgan County Sheriff's House and Jail, 110 W. Washington St., Martinsville, 96000602
Owen County, Secrest Ferry Bridge, Co. Rt. 450 E over the W. fork of the White River, Gosport vicinity, 96000603

Iowa

Wapello County, Eldon Carnegie Public Library, 608 W. Elm St., Eldon, 96000604

Louisiana

Caddo Parish, Mooringsport School, 602 Latimer St., Mooringsport, 96000605
Sabine Parish, McNeely Hotel, 690 San Antonio Ave., Many, 96000606
Terrebonne Parish, Polmer Store, 1849 LA 311, Schriever vicinity, 96000607

Maryland

Anne Arundel County, Annapolis National Cemetery (Civil War Era National Cemeteries MPS), 800 West St., Annapolis, 96000608

Massachusetts

Bristol County, Howland Mill Village Historic District, Roughly bounded by Bolton, Winsper, Hemlock Sts., and Rockdale Ave., New Bedford, 96000609
Moreland Terrace Historic District, Roughly bounded by Moreland Terrace, Ash, Bedford, and Page Sts., New Bedford, 96000610

Michigan

Benzie County, Benzie County Courthouse, 7157 Crystal Ave., Beulah, 96000611
Oakland County, Hubbard—Kesby House, 1965 W. Dawson Rd., Milford, 96000612

New Hampshire

Carroll County, Remick, Capt. Enoch, House, 4 Great Hill Rd., Tamworth, 96000616
Hillsborough County, Victory Park Historic District, 405 Pine, 148 Concord, 111 and 129 Amherst Sts., Manchester, 96000615

New York

Tompkins County, State Theater, 107—119 W. State St., Ithaca, 96000613

North Carolina

Buncombe County, Asheville School, Roughly bounded by Patton Ave., Southern RR line, US 40, Sand Hill Rd., and Malvern Hills subdivision, Asheville, 96000614

Oregon

Clackamas County, Molalla Union High School, 413 S. Molalla Ave., Molalla, 96000622
Douglas County, Winchester Dam, N. Umpqua River at Hwy. 99, Winchester, 96000627
Jackson County, Chavner Family House, 12162 Blackwell Rd., Gold Hill vicinity, 96000628
Hanscom Hall, 201 Talent Ave., Talent, 96000626
Medford Southern Pacific Railroad Passenger Depot, 147 N. Front St., Medford, 96000629
Jefferson County, Lueddemann, Max and Ollie, House, 96 SE 9th St., Madras, 96000620
Lane County, Baldwin Market, 765—781 Monroe St., Eugene, 96000619
Woodmen of the World Hall, 291 W. 8th Ave., Eugene, 96000618
Linn County, Baker, Hiram, House, 515 E. Grant St., Lebanon, 96000621
Multnomah County, Mackenzie, Dr. K. A. J. and Cora, House, 615 NW 20th Ave., Portland, 96000625
Olson, August, House, 2509 NE 18th St., Portland, 96000624
Union County, Roesch Building, 105 Fir St., La Grande, 96000623

Utah

Emery County, San Rafael Bridge, Co. Rd. 3–32 over the San Rafael River, approximately 23 mi. SE of Castle Dale, Castle Dale vicinity, 96000617
Salt Lake County, Veterans Administration Hospital, 401 E. 12th St., Salt Lake City, 96000630

A proposed move is being considered for the following property:

Kansas

Neosho County, Austin Bridge, SE of Chanute at the Neosho River, Chanute vicinity, 77000592.

[FR Doc. 96–12096 Filed 5–13–96; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Submission for OMB Review; Comment Request

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Request for Comments.

SUMMARY: This is a revised Notice which supersedes the Notice published May 1, 1996, in 61 FR 19319. The Notice has been revised to extend the public comment request period to 60 days. At OPIC's request, the Office of Management and Budget (OMB) is reviewing this information collection for emergency processing for 90 days, under OMB control number 3420–0011.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to publish a Notice in the Federal Register notifying the public that the Agency is preparing an information collection request for OMB review and approval and to request public review and comment on the submission.

Comments are being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology.

The proposed form under review is summarized below.

DATES: Comments must be received within 60 calendar days of this Notice.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: Lena Paulsen, Manager, Information Center, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527; 202/336–8565.

SUMMARY OF FORM UNDER REVIEW:

Type of Request: Revised form.

Title: Application for Political Risk Investment Insurance.

Form Number: OPIC–52.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institutions (Except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 5 hours per project.

Number of Responses: 160 per year.

Federal Cost: $3,200 per year.

Authority for Information Collection: Sections 231, 234(a), 239(d), and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The application is the principal document used by OPIC to determine the investor's and project's eligibility, assess the environmental impact and developmental effects of the project, measure the economic effects for the United States and the host country economy, and collect information for underwriting analysis.

Dated: May 8, 1996.

James R. Offutt,

Assistant General Counsel, Department of Legal Affairs.

[FR Doc. 96–11969 Filed 5–13–96; 8:45 am]

BILLING CODE 3210–01–M

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

AGENCY: Foreign Claims Settlement Commission; Justice.

ACTION: Notice of information collection under review; adjucation of claims of U.S. Survivors of the Holocaust.

Office of Management and Budget (OMB) approval is being sought for the information collection described below. This proposed information collection was previously published in the Federal Register and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from the date of publication of this notice. This process is conducted in accordance with Title 5, § 1320.10, Code of Federal Regulations.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Information Management and Security Staff, Attention: Department Clearance Officer, 1001 G Street, NW, Washington, DC 20530. Via facsimile, comments may be sent to DOJ to 202–514–5134.

Written comments and suggestions from the public should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Foreign Claims Settlement Commission (FCSC), including whether the information will have practical utility;
2. Evaluate the accuracy of the FCSC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Suggest ways in which the quality, utility and clarity of information proposed to be collected might be enhanced; and
4. Suggest ways in which the FCSC could minimize the burden of the proposed collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical or other collection techniques or other forms of information technology, such as permitting electronic submission of responses.

The proposed collection is described below:

1. Type of information collection: New Collection.
2. Title of the form/collection: Statement of Claim for Filing of Claims by Holocaust Survivors Against the Government of the Federal Republic of Germany.
3. Agency Form number, and name of component of the Department of Justice sponsoring the collection: FCSC Form 2–96; Foreign Claims Settlement Commission on the United States.
4. Affected public will be asked to respond, as well as a brief abstract: Primary: Individuals. Other: none.

The information collected will be used to adjudicate the claims of U.S. survivors of the Holocaust and to negotiate a sum to be paid by the Federal Republic of Germany for reparations for Nazi persecution of U.S. nationals.

5. Estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 100 Responses at an average of 2 hours per response.
6. Estimate of the total public burden (in hours) associated with the collection: 200 annual burden hours at $10 per hour for a total burden cost of $2,000.

Public comment on this proposed information collection is strongly encouraged.

Dated: May 8, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–11975 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 as Amended

In accordance with Department of Justice policy, 28 CFR § 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Hargovind L. Govani, et al.*, Civil No. 94–5851 (SMO), was lodged on May 3, 1996 with the United States District Court for the District of New Jersey. The decree resolves claims of the Untied States against defendants A–1 Specialized Service & Supplies, Inc., Ag-Hog/Pittsburgh Co., Inc., AgHog/Detroit Co., Archive Management Services, Inc., Chesapeake X-Ray Corporation, E.I. du Pont de Nemours and Co., Konica Imaging U.S.A., Inc., Noble Silver Company, North Central X-Ray, Inc., Penn State Industries, Inc., RVS, Inc., Safety Kleen Corporation, Safetyloid Co., Inc., Silverion, Inc., Sloan Metal Co., Inc., Sogem Afrimet Inc., Springfield Silver Services, Inc., Standard Medical Imaging, Inc., Standish X-Ray Corporation, Sun Chemical Corporation, and Wallabout Metal, Inc. in the above-referenced action under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') for contamination at the Silsonix Superfund Site in the Irvington, New Jersey (the ''Site''). The defendants have filed a counter-claim against the United States for contribution.

In the proposed consent decree, the settling defendants agree to pay the United States $426,03.83 in settlement of the United States' claims for past response costs incurred by the Environmental Protection Agency at the Site. Also in the consent decree, the United States on behalf of settling federal agencies will reimburse $11,467.17 to the Hazardous Substance Superfund.

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 the *United States* v. *Hargovind L. Govani, et al.*, DOJ Ref. Number 90–11–2–1076.

The proposed consent decree may be examined at the Office of the United States Attorney, 970 Broad Street, Newark, NJ; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, NY 10278; and 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 $5.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–12012 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Center for Waste Reduction Technologies

Notice is hereby given that, on April 18, 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''), Center for Waste Reduction Technologies (''CWRT'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ACS Industries, Inc., Woonsocket, RI, and B&V Waste Science and Technology Corp., Kansas City, MO have withdrawn from membership and AM-RE Services, Inc., Princeton, NJ; Argonne National Laboratory, Argonne, IL; Eastman Chemical Company, Kingsport, TN; GE Corporate Research and Development, Schenectady, NY; Los Alamos National Laboratory of the University of California, Los Alamos, NM; Merck & Company, Inc., Whitehouse Station, NJ; Rohm and Haas Company, Philadelphia, PA; and SmithKline Beecham, King of Prussia, PA have become members.

No other changes have been made in either the membership or planned activities of CWRT. Membership remains open, and CWRT intends to file additional written notification disclosing all changes in membership. Information regarding participation in this point venture may be obtained from Center for Waste Reduction Technologies, 345 East 47th Street, New York, NY 10017–2395.

On March 14, 1995, CWRT filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register on April 24, 1995 (60 FR 20119).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12010 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; FED Corporation Joint Venture

Notice is hereby given that, on April 18, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the FED Corporation Joint Venture (''FED'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Analog Devices, Greensboro, NC has withdrawn from the venture.

On July 28, 1995, FED filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on December 6, 1995 (60 FR 62477).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12007 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Financial Services Technology Consortium; Check Imaging Project

Notice is hereby given that, on July 19, 1995, pursuant to 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Financial Services Technology Consortium, Inc.; Check Imaging Project has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Unisys Corporation, Plymouth, MI; International Business Machines Corporation, Charlotte, NC; Corestates Financial Corporation, Philadelphia, PA; New York Clearing House, New York, NY; and The Regents of the University of Southern California, Lawrence Livermore National Laboratories, Livermore, CA have been added to the venture.

On May 2, 1995, the Financial Services Technology Consortium, Inc.; Check Imaging Project filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on June 20, 1995 (60 FR 32169–70).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12009 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; HDP User Group International, Inc.

Notice is hereby given that, on April 23, 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''), HDP User Group International, Inc., an Arizona non-profit corporation, filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change of 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, Combitech, Jonkoping, SWEDEN; DSC Communications, Plano, TX; Hewlett Packard, Palo Alto, CA; SGS Thompson, Milan, Italy; and Siemens AG, Regensburg, Germany have become members of the HDP User Group International, Inc.

No other changes have been made in either the membership or planned activities of this joint venture.

On September 14, 1994, the HDP User Group filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register on March 23, 1995 (60 FR 15306–07). The last notification was filed on October 30, 1995. A notice was published in the Federal Register on December 18, 1995 (60 FR 65069).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12004 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–227 (IPACT–II) Supplemental Filing

Notice is hereby given that, on April 15, 1995, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–227 (''IPACT–II'') has filed written

notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of a new member. 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, Astra AB, Sodertalje, Sweden, became a member of IPACT–II on February 2, 1996.

No other changes have been made in either the membership or planned activities of IPACT–II. Membership in this group research project remains open, and IPACT–II intends to file additional written notification disclosing all changes in membership.

On February 21, 1991, IPACT–II 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 2, 1991 (56 FR 13489).

The last notification was filed with the Department on May 25, 1995. A notice has been published in the Federal Register on April 29, 1996 (61 FR 18755).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12006 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Microelectronics and Computer Technology Corporation

Notice is hereby given that, on September 18, 1995, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Microelectronics and Computer Technology Corporation (''MCC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Texas Instruments, Inc., Dallas, TX, has agreed to participate in MCC's Infoslueth Project; and G.K. Intelligent Systems, Houston, TX; Hughes Training, Inc., Arlington, TX; and Motorola, Inc., Schaumburg, IL, have agreed to participate in MCC's HyMPACT Project. American Express Company, Bellcore, E.M. Warburg, Pincus Ventures, Inc., Interval Research Corporation, Sandia National Laboratories, Unysis Corporation, Intelligent Machine Technology, ITAC Systems, Inc., Electronics Manufacturing Productivity Facility (''EMPF''); Institute for Micromanufacturing; Louisiana Tech University; and University of Dayton Research Institute have withdrawn from the venture.

On December 21, 1984, MCC filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on January 17, 1985 (50 FR 2633). The last notification was filed on May 24, 1995. The Department of Justice published a notice in the Federal Register on June 28, 1995 (60 FR 33433).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12002 Filed 5–13–96; 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 December 19, 1995, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et. seq.* (''the Act''), the National Medical Practice Knowledge Bank has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in it's 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 changes are as follows: InSoft, Inc., Mechanicsburg, PA has withdrawn from the venture.

On November 17, 1995, the National Medical Practice Knowledge Bank filed its original notification pursuant to § 6(b) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on February 15, 1996 (61 FR 6038).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12001 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Portland Cement Association

Notice is hereby given that, on April 9, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act'') the Portland Cement Association (''PCA'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Capitol Cement Corporation, Winchester, VA has resigned from PCA, and Fuel & Combustion Technology International, Buckinghamshire, England has become an associate member of PCA.

No other changes have been made in either the membership or planned activities of the PCA.

On January 7, 1985, PCA 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 February 5, 1985 (50 FR 5015). The last notification was filed with the Department on January 26, 1996. A notice was published in the Federal Register on April 10, 1996 (61 FR 15971–72)

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12003 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Spinal Implant Manufacturers Group ''SIMG''

Notice is hereby given that, on April 26, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''The Act''), the Spinal Implant Manufacturers Group (''SIMG'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following nine members of the group have resigned: Ace Medical Company, Los Angeles, CA; Acufex Microsurgical, Inc., Mansfield, MA; Advanced Spine Fixation Systems, Inc., Cypress, CA; American Medical Electronics, Inc., Richardson, TX; Cross Medical Products, Inc., Columbus, OH; DePuy Motech, Warsaw, IN; Electro-Biology, Inc., Parsippany, NJ; Osteotech, Inc., Shewsbury, NJ; and Stryker/Osteonics, Allendale, NJ.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SIMG intends to file additional written notification disclosing all changes in membership.

On December 8, 1993, SIMG 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 14, 1994 (59 FR 2439).

The last notification was filed with the Department on August 31, 1994. A notice was published in the Federal Register on October 27, 1994 (59 FR 54012).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12011 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Unixware Technology Group, Inc.

Notice is hereby given that, on November 1, 1995, pursuant to 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the UnixWare Technology Group, Inc., (''UnixWare'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Micro Focus, Palo Alto, CA; SAS Institute Inc., Cary, NC; and Compaq, Houston, TX have been added to the venture.

On July 19, 1994, UnixWare filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on March 23, 1995 (60 FR 15305). The last notification was filed on March 28, 1995. The Department of Justice published the notice in the Federal Register on May 24, 1995 (60 FR 27561).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12008 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; X Consortium

Notice is hereby given that, on February 28, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the X Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in it's 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 changes are as follows: Insignia Solutions, Ltd., Bucks, ENGLAND; NetManage, Inc., Cupertino, CA; and Spectragraphics Corp., Marietta, GA have been added to the venture. AGE Logic, Inc., San Diego, CA; and Frame Technology Corp., San Jose, CA have withdrawn from the venture.

On September 15, 1993, the X 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 November 10, 1993 (58 FR 59737).

The last notification was filed on September 1, 1995. The Department of Justice published a notice in the Federal Register on December 18, 1995 (61 FR 65069).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–12005 Filed 5–13–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 9, 1996.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5095). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the Federal Register.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Title: Rehabilitation Plan and Award.

OMB Number: 1215–0067.

Agency Number: OWCP–16.

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit.

Number of Respondents: 7,000.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 3,500.

Total Annualized capital/startup costs; 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The OWCP–16 is a plan for rehabilitation services submitted by the injured worker and the rehabilitation counselor, and the Office of Worker's Compensation Program's award from funds provided for rehabilitation. The form summarizes the nature and cost of the rehabilitation program for a prompt decision on funding to expedite the completion of the rehabilitation process.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 96–12069 Filed 5–13–96; 8:45 am]

BILLING CODE 4510–27–M

Notice of Interim Assignment of Departmental Duties Retained Following Congressional Action With Respect to the Elimination of the Office of the American Workplace

By memorandum effective April 26, 1996, I have delegated authority and assigned responsibility to Charles L. Smith, Deputy Assistant Secretary, for performing all of the following duties prescribed under Secretary's Orders 2–93, 58 FR 42578, and 2–95, 60 FR 13602:

(1) The Labor-Management Reporting and Disclosure Act of 1959, as amended, 29 U.S.C. 401, *et seq.*;

(2) Section 701 (Standards of Conduct for Labor Organizations) of the Civil Service Reform Act of 1978, 5 U.S.C. 7120;

(3) Section 1017 of the Foreign Service Act of 1980, 22 U.S.C. 4117;

(4) Section 1209 of the Postal Reorganization Act of 1970, 39 U.S.C. 1209;

(5) the employee protection provisions of the Federal Transit law, as codified at 49 U.S.C. 5333(b) and related provisions';

(6) Section405 (a), (b), (c), and (e) of the Rail Passenger Service Act of 1970, 45 U.S.C. 565 (a), (b), (c), and (e);

(7) Section 43(d) of the Airline Deregulation Act of 1978, repealed and reenacted at 49 U.S.C. 42101–42103; and

(8) Executive Order 12954, March 8, 1995, 60 FR 13023 to the extent that the exercise of authority or responsibilities under this Order is consistent with applicable court decisions.

I currently anticipate that this delegation of authority will be superseded at the beginning of fiscal year 1997. Nonetheless, this delegation will remain in effect until a further delegation of these duties, or other notice, is executed by me. Any of the above duties may be redelegated, as appropriate, by him.

Signed at Washington, D.C. this 8th day of May 1996

Robert B. Reich,

Secretary of Labor.

[FR Doc. 96–12071 Filed 5–13–96; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

Public Meeting; Federal Committee on Apprenticeship

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given that the Federal Committee on Apprenticeship (FCA) will conduct an open meeting on May 29–30, 1996 at the following location: The Washington Court Hotel, 525 New Jersey Avenue, N.W., Washington, D.C. 2001.

The agenda on May 29 will include:

8:30 a.m.—Orientation/Administrative Matters
CAll to Order, Barbara Green, Chair, FCA
Introduction of FCA Members, Committee DOL
BAT Director's Report, Anthony Swoope
BAT Priority Teams
12:00 noon—Lunch
Skill Standards Board Report
School-to-Work Report
National Apprenticeship Awards Program
3:00 p.m.—Meeting Recesses until 8:30 a.m., 5/30/96

The agenda on May 30 will include:

—Legislative Update Report
—National Association of State and Territorial Apprenticeship Directors' Report
—National Association of Governmental
—Labor Officials' Report
10:30 a.m.—Remarks: Assistant Secretary for Employment and Training
11:30 a.m.—Public Comment
11:30 a.m.—Adjournment

The agenda is subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the FCA meeting.

Members of the public are invited to attend the proceedings. Individuals with disabilities should contact Marion M. Winters at (202) 219–5921 no later than May 17, if special accommodations are needed.

Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing it to the Designated Federal Official (DFO) at any time prior to the meeting. Such comments should be addressed to the DFO, Mr. Anthony Swoope, Director, Bureau of Apprenticeship and Training, ETA, U.S. Department of Labor, Room N4649, 200 Constitution Avenue NW., Washington, D.C. 20210. Fifteen duplicate copies are needed for the members and for inclusion in the minutes of the meeting.

Any member of the public who wishes to speak at this meeting should so indicate the nature of intended presentation and the amount of time needed by furnishing a written statement to the Designated Federal Official by May 24. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Signed at Washington, D.C., this 8th day of May 1996.

Timothy M. Barnicle,

Assistant Secretary of Labor for the Employment and Training Administration.

[FR Doc. 96–12070 Filed 5–13–96; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers; Meeting

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of advisory committee meeting.

SUMMARY: This notice announces the date, time, place, and agenda summary for the third meeting of the Mine Safety and Health Administration's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, room 631, Arlington, Virginia 22203; phone 703–235–1910.

SUPPLEMENTARY INFORMATION: A public meeting of the advisory committee will be held as follows:

(1) May 29, 1996, from 8:00 a.m. to 5:00 p.m.

(2) May 30, 1996, from 8:00 a.m. to 5:00 p.m.

The meeting will be held on both days at the Holiday Inn-Charleston House, 600 East Kanawha Blvd., Charleston, West Virginia 25301. Phone: 304–344–4092.

The Secretary of Labor established this advisory committee (60 FR 5947) to develop recommendations for improved standards or other appropriate actions addressing: permissible exposure limits to eliminate black lung disease and silicosis; the means to control respirable coal mine dust levels; improved monitoring of respirable coal dust levels and the role of the miner in that monitoring; and the adequacy of operator sampling programs to determine the actual levels of dust concentrations to which miners are exposed. The advisory committee is chartered through September 30, 1996 (60 FR 55284), but must complete its deliberations by August 19, 1996.

The agenda for the third meeting will include discussions on exposure monitoring and medical surveillance. Specific questions for discussion will include:

(1) Should there be changes in the medical surveillance program and the way the data from the program is utilized?

(2) In what ways can participation in the medical surveillance program be improved?

(3) Is the Part 90 program accomplishing its goal?

(4) Should there be changes in the methods and procedures for the evaluation of exposure to coal mine dust?

(5) What improvements are needed in: the collection of coal mine dust exposure samples; the maintenance of dust controls; and the factoring in of production levels?

(6) Under what circumstances is continuous monitoring of coal mine dust concentrations appropriate?

(7) Under what circumstances does area sampling of the coal mine environment provide dust concentration data useful for the protection of coal miner health?

(8) Should operator sampling results be used for evaluating compliance with the PEL?

(9) In what ways can miner participation in eradicating dust related diseases be improved?

There will also be a panel discussion by representatives of the National Black Lung Association followed by questions by members of the advisory committee.

The public is invited to attend. The chairperson will provide an hour near the end of each day's meeting to allow interested persons to make comments. Official records of the meeting will be available for public inspection at the above MSHA address.

Dated: May 9, 1996.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 96–12074 Filed 5–10–96; 9:39 am]

BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 30, ''Rules of General Applicability to Domestic Licensing of Byproduct Material.''

3. The form number if applicable: Not applicable.

4. How often the collection is required: Required reports are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications are submitted every 5 years. Information submitted in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis.

5. Who will be required or asked to report: All persons applying or holding a license to manufacture, produce, transfer, receive, acquire, own, possess, or use radioactive byproduct material.

6. An estimate of the number of responses: Approximately 601 responses from NRC licensees and 1,112 responses from Agreement State licensees.

7. The estimated number of annual respondents: 6,089 NRC licensees and 12,178 Agreement State licensees.

8. An estimate of the total number of hours needed annually to complete the requirement or request: Approximately 8 hours annually per licensee or 48,897 hours for the NRC licensees and 98,376 hours for the Agreement State licensees.

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: 10 CFR Part 30 establishes requirements that are applicable to all persons in the United States governing domestic licensing of radioactive byproduct material. The application, reporting, and recordkeeping requirements are necessary to permit the NRC to make a determination whether the possession, use, and transfer of byproduct material is in conformance with the Commission's regulations for protection of the public health and safety.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library) NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at (202) 634–3273.

Comments and questions should be directed to the OMB reviewer by June 13, 1996: Peter Francis, Office of Information and Regulatory Affairs (3150–0017), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 8th day of May, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–12040 Filed 5–13–96; 8:45 am]

BILLING CODE 7590–01–P

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: 10 CFR Part 9, Public Records.

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Individuals requesting access to records under the Freedom of Information or Privacy Acts, or to records that are already publicly available in the NRC Public Document Room.

6. An estimate of the number of responses: 13,764.

7. The estimated number of annual respondents: 13,764.

8. An estimate of the total number of hours needed annually to complete the requirement or request: 3,519.

9. An indication of whether Section 3507(d), Pub.L. 104–13 applies: Not applicable.

10. Abstract: 10 CFR Part 9 establishes information collection requirements for individuals making requests for records under the Freedom of Information or Privacy Acts. It also contains requests to waive or reduce fees for searching for and reproducing records in response to FOIA requests. The information required from the public is necessary to identify the records they are requesting or to justify requests for waivers or reductions in searching or copying fees.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions should be directed to the OMB reviewer by June 13, 1996: Peter Francis, Office of Information and Regulatory Affairs (3150–00043), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 8th day of May, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–12041 Filed 5–13–96; 8:45 am]

BILLING CODE 7590–01–P

Freedom of Employees in the Nuclear Industry To Raise Safety Concerns Without Fear of Retaliation; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Statement of policy.

SUMMARY: The Nuclear Regulatory Commission (NRC) is issuing this policy statement to set forth its expectation that licensees and other employers subject to NRC authority will establish and maintain safety-conscious environments in which employees feel free to raise safety concerns, both to their management and to the NRC, without fear of retaliation. The responsibility for maintaining such an environment rests with each NRC licensee, as well as with contractors, subcontractors and employees in the nuclear industry. This policy statement is applicable to NRC regulated activities of all NRC licensees and their contractors and subcontractors.

DATES: May 14, 1996.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, (301) 415–2741.

SUPPLEMENTARY INFORMATION:

Background

NRC licensees have the primary responsibility to ensure the safety of nuclear operations. Identification and communication of potential safety concerns [1] and the freedom of employees to raise such concerns is an integral part of carrying out this responsibility.

In the past, employees have raised important issues and as a result, the public health and safety has benefited. Although the Commission recognizes that not every concern raised by employees is safety significant or, for that matter, is valid, the Commission concludes that it is important that licensees' management establish an environment in which safety issues are promptly identified and effectively resolved and in which employees feel free to raise concerns.

Although hundreds of concerns are raised and resolved daily in the nuclear industry, the Commission, on occasion, receives reports of individuals being retaliated against for raising concerns. This retaliation is unacceptable and unlawful. In addition to the hardship caused to the individual employee, the perception by fellow workers that raising concerns has resulted in retaliation can generate a chilling effect that may discourage other workers from raising concerns. A reluctance on the part of employees to raise concerns is detrimental to nuclear safety.

As a result of questions raised about NRC's efforts to address retaliation against individuals who raise health and safety concerns, the Commission established a review team in 1993 to reassess the NRC's program for protecting allegers against retaliation. In its report (NUREG–1499, ''Reassessment of the NRC's Program for Protecting Allegers Against Retaliation,'' January 7, 1994) the review team made numerous recommendations, including several recommendations involving issuing a policy statement to address the need to encourage responsible licensee action with regard to fostering a quality-conscious environment in which employees are free to raise safety concerns without fear of retribution (recommendations II.A–1, II.A–2, and II.A–4). On February 8, 1995, the Commission after considering those recommendations and the bases for them published for comment a proposed policy statement, ''Freedom of Employees in the Nuclear Industry to Raise Safety Concerns Without Fear of Retaliation,'' in the Federal Register (60 FR 7592, February 8, 1995).

The proposed policy statement generated comments from private citizens and representatives of the industry concerning both the policy statement and NRC and Department of Labor (DOL) performance. The more significant comments related to the contents of the policy statement included:

1. The policy statement would discourage employees from bringing their concerns to the NRC because it provided that employees should normally provide concerns to the licensee prior to or contemporaneously with coming to the NRC.

2. The use of a holding period should be at the discretion of the employer and not be considered by the NRC in evaluating the reasonableness of the licensee's action.

3. The policy statement is not needed to establish an environment to raise concerns if NRC uses its authority to enforce existing requirements by pursuing civil and criminal sanctions against those who discriminate.

4. The description of employee concerns programs and the oversight of contractors was too prescriptive; the

[1] Throughout this Policy Statement the terms ''concerns,'' ''safety concerns'' and ''safety problem'' refer to potential or actual issues within the Commission's jurisdiction involving operations, radiological releases, safeguards, radiation protection, and other matters relating to NRC-regulated activities.

expectations concerning oversight of contractors were perceived as the imposition of new requirements without adherence to the Administrative Procedure Act and the NRC's Backfit Rule, 10 CFR 50.109.

5. The need for employee concerns programs (ECPs) was questioned, including whether the ECPs fostered the development of a strong safety culture.

6. The suggestion for involvement of senior management in resolving discrimination complaints was too prescriptive and that decisions on senior management involvement should be decided by licensees.

In addition, two public meetings were held with representatives of the Nuclear Energy Institute (NEI) to discuss the proposed policy statement. Summaries of these meetings along with a revised policy statement proposed by NEI were included with the comments to the policy statement filed in the Public Document Room (PDR).

This policy statement is being issued after considering the public comments and coordination with the Department of Labor. The more significant changes included:

1. The policy statement was revised to clarify that senior management is expected to take responsibility for assuring that cases of alleged discrimination are appropriately investigated and resolved as opposed to being personally involved in the resolution of these matters.

2. References to maintenance of a ''quality-conscious environment'' have been changed to ''safety-conscious environment'' to put the focus on safety.

3. The policy statement has been revised to emphasize that while alternative programs for raising concerns may be helpful for a safety-conscious environment, the establishment of alternative programs is not a requirement.

4. The policy statement continues to emphasize licensees' responsibility for their contractors. This is not a new requirement. However, the policy statement was revised to provide that enforcement decisions against licensees for discriminatory conduct of their contractors would consider such things as the relationship between the licensee and contractor, the reasonableness of the licensee's oversight of the contractor's actions and its attempts to investigate and resolve the matter.

5. To avoid the possibility suggested by some commenters that the policy statement might discourage employees from raising concerns to the NRC if the employee is concerned about retaliation by the employer, the statement that reporting concerns to the Commission ''except in limited fact-specific situations'' would not absolve employees of the duty to inform the employer of matters that could bear on public, including worker, health and safety has been deleted. However, the policy statement expresses the Commission's expectation that employees, when coming to the NRC, should normally have provided the concern to the employer prior to or contemporaneously with coming to the NRC.

Statement of Policy

The purpose of this Statement of Policy is to set forth the Nuclear Regulatory Commission's expectation that licensees and other employers subject to NRC authority will establish and maintain a safety-conscious work environment in which employees feel free to raise concerns both to their own management and the NRC without fear of retaliation. A safety-conscious work environment is critical to a licensee's ability to safely carry out licensed activities.

This policy statement and the principles set forth in it are intended to apply to licensed activities of all NRC licensees and their contractors,[2] although it is recognized that some of the suggestions, programs, or steps that might be taken to improve the quality of the work environment (e.g., establishment of a method to raise concerns outside the normal management structure such as an employee concerns program) may not be practical for very small licensees that have only a few employees and a very simple management structure.

The Commission believes that the most effective improvements to the environment for raising concerns will come from within a licensee's organization (or the organization of the licensee's contractor) as communicated and demonstrated by licensee and contractor management. Management should recognize the value of effective processes for problem identification and resolution, understand the negative effect produced by the perception that employee concerns are unwelcome, and appreciate the importance of ensuring that multiple channels exist for raising concerns. As the Commission noted in its 1989 Policy Statement on the Conduct of Nuclear Power Plant Operations (54 FR 3424, January 24, 1989), management must provide the leadership that nurtures and maintains the safety environment.

In developing this policy statement, the Commission considered the need for:

(1) Licensees and their contractors to establish work environments, with effective processes for problem identification and resolution, where employees feel free to raise concerns, both to their management and to the NRC, without fear of retaliation;

(2) Improving contractors' awareness of their responsibilities in this area;

(3) Senior management of licensees and contractors to take the responsibility for assuring that cases of alleged discrimination are appropriately investigated and resolved; and

(4) Employees in the regulated industry to recognize their responsibility to raise safety concerns to licensees and their right to raise concerns to the NRC.

This policy statement is directed to all employers, including licensees and their contractors, subject to NRC authority, and their employees. It is intended to reinforce the principle to all licensees and other employers subject to NRC authority that an act of retaliation or discrimination against an employee for raising a potential safety concern is not only unlawful but may adversely impact safety. The Commission emphasizes that employees who raise concerns serve an important role in addressing potential safety issues. Thus, the NRC cannot and will not tolerate retaliation against employees who attempt to carry out their responsibility to identify potential safety issues.[3]

Under the Atomic Energy Act of 1954, as amended, the NRC has the authority to investigate allegations that employees of licensees or their contractors have been discriminated against for raising concerns and to take enforcement action if discrimination is substantiated. The Commission has promulgated regulations to prohibit discrimination (see, e.g., 10 CFR 30.7 and 50.7). Under Section 211 of the Energy Reorganization Act of 1974, as amended, the Department of Labor also has the authority to investigate complaints of discrimination and to

[2] Throughout this Notice, the term ''licensee'' includes licensees and applicants for licenses. It also refers to holders of certificates of compliance under 10 CFR Part 76. The term ''contractor'' includes contractors and subcontractors of NRC licensees and applicants defined as employers by section 211(a)(2) of the Energy Reorganization Act of 1974, as amended.

[3] An employee who believes he or she has been discriminated against for raising concerns may file a complaint with the Department of Labor if the employee seeks a personal remedy for the discrimination. The person may also file an allegation of discrimination with the NRC. The NRC will focus on licensee actions and does not obtain personal remedies for the individual. Instructions for filing complaints with the DOL and submitting allegations can be found on NRC Form 3 which licensees are required to post.

provide a personal remedy to the employee when discrimination is found to have occurred.

The NRC may initiate an investigation even though the matter is also being pursued within the DOL process. However, the NRC's determination of whether to do so is a function of the priority of the case which is based on its potential merits and its significance relative to other ongoing NRC investigations.[4]

Effective Processes for Problem Identification and Resolution

Licensees bear the primary responsibility for the safe use of nuclear materials in their various licensed activities. To carry out that responsibility, licensees need to receive prompt notification of concerns as effective problem identification and resolution processes are essential to ensuring safety. Thus, the Commission expects that each licensee will establish a safety-conscious environment where employees are encouraged to raise concerns and where such concerns are promptly reviewed, given the proper priority based on their potential safety significance, and appropriately resolved with timely feedback to employees.

A safety-conscious environment is reinforced by a management attitude that promotes employee confidence in raising and resolving concerns. Other attributes of a work place with this type of an environment may include well-developed systems or approaches for prioritizing problems and directing resources accordingly; effective communications among various departments or elements of the licensee's organization for openly sharing information and analyzing the root causes of identified problems; and employees and managers with an open and questioning attitude, a focus on safety, and a positive orientation toward admitting and correcting personnel errors.

Initial and periodic training (including contractor training) for both employees and supervisors may also be an important factor in achieving a work environment in which employees feel free to raise concerns. In addition to communicating management expectations, training can clarify for both supervisors and employees options for problem identification. This would include use of licensee's internal processes as well as providing concerns directly to the NRC.[5] Training of supervisors may also minimize the potential perception that efforts to reduce operating and maintenance costs may cause supervisors to be less receptive to employee concerns if identification and resolution of concerns involve significant costs or schedule delays.

Incentive programs may provide a highly visible method for demonstrating management's commitment to safety, by rewarding ideas not based solely on their cost savings but also on their contribution to safety. Credible self assessments of the environment for raising concerns can contribute to program effectiveness by evaluating the adequacy and timeliness of problem resolution. Self-assessments can also be used to determine whether employees believe their concerns have been adequately addressed and whether employees feel free to raise concerns. When problems are identified through self-assessment, prompt corrective action should be taken.

Licensees and their contractors should clearly identify the processes that employees may use to raise concerns and employees should be encouraged to use them. The NRC appreciates the value of employees using normal processes (e.g., raising issues to the employee supervisors or managers or filing deficiency reports) for problem identification and resolution. However, it is important to recognize that the fact that some employees do not desire to use the normal line management processes does not mean that these employees do not have legitimate concerns that should be captured by the licensee's resolution processes. Nor does it mean that the normal processes are not effective. Even in a generally good environment, some employees may not always be comfortable in raising concerns through the normal channels. From a safety perspective, no method of raising potential safety concerns should be discouraged. Thus, in the interest of having concerns raised, the Commission encourages each licensee to have a dual focus: (1) On achieving and maintaining an environment where employees feel free to raise their concerns directly to their supervisors and to licensee management, and (2) on ensuring that alternate means of raising and addressing concerns are accessible, credible, and effective.

NUREG–1499 may provide some helpful insights on various alternative approaches. The Commission recognizes that what works for one licensee may not be appropriate for another. Licensees have in the past used a variety of different approaches, such as:

(1) An ''open-door'' policy that allows the employee to bring the concern to a higher-level manager;

(2) A policy that permits employees to raise concerns to the licensee's quality assurance group;

(3) An ombudsman program; or

(4) Some form of an employee concerns program.

The success of a licensee alternative program for concerns may be influenced by how accessible the program is to employees, prioritization processes, independence, provisions to protect the identity of employees including the ability to allow for reporting issues with anonymity, and resources. However, the prime factors in the success of a given program appear to be demonstrated management support and how employees perceive the program. Therefore, timely feedback on the follow-up and resolution of concerns raised by employees may be a necessary element of these programs.

This Policy Statement should not be interpreted as a requirement that every licensee establish alternative programs for raising and addressing concerns. Licensees should determine the need for providing alternative methods for raising concerns that can serve as internal ''escape valves'' or ''safety nets.''[6] Considerations might include the number of employees, the complexity of operations, potential hazards, and the history of allegations made to the NRC or licensee. While effective alternative programs for identifying and resolving concerns may assist licensees in maintaining a safety-conscious environment, the Commission, by making the suggestion for establishing alternative programs, is not requiring licensees to have such programs. In the absence of a requirement imposed by the Commission, the establishment and framework of alternative programs are discretionary.

[4] The NRC and DOL have entered into a Memorandum of Understanding to facilitate cooperation between the agencies. (47 FR 54585; December 3, 1982).

[5] Training of supervisors in the value of raising concerns and the use of alternative internal processes may minimize the conflict that can be created when supervisors, especially first line supervisors, perceive employees as ''problem employees'' if the employees, in raising concerns, bypass the ''chain of command.''

[6] In developing these programs, it is important for reactor licensees to be able to capture all potential safety concerns, not just concerns related to ''safety-related'' activities covered by 10 CFR Part 50, Appendix B. For example, concerns relating to environmental, safeguards, and radiation protection issues should also be captured.

Improving Contractors' Awareness of Their Responsibilities

The Commission's long-standing policy has been and continues to be to hold its licensees responsible for compliance with NRC requirements, even if licensees use contractors for products or services related to licensed activities. Thus, licensees are responsible for having their contractors maintain an environment in which contractor employees are free to raise concerns without fear of retaliation.

Nevertheless, certain NRC requirements apply directly to contractors of licensees (see, for example, the rules on deliberate misconduct, such as 10 CFR 30.10 and 50.5 and the rules on reporting of defects and noncompliances in 10 CFR Part 21). In particular, the Commission's prohibition on discriminating against employees for raising safety concerns applies to the contractors of its licensees, as well as to licensees (see, for example, 10 CFR 30.7 and 50.7).

Accordingly, if a licensee contractor discriminates against one of its employees in violation of applicable Commission rules, the Commission intends to consider enforcement action against *both* the licensee, who remains responsible for the environment maintained by its contractors, and the employer who actually discriminated against the employee. In considering whether enforcement actions should be taken against licensees for contractor actions, and the nature of such actions, the NRC intends to consider, among other things, the relationship of the contractor to the particular licensee and its licensed activities; the reasonableness of the licensee's oversight of the contractor environment for raising concerns by methods such as licensee's reviews of contractor policies for raising and resolving concerns and audits of the effectiveness of contractor efforts in carrying out these policies, including procedures and training of employees and supervisors; the licensee's involvement in or opportunity to prevent the discrimination; and the licensee's efforts in responding to the particular allegation of discrimination, including whether the licensee reviewed the contractor's investigation, conducted its own investigation, or took reasonable action to achieve a remedy for any discriminatory action and to reduce potential chilling effects.

Contractors of licensees have been involved in a number of discrimination complaints that are made by employees. In the interest of ensuring that their contractors establish safety-conscious environments, licensees should consider taking action so that:

(1) Each contractor involved in licensed activities is aware of the applicable regulations that prohibit discrimination;

(2) Each contractor is aware of its responsibilities in fostering an environment in which employees feel free to raise concerns related to licensed activities;

(3) The licensee has the ability to oversee the contractor's efforts to encourage employees to raise concerns, prevent discrimination, and resolve allegations of discrimination by obtaining reports of alleged contractor discrimination and associated investigations conducted by or on behalf of its contractors; conducting its own investigations of such discrimination; and, if warranted, by directing that remedial action be undertaken; and

(4) Contractor employees and management are informed of (a) the importance of raising safety concerns and (b) how to raise concerns through normal processes, alternative internal processes, and directly to the NRC.

Adoption of contract provisions covering the matters discussed above may provide additional assurance that contractor employees will be able to raise concerns without fear of retaliation.

Involvement of Senior Management in Cases of Alleged Discrimination

The Commission reminds licensees of their obligation both to ensure that personnel actions against employees, including personnel actions by contractors, who have raised concerns have a well-founded, non-discriminatory basis and to make clear to all employees that any adverse action taken against an employee was for legitimate, non-discriminatory reasons. If employees allege retaliation for engaging in protected activities, senior licensee management should be advised of the matter and assure that the appropriate level of management is involved, reviewing the particular facts and evaluating or reconsidering the action.

The intent of this policy statement is to emphasize the importance of licensee management taking an active role to promptly resolve situations involving alleged discrimination. Because of the complex nature of labor-management relations, any externally-imposed resolution is not as desirable as one achieved internally. The Commission emphasizes that internal resolution is the licensee's responsibility, and that early resolution *without* government involvement is less likely to disrupt the work place and is in the best interests of both the licensee and the employee. For these reasons, the Commission's enforcement policy provides for consideration of the actions taken by licensees in addressing and resolving issues of discrimination when the Commission develops enforcement sanctions for violations involving discrimination. (59 FR 60697; November 28, 1994).

In some cases, management may find it desirable to use a holding period, that is, to maintain or restore the pay and benefits of the employee alleging retaliation, pending reconsideration or resolution of the matter or pending the outcome of an investigation by the Department of Labor (DOL). This holding period may calm feelings on-site and could be used to demonstrate management encouragement of an environment conducive to raising concerns. By this approach, management would be acknowledging that although a dispute exists as to whether discrimination occurred, in the interest of not discouraging other employees from raising concerns, the employee involved in the dispute will not lose pay and benefits while the action is being reconsidered or the dispute is being resolved. However, inclusion of the holding period approach in this policy statement is not intended to alter the existing rights of either the licensee or the employee, or be taken as a direction by, or an expectation of, the Commission, for licensees to adopt the holding period concept. For both the employee and the employer, participation in a holding period under the conditions of a specific case is entirely voluntary.

A licensee may conclude, after a full review, that an adverse action against an employee is warranted.[7] The Commission recognizes the need for licensees to take action when justified. Commission regulations do not render a person who engages in protected activity immune from discharge or discipline stemming from non-prohibited considerations (see, for example, 10 CFR 50.7(d)). The Commission expects licensees to make personnel decisions that are consistent with regulatory requirements and that

[7] When other employees know that the individual who was the recipient of an adverse action may have engaged in protected activities, it may be appropriate for the licensee to let the other employees know, consistent with privacy and legal considerations, that (1) management reviewed the matter and determined that its action was warranted, (2) the action was not in retaliation for engaging in protected activity and the reason why, and (3) licensee management continues to encourage them to raise issues. This may reduce any perception that retaliation occurred.

will enhance the effectiveness and safety of the licensee's operations.

Responsibilities of Employers and Employees

As emphasized above, the responsibility for maintaining a safety-conscious environment rests with licensee management. However, employees in the nuclear industry also have responsibilities in this area. As a general principle, the Commission normally expects employees in the nuclear industry to raise safety and compliance concerns directly to licensees, or indirectly to licensees through contractors, because licensees, and not the Commission, bear the primary responsibility for safe operation of nuclear facilities and safe use of nuclear materials.[8] The licensee, and not the NRC, is usually in the best position and has the detailed knowledge of the specific operations and the resources to deal promptly and effectively with concerns raised by employees. This is another reason why the Commission expects licensees to establish an environment in which employees feel free to raise concerns to the licensees themselves.

Employers have a variety of means to express their expectations that employees raise concerns to them, such as employment contracts, employers' policies and procedures, and certain NRC requirements. In fact, many employees in the nuclear industry have been specifically hired to fulfill NRC requirements that licensees identify deficiencies, violations and safety issues. Examples of these include many employees who conduct surveillance, quality assurance, radiation protection, and security activities. In addition to individuals who specifically perform functions to meet monitoring requirements, the Commission encourages all employees to raise concerns to licensees if they identify safety issues[9] so that licensees can address them before an event with safety consequences occurs.

The Commission's expectation that employees will normally raise safety concerns to their employers does not mean that employees may not come directly to the NRC. The Commission encourages employees to come to the NRC at any time they believe that the Commission should be aware of their concerns.[10] But, while not required, the Commission does expect that employees normally will have raised the issue with the licensee either prior to or contemporaneously with coming to the NRC. The Commission *cautions* licensees that complaints that adverse action was taken against an employee for not bringing a concern to his or her employer, when the employee brought the concern to the NRC, will be closely scrutinized by the NRC to determine if enforcement action is warranted for discrimination.

Retaliation against employees engaged in protected activities, whether they have raised concerns to their employers or to the NRC, will not be tolerated. If adverse action is found to have occurred because the employee raised a concern to either the NRC or the licensee, civil and criminal enforcement action may be taken against the licensee and the person responsible for the discrimination.

Summary

The Commission expects that NRC licensees will establish safety-conscious environments in which employees of licensees and licensee contractors are free, and feel free, to raise concerns to their management and to the NRC without fear of retaliation.

Licensees must ensure that employment actions against employees who have raised concerns have a well-founded, non-discriminatory basis. When allegations of discrimination arise in licensee, contractor, or subcontractor organizations, the Commission expects that senior licensee management will assure that the appropriate level of management is involved to review the particular facts, evaluate or reconsider the action, and, where warranted, remedy the matter.

Employees also have a role in contributing to a safety-conscious environment. Although employees are free to come to the NRC at any time, the Commission expects that employees will normally raise concerns with the involved licensee because the licensee has the primary responsibility for safety and is normally in the best position to promptly and effectively address the matter. The NRC should normally be viewed as a safety valve and not as a substitute forum for raising safety concerns.

This policy statement has been issued to highlight licensees' existing obligation to maintain an environment in which employees are free to raise concerns without retaliation. The expectations and suggestions contained in this policy statement do not establish new requirements. However, if a licensee has not established a safety-conscious environment, as evidenced by retaliation against an individual for engaging in a protected activity, whether the activity involves providing information to the licensee or the NRC, appropriate enforcement action may be taken against the licensee, its contractors, and the involved individual supervisors, for violations of NRC requirements.

The Commission recognizes that the actions discussed in this policy statement will not necessarily insulate an employee from retaliation, nor will they remove all personal cost should the employee seek a personal remedy. However, these measures, if adopted by licensees, should improve the environment for raising concerns.

Dated at Rockville, Maryland, this 8th day of May, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–12028 Filed 5–13–96; 8:45 am]

BILLING CODE 7590–01–P

[8] The expectation that employees provide safety and compliance concerns to licensees is not applicable to concerns of possible wrongdoing by NRC employees or NRC contractors. Such concerns are subject to investigation by the NRC Office of Inspector General. Concerns related to fraud, waste or abuse in NRC operations or NRC programs including retaliation against a person for raising such issues should be reported directly to the NRC Office of the Inspector General. The Inspector General's toll-free hotline is 800–233–3497.

[9] Except for the reporting of defects under 10 CFR Part 21 and in the area of radiological working conditions, the Commission has not codified this expectation. Licensees are required by 10 CFR 19.12 to train certain employees in their responsibility to raise issues related to radiation safety.

[10] The Commission intends to protect the identity of individuals who come to the NRC to the greatest extent possible. See ''Statement of Policy on Protecting the Identity of Allegers and Confidential Sources.''

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of May 13, 20, 27, and June 3, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 13

Monday, May 13

2:00 p.m.
Briefing on Commonwealth Edison (Public Meeting)

Wednesday, May 15

2:00 p.m.
Briefing on Performance Assessment Program in HLW, LLW, and SDMP (Public Meeting)
(Contact: Norman Eisenberg, 301–415–7285)

3:30 p.m.

Affirmation Session (Public Meeting) (if needed)

Week of May 20—Tentative

Wednesday, May 22

10:00 a.m.
Affirmation Session (Public Meeting) (if needed)
2:00 p.m.
Briefing by International Programs (Closed—Ex. 1)

Friday, May 24

9:30 a.m.
Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
(Contact: John Larkins, 301–415–7360)

Week of May 27—Tentative

Thursday, May 30

2:00 p.m.
Briefing on Status of Dry Cask Storage Issues (Public Meeting)
(Contact: William Travers, 301–415–8500)

Friday, May 31

10:00 a.m.
Briefing on NRC Inspection Activities (Public Meeting)
(Contact: Bill Borchardt, 301–415–1257)
11:30 a.m.
Affirmation Session (Public Meeting) (if needed)

Week of June 3—Tentative

Monday, June 3

10:00 a.m.
Briefing on Part 100 Final Rule on Reactor Site Criteria (Public Meeting)

Thursday, June 6

3:30 p.m.
Affirmation Session (Public Meeting) (if needed)

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)–(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: May 10, 1996.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–12214 Filed 5–10–96; 12:28 pm]

BILLING CODE 7590–01–M

POSTAL SERVICE

Sunshine Act Meeting; Notice of Vote To Close Meeting

At its meeting on May 6, 1996, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for June 3, 1996, in Philadelphia, Pennsylvania. The members will consider a filing with the Postal Rate Commission for classification reform of special services.

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Dyhrkopp, Fineman, Mackie, McWherter, Rider and Winters; Postmaster General Runyon, Deputy Postmaster General Coughlin, Secretary to the Board Koerber, and General Counsel Elcano.

The Board determined that pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information in connection with proceedings under Chapter 36 of title 39, United States Code (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39, United States Code.

The Board has determined further that pursuant to section 552b(c)(10) of title 5, United States Code, and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after opportunity for a hearing.

The Board further determined that the public interest does not require that the Board's discussion of these matters be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in her opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(3) and (10) of title 5, United States Code; section 410(c)(4) of title 39, United States Code; and section 7.3 (c) and (j) of title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, Thomas J. Koerber, at (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 96–12201 Filed 5–10–96; 1:39 pm]

BILLING CODE 7710–12–M

POSTAL RATE COMMISSION

[Docket No. A96–14; Order No. 1109]

Forest Grove, Montana 59441 (May A. Charbonneau, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5); Correction

AGENCY: Postal Rate Commission.

ACTION: Correction.

SUMMARY: In notice document 96–10340 beginning on page 18632 in the Federal Register issue of Friday, April 26, 1996, make the following correction:

On page 18632 in the second column, the expiration date of the Commission's 120-day decision schedule was previously listed as August 20, 1996. This should be changed to read August 13, 1996.

Dated: May 9, 1996.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 96–12082 Filed 5–13–96; 8:45 am]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 15g–2; SEC File No. 270–381; OMB Control No. 3235–0434.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (''Commission'') is publishing the following summary of collection for public comment.

Rule 15g–2 requires broker-dealers to provide their customers with a risk disclosure document, as set forth in Schedule 15G,[1] prior to their first non-

[1] Schedule 15G explains the risks of investing in penny stocks; important concepts associated with the penny stock market; the broker-dealer's duties to customers; a toll-free telephone number through which a customer may inquire about the disciplinary history of a broker-dealer; the

Continued

exempt transaction in a ''penny stock.'' The rule requires broker-dealers to obtain written acknowledgment from the customer that he or she has received the required risk disclosure document. The rule also requires broker-dealers to maintain a copy of the customer's written acknowledgment for at least three years following the date on which the risk disclosure document was provided to the customer, the first two years in an accessible place.

Approximately 270 broker-dealers are subject to Rule 15g–2, and each one of these firms will process an average of approximately 156 risk disclosure documents per year. The total ongoing respondent burden is approximately 4 minutes per response, or an aggregate total of 624 minutes per respondent. Since there are 270 respondents, the annual burden 2808 hours.

In addition, 270 broker-dealers will incur a recordkeeping burden of approximately one minute per response. Thus, respondents as a group will incur an aggregate annual recordkeeping burden of 702 hours. The total annual hour burden is 3510 hours.

The total cost of ongoing compliance for the respondents and recordkeepers is $70,200.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) way to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: May 3, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12036 Filed 5–13–96; 8:45 am]

BILLING CODE 8010–01–M

customer's rights and remedies in cases of fraud or abuse in connection with transactions in penny stocks; and certain other significant information.

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Horizon Mental Health Management, Inc., Common Stock, $.01 Par Value) File No. 1–13626

May 9, 1996.

The Horizon Mental Health Management, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the American Stock Exchange, Inc. (''Amex'').

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, its Board of Directors unanimously approved resolutions on March 21, 1996 to withdraw the Security from listing and registration on the Amex and to list the Security on the Nasdaq/NMS. The decision of the Board was based upon the belief that listing of the Security on the Nasdaq/NMS will be beneficial to the stockholders of the Company by:

(a) increasing the liquidity of the Security;

(b) capitalizing on a screen based market offered by the Nasdaq/NMS as opposed to the more site specific auction type market afforded by Amex; and

(c) increasing the visibility of the Security.

Any interested person may, on or before June 3, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–12039 Filed 5–13–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21943; 811–8258]

Warburg, Pincus Managed Bond Trust; Notice of Application

May 8, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT. Warburg, Pincus Managed Bond Trust.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on March 18, 1996 and amended on May 1, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the applications will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 3, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 466 Lexington Avenue, New York, N.Y. 10017–3147.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 942–0581, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end investment company organized as a business trust under the laws of the Commonwealth of Massachusetts on December 23, 1993. On December 30, 1993, applicant filed a notification of registration on Form N–8A under section 9(a) of the Act. On the same day,

applicant filed a registration statement on Form N–1A to register an indefinite number of share of beneficial interest under section 8(b) of the Act and the Securities Act of 1933. The registration statement was declared effective on September 30, 1994, and applicant's initial public offering commenced on October 3, 1994. Applicant consisted of one series, Warburg, Pincus Short-Term Tax-Advantage Bond Fund (''Fund''), which was composed of two separate classes of shares, Institutional shares and Gamma shares.

2. On February 8, 1996, applicant's board of trustees discussed whether to terminate applicant after being advised by its investment adviser, Warburg, Pincus Counsellors, Inc. (''Counsellors''), that applicant was no longer economically viable and that applicant's continuation was not in the best interests of its shareholders. Shortly thereafter, each of the Fund's existing shareholders was contacted by the Fund's distributor or another Fund agent to discuss with them their various options. By unanimous written consent dated February 27, 1996, the board approved a Plan of Dissolution, Liquidation, and Termination (''Plan'') providing for the liquidation, on February 27, 1996 (''Closing Date''), of all of applicant's assets and the distribution of all of the proceeds of the liquidation, in cash form, less an amount provided for applicant's outstanding obligations, taxes and other accrued or contingent liabilities, to applicant's sole shareholder, Counsellors.

3. On the Closing Date, final monthly dividends of $.0260 per Institutional share and $.0242 per Gamma share were paid to all shareholders of record as of February 26, 1996, which, together with all previous such dividends, had the effect of distributing to applicant's shareholders all of its investment company taxable income for the taxable year ended on or prior to the Closing Date. In addition, applicant distributed on the Closing Date all of its net capital gain realized in the taxable period ended on or prior to the Closing Date, which amounted to $.0724 per share for both Institutional and Gamma shares. The proceeds of applicant's liquidation were distributed on the Closing Date to applicant's sole shareholder in accordance with the Plan. All of the applicant's other shareholders redeemed their shares at net asset value on or prior to the Closing Date. Net asset value was determined by dividing applicant's assets, less liabilities, by the total number of its outstanding shares.

4. On February 14, 1996, applicant had 2,740,987 shares of beneficial interest of the Fund outstanding (2,575,021 of which were Institutional shares and 165,966 of which were Gamma shares), having an aggregate net asset value of $27,557,387 and a per share net asset value of $10.05 for Institutional shares and $10.06 for Gamma shares. All portfolio securities sold in connection with the liquidation were publicly traded debt instruments for which fair market value was received. As of the Closing Date, there were no shares of beneficial interest outstanding.

5. Certain expenses were incurred in connection with the liquidation, consisting of auditing and legal expenses. The expenses totalled approximately $18,500 and were borne by the applicant's investment adviser. No brokerage commissions were incurred in connection with the liquidation. No redemption fee was imposed in connection with the Plan. At the time of its liquidation, applicant had amortized all but approximately $137,340.67 of its organization expenses, which amount was absorbed by the investment adviser.

6. As of the date of the application, applicant had no shareholders, assets, or liabilities, and was not a party to any litigation or administrative proceeding. Applicant is neither engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

7. Applicant intends to file a notice of termination with the Office of the Secretary of the Commonwealth of Massachusetts to effect its termination as a Massachusetts business trust.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12038 Filed 5–13–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37171; File No. SR–NSCC–96–04]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change To Establish the Daily Price and Rate File Phase of the Mutual Fund Profile Service

May 8, 1996.

On January 19, 1996, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–NSCC–96–04) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') to establish the daily price and rate file phase of the mutual fund profile service.[1] On February 27, 1996, NSCC filed an amendment to the proposed rule change.[2] Notice of the proposal was published in the Federal Register on March 15, 1996.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

Under the rule change, NSCC will establish a mutual fund profile service (''MFPS'') for use by participating NSCC members and will implement the first phase of MFPS, the daily price and rate file. MFPS is intended to provide an automated method of transmitting and receiving information pertaining to mutual funds through a centralized and standardized facility.

NSCC members will join the MFPS either as MFPS data providers, MFPS data receivers, or both.[4] MFPS data providers will transmit electronically MFPS data to NSCC in a format developed by NSCC.[5] MFPS data providers will have the option as to the amount of data pertaining to them to include in MFPS. NSCC then will group and consolidate MFPS data to fit the format developed for distribution and will transmit the data to MFPS data receivers.[6] MFPS data will be transmitted between NSCC and MFPS users through mainframe and/or personal computer interfaces based on users' preferences, needs, and capabilities.

To ensure that MFPS users are capable of adequately using the service, NSCC proposes to limit initially the scope of the MFPS data to include only daily prices and dividend accrual rates

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[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letter from Julie Beyers, Associate Counsel, NSCC, to Christine Sibille, Division of Market Regulation, Commission (February 23, 1996).

[3] Securities Exchange Act Release No. 36942 (March 7, 1996), 61 FR 10831.

[4] Mutual funds and fund complexes are likely to be MFPS data providers but in many cases also may participate as MFPS data receivers. MFPS data receivers most likely will consist of broker-dealers or service bureaus.

[5] NSCC will accept batch input files between 4:00 a.m. and 8:00 p.m. E.S.T. Interactive participants can input data between 4:00 a.m. and 9:00 p.m. E.S.T. The system will be available Monday through Friday.

[6] For single and multibatch participants, NSCC will make available MFPS output every two hours between 6:00 a.m. and 4:00 p.m. E.S.T. and hourly from 4:00 p.m. to 9:00 p.m. E.S.T. Between 5:00 p.m. and 8:00 p.m. E.S.T., MFPS output also will be made available every half hour. Interactive participants will receive output as soon as it has been processed by the system.

of funds.[7] After MFPS data providers deliver the daily price and rate data to NSCC, NSCC will consolidate all such information into a daily price and rate file and will distribute such file to MFPS data receivers.[8] This file also will report price and rate corrections as they are identified by data providers.

MFPS data receivers also may elect to receive a file containing prices received from the National Association of Securities Dealers (''NASD'') for the current day. This file will include the net asset value for approximately 6,000 funds. NSCC will maintain historical data other than NASD price information within the database for a period of ninety days. NASD price information will be maintained for thirty days.

Other components of MFPS will be implemented in one or more phases after approval of the daily price and rate file.[9] These other components will include (i) the ''member profile'' which will maintain for each NSCC member participating in MFPS data such as personnel contacts, telephone numbers, addresses, commissions payment procedures, processing capabilities and information regarding NSCC members which act as agents for other NSCC members; (ii) the ''security issue profile'' which will maintain on each individual fund included in the profile information such as minimum purchase or maintenance requirements, fund features, and various fund processing characteristics; and (iii) the ''distribution declaration information profile'' which will include projected and/or actual record dates, ex-dates, reinvestment dates, and payable dates for fund dividend and capital gain payments and also may include Rule 12b–1 plan and other commission payout information. Member profile information and security issue profile information will be distributed only to specific NSCC members or to all NSCC members, depending on the instructions of the MFPS data provider. Due to the limited number of initial MFPS users and the limited value of the initial services, NSCC will not charge fees for MFPS at this time.[10]

II. Discussion

Section 17A(b)(3)(F)[11] of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of transactions. Furthermore, Section 17A(a)(1)(C) of the Act[12] sets forth a Congressional finding that new data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement. As discussed below, the Commission believes that NSCC's proposed rule change is consistent with NSCC's obligations under the Act.

Implementation of MFPS will allow NSCC participants to have access to up-to-date information on mutual fund daily prices and dividend accrual rates. This should assist NSCC participants in the timely processing of mutual fund transactions. The Commission believes that the use of MFPS should thus aid in the overall processing efficiency of mutual fund transactions and thereby should help remove impediments to and enhance the mechanism of a national market system for the clearance and settlement of securities transactions. Furthermore, automation and standardization of mutual fund information should help to reduce processing difficulties resulting from the use of inaccurate or incomplete mutual fund information. MFPS also should improve the flow of mutual fund information among participating NSCC members as the current methods of obtaining such information tend to be time consuming, labor intensive, and prone to error. This should assist in fostering cooperation and coordination among persons engaged in the clearance and settlement of securities transactions.

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–NSCC–96–04) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–12037 Filed 5–13–96; 8:45 am]

BILLING CODE 8010–01–M

[7] Currently, NSCC members obtain fund price and rate information in a variety of ways including paper transmittals, facsimile, and telephone.

[8] Once submitted, price and rate information cannot be deleted but can be corrected.

[9] Pursuant to Section 19(b)(3)(A) of the Act, NSCC will be required to file with the Commission proposed rule changes regarding all future phases of MFPS prior to the implementation of each such phase, which will be effective upon filing, as long as implementation and use of subsequent MFPS phases will occur as described in this order. Any deviations in the manner of implementation or in the use of subsequent MFPS phases will require proposed rule changes to be filed in accordance with Section 19(b)(2) of the Act.

[10] NSCC will file with the Commission an appropriate rule change proposal to implement fees and charges for MFPS.

[11] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[12] 15 U.S.C. § 78q–1(a)(1)(C) (1988).

[13] 17 CFR 200.30–3(a)(12) (1995).

SMALL BUSINESS ADMINISTRATION

[License No. 03/73–0203]

Blue Rock Capital, L.P.; Notice of Issuance of a Small Business Investment Company License

On Wednesday, December 6, 1995, a notice was published in the Federal Register (Vol. 60, No. 234, FR 62525) stating that an application had been filed by Blue Rock Capital, L.P., at 511 Twaddell Mill Road, Wilmington, Delaware, 19807, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1995)) for a license to operate as a small business investment company.

Interested parties were given until close of business Thursday, December 21, 1995 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/73–0203 on Friday, April 19, 1996, to Blue Rock Capital, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 8, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–11952 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–U

[License No. 03/03–0204]

CoreStates Enterprise Capital, Inc.; Notice of Issuance of a Small Business Investment Company License

On Wednesday, December 6, 1995, a notice was published in the Federal

Register (Vol. 60, No. 234, 60 FR 62525) stating that an application had been filed by CoreStates Enterprise Capital, Inc., at 1345 Chestnut Street, Philadelphia, Pennsylvania, 19107 with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1995)) for a license to operate as a small business investment company.

Interested parties were given until close of business Thursday, December 22, 1995 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/03–0204 on Friday, April 19, 1996, to CoreStates Enterprise Capital, Inc. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: May 8, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–11950 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–P

[License No. 06/76–0310]

First Capital Group of Texas II, L.P.; Notice of Issuance of a Small Business Investment Company License

On Wednesday, February 7, 1996, a notice was published in the Federal Register (Vol. 61, No. 26, 61 FR 4704) stating that an application had been filed by First Capital Group of Texas II, L.P, at 750 East Mulberry, Suite 305, San Antonio, Texas 78212, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 C.F.R. 107.300 (1996)) for a license to operate as a small business investment company.

Interested parties were given until close of business Thursday, February 22, 1996 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 06/76–0310 on Friday, April 19, 1996, to First Capital Group of Texas II, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies).

Dated: Wednesday, May 8, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–11951 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–P

[License No. 02/02–0565]

Societe Generale Capital Corporation; Notice of Issuance of a Small Business Investment Company License

On Wednesday, February 14, 1996, a notice was published in the Federal Register (Vol. 61, No. 31, FR 5829) stating that an application had been filed by Societe Generale Capital Corporation, at 1221 Avenue of the Americas, 8th Floor, New York, New York 10020, with the Small Business Administration (SBA) pursuant to Section 107.300 of the Regulations governing small business investment companies (13 C.F.R. 107.300 (1996)) for a license to operate as a small business investment company.

Interested parties were given until close of business Thursday, February 29, 1996 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02–0565 on Friday, April 19, 1996, to Societe Generale Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 8, 1996.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 96–11953 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–U

[Declaration of Disaster Loan Area #2849]

Arkansas; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on April 23, 1996, and an amendment thereto on April 24, I find that Crawford, Franklin, Madison, Marion, Sebastian, and Washington Counties in the State of Arkansas constitute a disaster area due to damages caused by severe storms and tornadoes which occurred April 21 and 22, 1996. Applications for loans for physical damages may be filed until the close of business on June 24, 1996, and for loans for economic injury until the close of business on January 23,1997 at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Baxter, Benton, Boone, Carroll, Johnson, Logan, Newton, Scott, and Searcy Counties in Arkansas; Adair, LeFlore, and Sequoyah Counties in Oklahoma; and Ozark and Taney Counties in Missouri.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.250
Homeowners Without Credit Available Elsewhere	3.625
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 284912. For economic injury the numbers are 883500 for Arkansas, 883600 for Oklahoma, and 883800 for Missouri.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 7, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–11955 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–P

Houston District Advisory Council Public Meeting

The U.S. Small Business Administration, Houston District Advisory Council will hold a public meeting on Thursday, May 30, 1996 from 1:30 p.m. in the SBA Conference Room, at their offices at 9301 Southwest Freeway, Suite 550, Houston, Texas 77074–1591, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Milton Wilson, Jr., District Director, U.S. Small Business Administration, 9301 Southwest Freeway, Suite 550, Houston, TX 77074–1591, (713) 773–6500.

Dated: May 7, 1996.

Bill Combs,

Associate Administrator for Office of Communication and Public Liaison.

[FR Doc. 96–11954 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–U

[Declaration of Disaster Loan Area #2850]

Illinois; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on April 23, 1996, and an amendment thereto on April 30, I find that Champaign, Henry, Lake, Macon, and Marion Counties in the State of Illinois constitute a disaster area due to damages caused by severe storms and tornadoes which occurred April 18 and 19, 1996. Applications for loans for physical damages may be filed until the close of business on June 24, 1996, and for loans for economic injury until the close of business on January 23, 1997 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Bureau, Christian, Clay, Clinton, Cook, DeWitt, Douglas, Edgar, Fayette, Ford, Jefferson, Knox, Logan, McHenry, McLean, Mercer, Moultrie, Pliatt, Rock Island, Sangamon, Shelby, Stark, Vermilion, Washington, Wayne, and Whiteside Counties in Illinois; and Kenosha County, Wisconsin.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.250
Homeowners Without Credit Available Elsewhere	3.625
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 285012. For economic injury the numbers are 883700 for Illinois and 884000 for Wisconsin.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 7, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–11956 Filed 5–13–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2380]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea and Associated Bodies; Working Group on Stability and Load Lines and on Fishing Vessels Safety; Notice of Meeting

The Working Group on Stability and Load Lines and on Fishing Vessels Safety of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 9 a.m. on Thursday, May 30, 1996, in Room 4315, at U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593–0001. This meeting will discuss the upcoming 40th Session of the Subcommittee on Stability and Load Lines and on Fishing Vessels Safety (SLF) and associated bodies of the International Maritime Organization (IMO) which will be held on September 2–6, 1996, at the IMO Headquarters in London, England.

Items of discussion will include the following:

a. The role of human factors in marine casualties;

b. Harmonization of probabilistic damage stability provisions for all ship types;

c. Technical revisions to the 1966 Load Line Convention;

d. Safety aspects of ballast water exchange;

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Paul Cojeen or Mr. Jaideep Sirkar, U.S. Coast Guard Headquarters, Commandant (G–MMS–2), Room 1308, 2100 Second Street, SW, Washington, DC 20593–0001 or by calling: (202) 267–2988.

Dated: May 2, 1996.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–11998 Filed 5–13–96; 8:45 am]

BILLING CODE 4710–70–M

[Public Notice No. 2381]

Shipping Coordinating Committee Council and Associated Bodies; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 10:00 a.m on Tuesday, June 11, 1996, in Room 6103, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. The purpose of the meeting is to finalize preparations for the 76th session of the Council and the 42nd Session of the Technical Cooperation Committee of the International Maritime Organization (IMO), which is scheduled for June 17–21, 1996, at IMO Headquarters in London. At the meeting, discussions will focus on papers received and draft U.S. positions. Among other things, the items of particular interest are:

a. Reports of the IMO committees.

b. Review of the IMO technical cooperation activities.

c. Relations with the United Nations.

d. Reports for World Maritime University and International Maritime Law Institute.

e. Work program and budget for 1996–1997.

f. Administrative and financial matters.

Members of the public may attend the meeting up to the capacity of the room. Interested persons may seek information by writing: Mr. Gene F. Hammel, U.S. Coast Guard Headquarters (G–CI), 2100 Second Street, SW., Room 2114, Washington, DC 20593–0001, by calling: (202) 267–2280, or by faxing: (202) 267–4588.

Dated: May 2, 1996.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96–11999 Filed 5–13–96; 8:45 am]

BILLING CODE 4710–70–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

Reports, Forms and Recordkeeping Requirements

AGENCY: Department of Transportation (DOT), United States Coast Guard.

ACTION: Notice and request for comments.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 USC Chapter 35).

DATES: Interested parties are invited to submit comments on or before July 8, 1996.

ADDRESSES: Written comments on the DOT information collection request should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the DOT information collection requests submitted to OMB may be obtained from Barbara Davis, 2100 Second Street, S.W.; G–SII; Washington, D.C. 20593, Telephone number (202) 267–2326.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1995, requires that agencies prepare a notice for publication in the Federal Register, listing those information collection requests submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements as required by 5 CFR 1320.8(d). This notice identifies a new information collection that the United States Coast Guard is submitting to OMB for approval. USCG will request a three term of approval for this information collection requirement when approved by OMB.

The following information collection request was submitted to OMB on May 8, 1996:

OMB No: 2115–New.

Administration: United States Coast Guard.

Title: Security for Passenger Vessels and Passenger Terminals.

Summary: The proposed collection-of-information requirements are under various provisions in parts 120.300; 120.305; 120.307; 128.300; 128.305; and 128.307. This information collection is needed to protect the public from injury, prevent damage to property, and avoid economic losses.

Frequency: Once for each covered vessel and terminal; then, on occasion of amendment of plan.

Burden Estimate: 18,684 hours.

Respondents: 173.

Form(s): None.

Average Burden Hours Per Respondent: 108 hours.

Issued in Washington, D.C. on May 8, 1996.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 96–12031 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–14–P

Federal Aviation Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration.

ACTION: Notice and request for comments.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 USC Chapter 35).

DATES: Interested persons are invited to submit comments on or before June 7, 1996.

ADDRESSES: Written comments on the DOT information collection requests should be forwarded, as quickly as possible, to Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, S.W.; Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION: Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1995, requires that agencies prepare a notice for publication in the Federal Register, listing those information collection requests submitted to OMB for approval or renewal under that Act. OMB reviews and approves agency submissions in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms and the reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Items Submitted to OMB for Review

The following information collection requests were submitted to OMB on May 8, 1996:

Title: Dealer's Aircraft Registration Certification Application.

OMB Control Number: 2120–0024.

Abstract: An application for dealer's certificate is filled out by any individual or company engaged in manufacturing, distributing or selling aircraft who want to fly those aircraft with a dealer's certificate instead of registering them permanently in his name.

Need: Title 49, United States Code, Subpart III, Chapter 441, Sections 44103–44106, provides for the issuance of dealer's aircraft registration certificates. The information is needed by the Civil Aviation Registry to determine eligibility of applicant to receive Dealer's Certificate and issue the same to the correct name and address.

Respondents: The respondents are an estimated 1283 individuals or companies engaged in manufacturing, distributing or selling aircraft who want to fly those aircraft with a dealer's certificate instead of registering them permanently in his/her name.

Frequency: On occasion.

Burden: 962 hours annually.

Title: Airport Operating Certificate.

OMB Control Number: 2120–0063.

Abstract: To operate an airport serving air carriers, a person must obtain and maintain an Airport Operating Certificate. The application initiates the certification process including airport inspection and documentation of safe airport operations and equipment. The certification remains valid if safety standards are maintained as verified by inspections, records, and reports.

Need: 49 USC 44706 makes unlawful the operation of an airport servicing air carrier aircraft designed for more than 30 passenger seats without or in violation of the terms of an Airport perating Certificate (AOC).

Respondents: Approximately 650 State, Local or Tribal Governments operating airports.

Frequency: On occasion.

Burden: Approximately 173,069 hours annually.

Comments on these collections should be submitted to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., Washington, DC 20503, Attention: Desk Officer for FAA.

Issued in Washington, D.C. on May 8, 1996.

Phillip A. Leach,

Information Clearance Officer, United States Department of Transportation.

[FR Doc. 96–12032 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–P

Establishment of the Office of Dispute Resolution for Acquisition (ODR)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment.

SUMMARY: The Federal Aviation Administration (FAA) is announcing the establishment, within the FAA Office of the Chief Counsel, of the Office of Dispute Resolution for Acquisition (ODR). Protests and contract disputes related to FAA Screening Information Requests (SIRs), contract awards, and contracts, must be filed directly with this office.

ADDRESSES: The complete text of the FAA's new Acquisition Management System (including the section on Resolution of Protests and Disputes) is available on the Internet at http://www.faa.gov/asu/asu100/acq-reform/acq__home.htm. Use of the Internet World Web Site is strongly encouraged for access to copies of the FAA Acquisition Management System. If Internet service is not available, requests for copies may be made to the following address: FAA Acquisition Reform, ASU–100, Rm. 435, 800 Independence Ave. SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Jerome P. Jones, Jr., Acting Director, Office of Dispute Resolution, Federal Aviation Administration, 800 Independence Avenue SW.—Suite 900 East, Washington, DC 20591, (202) 267–3222. Please also use this address when filing protests or contract disputes with the FAA.

SUPPLEMENTARY INFORMATION: On October 31, 1995, Congress passed an act, Making Appropriations for the Department of Transportation and Related Agencies, for the Fiscal Year Ending September 30, 1996, and for Other Purposes (the 1996 DOT Appropriations Act). On November 15, 1995, the President signed this bill into law. In Section 348 of this law, Congress directed the Administrator of the FAA to develop and implement a new acquisition management system that addresses the unique needs of the agency. At a minimum, this system is to provide for more timely and cost-effective acquisitions. The FAA's new acquisition management system went into effect on April 1, 1996 [see Notice of availability at 61 FR 15155 (April 4, 1996)]. As part of this system, the FAA has developed an internal mechanism for resolving disputes, one that will help ensure that offerors and contractors are treated fairly and that disputes are resolved as quickly and inexpensively as possible for all parties. Protests concerning SIRs and award of contracts, as well as disputes pertaining to contract administration, will be resolved, within the agency, through the FAA Dispute Resolution System. The new system will rely heavily on Alternative Dispute Resolution (ADR) techniques.

The FAA Office of Dispute Resolution is established as an organization that is independent of agency organizations responsible for procurement actions and that reports to the FAA Chief Counsel. In addition to a Director, the office staff will, in time, include other Dispute Resolution Officers as warranted. The office is located at FAA Headquarters. On a case-by-case basis, the ODR staff may be augmented by Dispute Resolution Officers in the FAA's regional offices and centers or by third party neutrals, as deemed necessary by the FAA Chief Counsel. The FAA will promulgate rules of procedure governing the dispute resolution process. Until these rules are finalized, procedures and other provisions related to dispute resolution will be included or referenced in all FAA SIRs and contracts, made available to offerors and contractors upon request, or provided through briefings.

Issued in Washington, DC, on May 7, 1996.

Nicholas G. Garaufis,

Chief Counsel, AGC–1.

[FR Doc. 96–12084 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–M

Powered Parachute Design Standards for Acceptance Under Primary Category

AGENCY: Federal Aviation (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of design standards for powered parachutes achieving acceptance under primary category. Powered parachute design standards are applicable designs providing one-to-four seats, 2,700 pound maximum takeoff weight, and minimum level flight speed of 61 knots or less.

DISCUSSION: Sport aviation, essentially a fly-for-fun activity, is dependent upon simple, low performance, low cost airplanes. The FAA recognizes this in the creation of primary category (14 CFR part 21, § 21.17), which establishes a simpler process for certification, production control, and establishment of design standards for all types of aircraft. In view of the fully supportive comments, this notice makes available design standards for powered parachute airplanes. The value of this class of airplane is demonstrated by the number of 14 CFR part 103 ultralite and amateur-built designs currently active with over 500,000 flight hours accumulated.

ADDRESSES: Copies of Powered Parachute Design Standards can be obtained from the following: Small Airplane Directorate, Standards Office (ACE–110), Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106.

FOR FURTHER INFORMATION CONTACT: Terre Flynn, Standards Staff (ACE–110), telephone number (816) 426–6941.

Issued in Kansas City, Missouri, on May 8, 1996.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–12083 Filed 5–13–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Modesto City-County Harry Sham Field Airport, Modesto, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to use revenue from a PFC at Modesto City-County Harry Sham Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508)) and 14 CFR Part 158.

DATES: Comments must be received on or before June 13, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009 or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr.

Howard Cook, Airport Manager of the Modesto City-County Airport at the following address: 617 Airport Way, Modesto, California 95354. Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Modesto under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (415) 876–2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Modesto City-County Harry Sham Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508)) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). On April 26, 1996, the FAA determined that the application to use the revenue from a PFC submitted by the city of Modesto was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 1, 1996.

The following is a brief overview of the application:

Level of proposed PFC: $3.00.

Proposed charge effective date: August 1, 1994.

Proposed charge expiration date: August 1, 2000.

Total Estimated PFC revenue to be used on this use project: $17,800.

Brief description of the use projects: Runway 10L/28R Aircraft Holding Bays.

Class or classes or air carriers which the public agency has requested not be required to collect PFCs: Air Taxi Operators.

This project was previously approved as an impose only project contained within an overall PFC package which was approved on May 23, 1994. Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of Modesto, CA.

Issued in Hawthorne, California, on April 26, 1996.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 96–12087 Filed 5–14–96; 8:45 am]

BILLING CODE 4910–13–M

Surface Transportation Board [1]

[Docket No. AB–454X]

The Bay Line Railroad, L.L.C.—Abandonment Exemption— in Jackson and Holmes Counties, FL

AGENCY: Surface Transportation Board.

ACTION: Notice of Exemption.

SUMMARY: The abandonment by The Bay Line Railroad, L.L.C. of its Graceville Branch, consisting of 9.19 miles of rail line between milepost 61.3, near Campbellton, and milepost 70.49, at Graceville, in Jackson and Holmes Counties, FL, is exempted from the prior approval requirements of 49 U.S.C. 10903-04, subject to standard employee protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 13, 1996. Formal expressions of intent to file an OFA [2] under 49 CFR 1152.27(c)(2) must be filed by May 24, 1996; petitions to stay must be filed by May 29, 1996; requests for a public use condition must be filed by June 3, 1996; and petitions to reopen must be filed by June 10, 1996.

ADDRESSES: Send pleadings referring to Docket No. AB-454X to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) Petitioner's representative Patricia E. Dietrich, Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, DC 20036.

[1] The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., 1201 Constitution Avenue, N.W., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: April 29, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–12054 Filed 5–13–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board [1]

[Docket No. AB–6 (Sub-No. 367X)]

Burlington Northern Railroad Company—Abandonment Exemption—in Crawford County, KS

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of exemption.

SUMMARY: The Board exempts from the prior approval requirements of 49 U.S.C. 10903–04 the abandonment by Burlington Northern Railroad Company of its line of railroad from milepost 134.20 to milepost 135.18 and milepost 136.70 to milepost 139.10, a total distance of 3.38 miles in Pittsburg, Crawford County, KS, subject to standard labor protective and environmental conditions. Interim trail use and a public use condition are imposed for the line segment from milepost 136.70 to milepost 139.10.

DATES: Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 13, 1996. Formal expressions of intent to

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10903. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

file an OFA under 49 CFR 1152.27(c)(2)[2] must be filed by May 24, 1996; petitions to stay must be filed by May 29, 1996; requests for a public use condition conforming to 49 CFR 1152.28(a)(2) must be filed by June 3, 1996; and petitions to reopen must be filed by June 10, 1996.

ADDRESSES: Send pleadings referring to Docket No. AB–6 (Sub-No. 367X) to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423, and (2) Petitioner's representative: Sarah J. Whitley, 3800 Continental Plaza, 777 Main St., Fort Worth, TX 76102–5384.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: May 1, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–12052 Filed 5–13–96; 8:45 am]

BILLING CODE 4915–00–P

Surface Transportation Board[1]

[Docket No. AB–289 (Sub-No. 3X), AB–290 (Sub-No. 168X)]

Central Railroad Company of Indianapolis—Discontinuance of Service Exemption—Between Kokomo and Argos in Howard, Miami, Fulton, and Marshall Counties, IN; Norfolk and Western Railway Company—Abandonment Exemption—Between Kokomo and Rochester in Howard, Miami, and Fulton Counties, IN

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption and interim trail use DOT.

SUMMARY: The Board exempts from the prior approval requirements of 49 U.S.C. 10903–04: (a) Norfolk and Western Railway Company's (N&W) abandonment of its line between milepost I–57.2 at or near Kokomo, IN, and milepost I–74.2, at Peru, IN; (b) N&W's discontinuance of service over the segment of the line between milepost I–74.2, at Peru, and milepost I–95.6, at or near Rochester, IN, and abandonment of this line segment, provided that the abandonment of this segment may not be consummated until Indiana Hi-Rail Corporation's discontinuance of its trackage rights over this segment has been authorized; and (c) Central Railroad Company of Indianapolis's discontinuance of service over 51.4 miles of rail line between milepost I–57.2, at or near Kokomo, and milepost I–108.6 at or near Argos, IN, in Howard, Miami, Fulton, and Marshall Counties, IN, subject to standard employee protective, environmental, trail use, and public use conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 13, 1996. Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2)[2] and requests for interim trail use/rail banking under 49 CFR 1152.29 must be filed by May 24, 1996. Petitions to stay must be filed by May 29, 1996. Requests for a public use condition must be filed by June 3, 1996. Petitions for reopening must be filed by June 10, 1996.

ADDRESSES: Send pleadings, referring to Docket Nos. AB–289 (Sub-No. 3X) and AB–290 (Sub-No. 168X), to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423–0001; and (2) Petitioners' representatives: Thomas F. McFarland, Jr., Belnap, Spencer, McFarland and Herman, 20 North Wacker Drive, Suite 3118, Chicago, IL 60606–3101; and Robert J. Cooney, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–7513. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC NEWS & DATA, INC., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423–0001. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: April 26, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–12053 Filed 5–13–96; 8:45 am]

BILLING CODE 4915–00–P

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[2] *See Exempt. of Rail Line Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to proceedings that were pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction under 49 U.S.C. 10903. Therefore, citations are to former sections of the statute.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1995 Rev., Supp. No. 13]

Surety Companies Acceptable on Federal Bonds: The Connecticut Surety Company

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1995 Revision, on page 34439 to reflect this addition:

The Connecticut Surety Company. BUSINESS ADDRESS: City Place II, 185 Asylum Street, Hartford, CT 06103–3403. PHONE: (860) 527–7806. UNDERWRITING LIMITATION *b*/: $942,000. SURETY LICENSES *c*/: AR, CA, CT, DE, DC, LA, NE, NY, ND, OH, PA, SC, TX. INCORPORATED IN: Connecticut.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet (http://www.ustreas.gov/treasury/bureaus/finman/c570.html) or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6817/6872/6953/7034/8608. A hard copy may be purchased from the

Government Printing Office (GPO), Washington, DC, telephone (202) 512–0132. When ordering the Circular from GPO, use the following stock number: 048–000–00489–0.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, telephone (202) 874–6765.

Dated: April 30, 1996.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc 96–12099 Filed 5–13–96; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1995 Rev., Supp. No. 14]

Surety Companies Acceptable on Federal Bonds; Evergreen National Indemnity Company

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1995 Revision, on page 34440 to reflect this addition:

Evergreen National Indemnity Company. BUSINESS ADDRESS: P.O. Box 18295, Columbus, OH 43218. PHONE: (614) 893–1773. UNDERWRITING LIMITATION *b*/: $1,077,000. SURETY LICENSES *c*/: AL, AK, CO, DE, DC, GA, ID, IA, KY, MI, MN, MT, NJ, NM, ND, OH, OK, PA, SC, SD, TN, UT, WA, WI. INCORPORATED IN: Ohio.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet (http://www.ustreas.gov/treasury/bureaus/finman/c570.html) or through our computerized public bulletin board system (FMS Inside Line) at (202) 874–6817/6872/6953/7034/8608. A hard copy may be purchased from the Government Printing Office (GPO), Washington, DC, telephone (202) 512–0132. When ordering the Circular from GPO, use the following stock number: 048–000–00489–0.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, telephone (202) 874–6765.

Dated: May 1, 1996.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 96–12100 Filed 5–13–96; 8:45 am]

BILLING CODE 4810–35–M

Internal Revenue Service

Announcement of Open Membership Application Period for the Information Reporting Program Advisory Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

SUMMARY: In 1991 the Internal Revenue Service (IRS) established the Information Reporting Program Advisory Committee (IRPAC). The primary purpose of IRPAC is to provide an organized public forum for discussion of relevant information reporting issues between the officials of the IRS and representatives of the payer community. IRPAC offers constructive observations about current or proposed policies, programs, and procedures, and when necessary, suggests ways to improve the operation of the Information Reporting Program. IRPAC is currently comprised of 20 representatives from various segments of the private sector payer community. Ten of these appointments to IRPAC will expire at the end of 1996. Additional members will be selected for two-year terms beginning in January 1997. National business, technical, and professional associations are encouraged to submit *multiple* nominees.

SUPPLEMENTARY INFORMATION: IRPAC reports to the National Director, Service Center Compliance, who is the executive responsible for information reporting and is charged with its system-wide planning and improvement. IRPAC is instrumental in providing advice to enhance the IRP Program. Increasing participation by external stakeholders in the planning and improvement of the tax system will help achieve the goals of increasing voluntary compliance and reduction of burden. IRPAC members are not paid for their time or services, but consistent with Federal regulations, they will be reimbursed for their travel and lodging expenses to attend two two-day public meetings each year. IRPAC members are expected to attend and pay their own way to four subcommittee meetings each year; these meetings are generally held in Washington, DC or New York, NY.

The IRS is interested in representation from different areas of the payer community (e.g., software developers, small business, real estate, forms developers, corporate compliance, property and casualty insurance, employee plans, etc.). Anyone wishing to be considered for membership on IRPAC should so advise the IRS. Please complete the following application questionnaire (or a facsimile thereof prepared on a word processor), and forward it to Ms. Kate LaBuda of the Office of Payer Compliance, at the address below.

ADDRESSES: Internal Revenue Service, CP:CO:SC:P, 1111 Constitution Avenue, N.W., Room 2013, Washington, DC 20224.

DATE: Completed questionnaires (or facsimiles) should be received by IRS no later than Friday, June 14, 1996. Questionnaires received after this date will not be considered. An acknowledgment letter will be sent upon receipt.

FOR FURTHER INFORMATION CONTACT: To have a copy of the application questionnaire mailed or faxed to you, please call Ms. Tommie Matthews at 202–622–4214 (not a toll-free number). For general information about the application process or IRPAC, call Kate LaBuda at 202–622–3404 (not a toll-free number).

Dated: May 6, 1996.

Approved:

Robert Longford,

Acting Director, Officer of Payer Compliance.

Attachment

Information Reporting Program Advisory Committee

Membership Application Questionnaire

The following questions must be answered by anyone interested in becoming a member of the Information Reporting Program Advisory Committee (IRPAC). Applications (or facsimiles produced on a word processor) must be received at the address listed below by June 14, 1996. Those received after this date will not be considered. All applications received will be acknowledged. Questions may be directed to Kate LaBuda at 202–622–3404.

Ms. Kate LaBuda, CP:CO:SC:P, Internal Revenue Service, Room 2013, 1111

Constitution Avenue, N.W.,
Washington, DC 20224

1. Name:
2. Title:
3. Company or Organization Name:
4. Business Address:
5. Business Phone:
6. Fax Number:
7. Home Address:
8. Home Phone:
9. If you are applying on behalf of an organization or association other than your employer, please state the name, and address of that organization. Also, provide a letter of reference from that organization stating that you are nominated on their behalf. This letter should contain the name of a contact and this contact's phone number.
10. List professional credentials (e.g., Ph.D., CPA, Enrolled Agent, Attorney, Accountant, etc.)
11. Check the one segment of the Information Reporting Program (IRP) payer community to which the organization that you represent, and your experience, most closely relate:

____ Real Estate
____ Transmitter/Forms Developer
____ Software Developer
____ Insurance: Property & Casualty
____ Insurance: Life
____ Securities
____ Mutual Funds
____ Payroll
____ State & Local Government
____ Corporate Compliance
____ Small Business Compliance
____ Public Accounting
____ Employee Plans
____ Trust Company
____ Corporate Transfer Agent/Utilities
____ Large Financial Institution
____ Small Financial Institution
____ Other (Please specify. ____)

12. List the number of years of IRP-related experience you have, and specific sources of this IRP experience. (Account for all years of IRP experience claimed.)
13. Identify organizations to which you belong and any relevant leadership positions you have held.
14. List any previous IRS employment (please state position/s, title/s, and length of time in each position):
15. Please propose two topic ideas that you feel would be appropriate for discussion by IRPAC. Include a short description (two sentences) of each topic.
16. Have you ever served on IRPAC or the Commissioner's Advisory Group (CAG)? If so, please explain. Do you currently have an application pending for CAG membership?

The Following Three Items Are Required for an FBI Name Check:

17. Date of Birth:
18. Place of Birth:
19. Other names ever used:

The Following Items Are Required for an IRS Tax Check (Please Note That a Tax Check Is Not a Tax Audit)

I hereby authorize the Internal Revenue Service to perform the standard Federal Advisory Committee member tax check, (pursuant to 26 U.S.C. 6103; 5 U.S.C. 1303; Executive Orders 9397, 11222, 10450; CFR 5.2; 31 CFR Part O, Treasury Department Order Nos. 82 (Revised) and 150–87) and to provide this information to the Assistant Secretary (Administration) of the Treasury Department.

I understand that the purpose of such tax check and income tax filing record check is to promote public confidence in the integrity of the Treasury Department and its administration of the Federal tax system. I have been advised that my Social Security Number is required to identify my tax records accurately. I also understand that this tax check must be completed prior to my appointment to this Federal Advisory Committee and I hereby voluntarily provide the following information:

20. Social Security Number (SSN):
21. Spouse's name and SSN (if married and filing jointly):
22. Name(s) and address(es) under which tax returns were filed for the past three years.

The Following Item Is Required Because of the Foreign Agents Registration Act (FARA), As Amended

23. I presently ____ am / ____ am not required to register as an agent of a foreign principal under FARA, as amended.

Note: Pursuant to 18 U.S.C. sec. 219, an individual who is required to register as an agent of a foreign principal under FARA is prohibited from serving on IRPAC. By executing this questionnaire, you agree that (1) if you are required to register as an agent of a foreign principal under the FARA before your term commences on IRPAC, you will terminate any and all such agencies prior to beginning your tenure and will provide appropriate verification therefor; and (2) you will immediately resign from IRPAC if you become such an agent at any time during your term.

Certification

24. I certify that, to the best of my knowledge and belief, all of my statements are true, correct, complete, and made in good faith. I also agree to the background checks set forth herein.

_____
Signature

_____
Date

[FR Doc. 96–12090 Filed 5–13–96; 8:45 am]
BILLING CODE 4830–01–U

federal register

Tuesday
May 14, 1996

Part II

Environmental Protection Agency

40 CFR Part 141

National Primary Drinking Water Regulations: Monitoring Requirements for Public Drinking Water Supplies; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[WH–FRL–5501–1]

RIN 2040–AC24

National Primary Drinking Water Regulations: Monitoring Requirements for Public Drinking Water Supplies: Cryptosporidium, Giardia, Viruses, Disinfection Byproducts, Water Treatment Plant Data and Other Information Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today, EPA is promulgating an information collection rule (ICR) which establishes monitoring and data reporting requirements for large public water systems (PWSs). This rule is intended to provide EPA with information on the occurrence in drinking water of (1) chemical byproducts that form when disinfectants used for microbial control react with chemicals already present in source water (disinfection byproducts (DBPs)) and (2) disease-causing microorganisms (pathogens), including Cryptosporidium. Also, EPA will collect engineering data on how PWSs currently control such contaminants. All data collected pursuant to this rule will be available to the public via the Internet.

This information is being collected because a Regulatory Negotiation on disinfectants and DBPs concluded that additional information is needed to assess the potential health problem created by the presence of DBPs and pathogens in drinking water and to assess the extent and severity of risk in order to make sound regulatory and public health decisions. These contaminants may have adverse human health effects, including cancer, liver and kidney damage, and may cause microbial disease such as cryptosporidiosis and hepatitis.

EPA will use information generated by this rule, along with concurrent research, to determine whether revisions need to be made to EPA's current drinking water filtration and disinfection rule and to determine the need for new regulations for disinfectants and DBPs.

EPA has determined that the rule's objectives can be satisfied, and sufficient information collected, by requiring only large PWSs to collect the data. Surface water systems serving at least 100,000 people and ground water systems serving at least 50,000 must monitor. EPA will supplement this information with EPA-funded surveys that target smaller PWSs. The specific information required is based on the number of people served, the source of water (i.e., surface water or ground water), and the type(s) of treatment used.

Although *Cryptosporidium* is an important drinking water pathogen, it poses difficult measurement challenges. To ensure quality of data, EPA has and will continue to take extraordinary steps. The first is to continue an extensive method analysis and possible improvements. The second is to establish stringent laboratory approval criteria to increase *Cryptosporidium* data quality for developing a national occurrence data base and conducting a national cost assessment of possible future rules. Finally, EPA will supplement the collection of *Cryptosporidium* data in this rule with a separate, EPA-funded survey. EPA believes this combination of data collection activities will produce the best data possible.

DATES: The effective date for this final rule is June 18, 1996. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of June 18, 1996. This rule shall remain effective until December 31, 2000.

The information collection requirements contained in subpart M of part 141 have not been approved by the Office of Management and Budget (OMB) and are not effective until OMB has approved them. EPA will publish a final rule announcing the effective date when OMB approves the information collection requirements.

ADDRESSES: Copies of the public comments received, EPA responses, and all other supporting documents (including references included in this notice) are available for review at the U.S. Environmental Protection Agency (EPA) Drinking Water Docket (MC–4101), 401 M Street SW, Washington, DC 20460. For access to Docket materials, call (202) 260–3027 between 9 am and 3:30 pm (Eastern) for an appointment. Copies of major supporting documents cited in the reference section of this notice are available for inspection at EPA's regional offices, listed below. Copies of ''ICR Sampling Manual'', ''DBP/ICR Analytical Methods Manual'', ''ICR Manual for Bench- and Pilot-scale Studies'', ''ICR Microbial Laboratory Manual'', ''Reprints of EPA Methods for Chemical Analyses under the Information Collection Rule'', and ''ICR Water Utility Database System Users' Guide'' are available for a fee from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. The toll-free number is 800–336–4700, local 703–487–4650. Copies of ''Standard Methods for the Examination of Water and Wastewater'', 19th Ed., 1995, are available from the American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005. Copies of ''Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources'', Appendices C and O, 1991, are available from American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, Telephone (800) 426–4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9:00 am to 5:30 pm Eastern Time. Since this rule will be directly implemented by EPA rather than States, EPA recommends that inquiries be directed to EPA. For technical inquiries, contact Tom Grubbs or Paul S. Berger, Ph.D., Office of Ground Water and Drinking Water (4603), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, telephone (202) 260–7270 (Grubbs) or (202) 260–3039 (Berger). For implementation inquiries, contact Barbara Wysock, Technical Support Division, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, telephone (513) 569–7906, or your EPA regional office.

SUPPLEMENTARY INFORMATION:

EPA Regional Office Points of Contact for the Information Collection Rule

I. Kevin Reilly, Water Supply Section, JFK Federal Bldg., Room 203, Boston, MA 02203, (617) 565–3619

II. Michael Lowy, Water Supply Section, 290 Broadway, 24th Floor, New York, NY 10007–1866, (212) 637–3830

III. Ghassan Khaled, Drinking Water Section (3WM41), 841 Chestnut Building ,Philadelphia, PA 19107, (215) 597–8992

IV. David Parker, Water Supply Section, 345 Courtland Street, Atlanta, GA 30365, (404) 347–2913 ext. 6493

V. Kimberly Harris, Water Supply Section, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–2650

VI. Blake L. Atkins, Team Leader, Water Supply Section, 1445 Ross Avenue, Dallas, TX 75202, (214) 665–2297

VII. Stan Calow, State Programs Section, 726 Minnesota Ave., Kansas City, KS 66101, (913) 551–7410

VIII. Bob Benson or Bob Clement, Public Water Supply Section (8WM–DW), 999 18th Street, Suite 500, Denver, CO 80202–2466, (303) 312–6243 (Benson), (303) 312–6079 (Clement)
IX. Barry Pollock, Water Supply Section, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1913
X. Wendy Marshall, Drinking Water Unit, 1200 Sixth Avenue (OW–136), Seattle, WA 98101, (206) 553–1890

Regulated Entities

Entities potentially regulated by this action are public water systems that treat surface water and serve at least 100,000 people and public water systems that treat ground water and serve at least 50,000 people. Regulated categories and entities include:

Category	Example of regulated entities
Public water systems	Public water systems that treat surface water and serve at least 100,000 people. Public water systems that treat ground water and serve at least 50,000 people.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether your public water system is regulated by this action, you should carefully examine the applicability criteria in § 141.141 of the rule. If you have questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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Abbreviations Used in This Notice

°C—degrees Celsius
CFR—Code of Federal Regulations
CT—product of disinfectant residual concentration (C (mg/l)) and contact time (T (minutes))
DBP—disinfection byproduct
D/DBPR—Disinfectants/Disinfection Byproducts Rule
DSE—distribution system equivalent
EPA—Environmental Protection Agency
ESWTR—Enhanced Surface Water Treatment Rule
equ—equivalents
ft—foot or feet
ft^2—square feet
ft^3—cubic feet
FR—Federal Register
GAC—granular activated carbon
gpd—gallons per day
GWUDI—ground water under the direct influence of surface water
HAA5—haloacetic acids (five)
HAA6—haloacetic acids (six)
HAN—haloacetonitriles
HK—haloketones
ICR—Information Collection Rule
MGD—million gallons per day
mg/l—milligrams per liter
nm—nanometers
OMB—Office of Management and Budget
PE—performance evaluation
psi—pounds per square inch
PWS—public water system
PWSID—public water system identification
RSSCT—rapid small-scale column test
SCFM—standard cubic feet per minute
SDS—simulated distribution system
THM4—trihalomethanes (four)
TOC—total organic carbon
TOX—total organic halides
TTHM—total trihalomethanes
µm—micrometers
UFCTOX—Uniform formation conditions for total organic halides
U.S.C.—United States Code
WIDB—Water Industry Data Base

I. Summary of Regulation

Acting under the requirement of the Safe Drinking Water Act to regulate additional contaminants that may cause adverse health effects, EPA convened a regulatory negotiation in 1992 due to concerns over the health effects of chemical byproducts (known as disinfection byproducts (DBPs)). DBPs form in drinking water when disinfectants used for microbial control react with organic and inorganic chemicals already present in source water. The regulatory negotiation was convened to determine how the risk-risk issue of controlling the level of DBPs in drinking water on the one hand while controlling exposure to disease-causing microbes (pathogens) on the other hand is best addressed.

The Negotiating Committee, consisting of representatives of State and local regulatory and public health agencies, local elected officials, consumer groups, public water systems (PWSs), environmental groups, and EPA, met for more than six months to develop a plan to concurrently control DBPs and microorganisms. The Committee determined that an important component of their plan would be to develop additional information to better define the problem and better identify possible solutions. To develop this information, the Committee agreed that PWSs should be required to collect occurrence and treatment data to characterize disinfectants, DBPs, and microorganisms in drinking water. The Committee also decided that some PWSs should conduct treatment studies to evaluate the use of granular activated carbon or membranes to remove DBP precursors. The information collected, in addition to concurrently conducted health effects and technology research, will be used to evaluate the need for possible changes to the current Surface Water Treatment Rule (SWTR) and to evaluate the need for future regulations for disinfectants and DBPs. All data collected pursuant to this rule will be available to the public via the Internet. (See Section III below and the preamble to the proposed Information Collection Rule (ICR) [59 FR 6332, February 10, 1994] for a more detailed discussion of the regulatory negotiation process).

Today, EPA is promulgating an information collection rule (ICR) which requires large PWSs to generate and provide the Agency with specific monitoring data and other information characterizing their water systems. There are three classes of PWSs affected, each somewhat differently, by this rule. The three general classes are: (1) PWSs that serve at least 100,000 people and use surface water; (2) PWSs that serve at least 100,000 people, and use only ground water as the source; and (3) PWSs that serve at least 50,000, but less than 100,000, people and use ground water as the source. Throughout this rule and preamble, requirements for

PWSs or treatment plants that use ground water under the direct influence of surface water as a source are the same as those for surface water.

Table I–1 contains a summary of today's rule, which will appear in subpart M to 40 CFR Part 141.

TABLE I–1.—GENERAL SUBPART M REQUIREMENTS [1]

Type of PWS [2]	DBP and related monitoring [3]	Microbial Monitoring [4]	Treatment Studies [5]
PWS using surface water [6] serving ≥100,000	Yes—monthly for 18 months	Yes—monthly for 18 months	Yes.
PWS using ground water serving ≥100,000	Yes—monthly for 18 months	NA	Yes.
PWS using ground water serving 50,000 to <100,000	NA	NA	Yes.

[1] These are general requirements and do not include regulatory allowances for reduced monitoring and other specific provisions provided in the rule.

[2] Population served will include both retail and wholesale populations. Specific instructions for calculating population served are included in the rule.

[3] DBP and related monitoring includes monitoring for DBPs and other parameters at specified locations throughout the treatment plant. Also, PWSs will be required to characterize treatment processes in the treatment plant. Monitoring includes disinfectant residuals, trihalomethanes, haloacetic acids, haloacetonitriles, haloketones, chloral hydrate, chlorite, chlorate, bromide, bromate, total organic halides (TOX), total organic carbon (TOC), and general water quality parameters.

[4] Microbiological monitoring includes monitoring for specific pathogens and microbial indicators: total culturable viruses, total coliforms, fecal coliforms or E. coli, Giardia, and Cryptosporidium.

[5] PWSs must conduct treatment study applicability monitoring and, unless avoidance criteria are met, bench- or pilot-scale treatment studies to determine the effectiveness of granular activated carbon (GAC) or membranes in reducing the levels of precursors to the formation of disinfection byproducts.

[6] Includes PWSs using ground water under the direct influence of surface water.

A major issue with this rule is the adequacy of the protozoa analytical method to generate meaningful occurrence information for *Cryptosporidium*. The analytical method is relatively new and difficult to conduct. Even experienced laboratories have had widely varying results. EPA has worked over the last couple of years to improve the method and evaluate its performance under field conditions. The most recent round of testing showed laboratories recovering between 5% and 21% of the *Cryptosporidium* known to be present. However, despite its generally acknowledged limitations, this method is the best method either currently available or anticipated to be available in the near future and EPA is confident that data produced by approved laboratories will enable the Agency to develop a reliable national occurrence data base and national cost impact estimates for various scenarios of regulations.

In making its determination whether the protozoa analytical method is adequate to yield meaningful results, EPA focussed on how the data were to be used. Specifically, the data generated under this rule will be used to develop a national occurrence data base and national cost impact estimates for various scenarios of regulations which could be promulgated to reduce microbiological risk. Also, these data may be used in conjunction with results of dose-response health effects research to develop benefit estimates for regulatory options. ICR data would not be used, except at the option of the PWS, to make compliance determinations with future rules. At the national level, EPA will aggregate data from PWS samples analyzed at different laboratories so that the range of relative error is much smaller, nationally, than it would be for a single PWS. EPA developed statistically based data quality objectives which indicated that, even if *Cryptosporidium* recovery averaged only 8%, the range of uncertainty in cost estimates would be no greater than with previously issued drinking water rules. The reason the recovery rate can be this low is because of the large number of PWSs (over 300) which would be generating data. With a much smaller sample size, a higher range of recovery would be needed. With such a large data base, EPA's independently evaluated statistical analysis shows that an 8% recovery rate can provide a reliable adjustment factor from which to estimate national occurrence. EPA believes that, with the stringent laboratory approval requirements contained in this rule, recovery rates will meet this minimum requirement. As added insurance that the data will be useful, EPA intends to conduct a companion survey of 50 PWSs where the data are analyzed by a single laboratory meeting even more stringent requirements than those imposed in this rule. The results from this survey will augment the ICR-generated data and improve their statistical reliability.

II. Statutory Authority

The Safe Drinking Water Act (SDWA, or the Act), as amended in 1986, requires EPA to publish maximum contaminant level goals (MCLGs) for contaminants which may have an adverse effect on human health and are known or anticipated to occur in PWSs. For such contaminants, EPA must also promulgate national primary drinking water regulations (NPDWRs) which specify either maximum contaminant levels (MCLs) or treatment techniques (42 U.S.C. 300g–1). An MCL must be set as close to the MCLG as feasible.

Under the Act, PWSs can be required to ''establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations, [or] * * * in evaluating the health risks of unregulated contaminants''. 40 U.S.C. 300j–4. This provision authorizes EPA to require systems to monitor and provide the Agency with these data as well as other data characterizing the systems, including source and treated water quality.

In addition, the Act defines NPDWRs to include ''criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels; including quality control and testing procedures * * *''. 40 U.S.C. 300f(1)(D). This provision authorizes EPA to require systems and laboratories to use Agency-approved methods and quality assurance criteria for collecting and analyzing water samples. EPA is using these information collection authorities as the basis for promulgating the ICR.

III. Regulatory Background

EPA has issued two regulations intended to control pathogens in public water supplies—the Total Coliform Rule (54 FR 27544, June 29, 1989) and the Surface Water Treatment Requirements (SWTR) (54 FR 27486, June 29, 1989). A

third regulation, the Groundwater Disinfection Rule, is currently under development and will add further protection for systems using ground water.

In addition to these regulations, EPA concluded that it was necessary to address disinfectants and chemical byproducts that form when disinfectants used for microbial control in drinking water react with various organic and inorganic chemicals in the source water. Chronic exposure to various DBPs may cause cancer, liver and kidney damage, heart and neurological effects, and effects to unborn children. In 1992, EPA instituted a formal regulatory negotiation (reg-neg) process to develop the Disinfectants/Disinfection Byproducts Rule (D/DBPR) (57 FR 53866, November 13, 1992). This negotiation was discussed in the proposed rule.

In the course of the discussions, the Negotiating Committee determined that insufficient data were available on DBPs to make appropriate regulatory decisions. The Committee was concerned about the risk from DBPs, on one hand, and microbial risk on the other. As disinfectant use is decreased to decrease the formation of DBPs, the risk of microbial illness increases. Microbes cause many diseases, including giardiasis, cryptosporidiosis, dysentery, and hepatitis. For individuals with weakened immune systems, these diseases can be fatal.

The Committee recommended that additional data be developed on health effects, occurrence of and exposure to these contaminants, and on the capabilities of treatment technologies to reduce levels of these contaminants. Committee members were also concerned about limited data available on microbial contaminants in water. (See preamble of proposed ICR for a more detailed discussion of the need for additional data and rationale for the proposed monitoring and reporting requirements. 59 FR 6332 (February 10, 1994).) The Committee agreed to proceed with the proposal of regulatory actions but at the same time to initiate a process for developing additional data for future regulatory decisions. Accordingly, the Committee developed three proposed rules: (a) the Information Collection Rule (ICR) (59 FR 6332, February 10, 1994), (b) the ''interim'' Enhanced Surface Water Treatment Rule (ESWTR) (59 FR 38832, July 29, 1994), and (c) the D/DBPR (59 FR 38668, July 29, 1994). It is the ICR that is the subject of this final rulemaking.

The Negotiating Committee's development of the three proposed rules was based on: (1) the need to take prudent immediate steps by proposing a Stage 1 D/DBP rule and an interim ESWTR and (2) the need to develop additional data through monitoring and research for future regulatory decisions that would support refinements to the proposed interim ESWTR, and development of the long-term ESWTR and Stage 2 D/DBP rule.

The information collected under this rule will be used to determine the most effective regulatory option(s) to reduce exposure to pathogens, disinfectants, and DBPs. All can have adverse effects on human health. Over 200 million people will benefit from these rules once they are fully effective. Preliminary estimates of the annual benefits of the rules could be the avoidance of many cases of disease, including as many as several thousand cancer cases and 500,000 cases of giardiasis, and control of the parasite *Cryptosporidium*. Accordingly, today's final rule, which requires this additional information, meets the direction and objectives of the Negotiating Committee.

The ICR is designed to obtain both microbial and DBP occurrence, exposure, and treatment data for input into the ESWTR and Stage 2 D/DBP rule, as outlined below, and is expected to require the expenditure of an estimated $130 million over three years by a segment of PWSs. The commitment by the public water supply community to support this collection of additional data is linked to EPA's commitment to provide (1) adequate quality control procedures for collecting and managing the information obtained under the ICR and (2) additional funding, especially on health effects research, for properly interpreting ICR data.

The Negotiating Committee also agreed that more data, especially monitoring data, should be collected under the ICR to assess possible shortcomings of the SWTR and to develop appropriate remedies, if needed, to prevent increased risk from microbial disease as systems begin complying with the Stage 1 D/DBP Rule. It was also agreed that EPA would propose an interim ESWTR for systems serving at least 10,000 people that included a wide range of regulatory alternatives. Data gathered under the ICR will form the basis for developing the most appropriate criteria among the options presented in the proposed interim ESWTR. Eventually a long-term ESWTR would include possible refinements to the interim ESWTR and be applicable to all system sizes. The interim and long-term ESWTR rules would become effective concurrently with the requirements of the Stage 1 D/DBP rule for the respective different system sizes.

The Negotiating Committee also agreed that additional data on the occurrence of disinfectants, DBPs, and potential surrogates for DBPs; source water and within-treatment plant conditions affecting the formation of DBPs; and bench- and pilot-scale information on the removal of DBP precursors would be useful for developing Stage 2 D/DBP regulatory criteria beyond those currently being considered for proposal in Stage 1. Additional data will be developed on potential consumer exposures, acute short-term health effects, and chronic health effects through a concurrent EPA-sponsored research program. These data will support important decisionmaking that will be required when promulgating the Stage 2 D/DBPR.

IV. Description of Today's Action

This preamble briefly summarizes the background of the ICR, the major elements of the regulations, and the major changes from the proposal. The proposed ICR (59 FR 6332, February 10, 1994) includes a detailed discussion of the lengthy regulatory negotiation process that led to the development of the ICR and is an essential part of the record for the decisions made in this final action. While the discussions from the proposed ICR are not generally repeated here, this preamble occasionally cites the proposed rule where such references are useful.

The purpose of the ICR is to establish specific data collection requirements for PWSs and to identify the exact manner in which the data are to be collected and transmitted to the Agency. Most of the requirements are presented in the rule in tabular format, because of the diverse characteristics of the PWSs subject to the ICR. EPA also concluded that technical manuals would be the most efficient way of communicating the detailed requirements of the ICR to those who are actually responsible for implementing the regulations. These technical manuals are incorporated by reference into the ICR. These manuals will be sent by EPA to those PWSs subject to the requirements of the rule. These technical manuals can also be obtained through the National Technical Information Service.

A. New Terms (§ 141.140)

EPA has developed new definitions to address specific issues raised by the ICR and to respond to commenters' questions concerning applicability and monitoring requirements. The definitions in § 141.140 apply only to

the regulatory requirements of this rule (i.e., 40 CFR Part 141, subpart M).

B. General Applicability

1. Notice of Applicability (§§ 141.142(c)(2)(i) and 141.143(c)(3)(i))

In Appendix B of the proposed ICR, EPA included lists of PWSs that it expected would have to comply with at least some of the proposed ICR requirements, based on the Agency's own data system, on the Water Industry Data Base (WIDB), or both. EPA requested comment on the accuracy of these lists. Based on public comments and input from EPA regions and States, the Agency developed an updated list of PWSs that are expected to comply with subpart M requirements. Each of these PWSs will receive a Notice of Applicability. Upon receiving a Notice of Applicability, a PWS must reply within 35 days, specifically identifying the subpart M requirements that apply to each treatment plant operated by the PWS. A PWS that believes that it does not meet applicability criteria must so indicate in its response to EPA's Notice of Applicability.

Although EPA has expended considerable effort to identify all of the PWSs subject to subpart M, it is possible that an affected PWS may not have been identified. Failure to receive a Notice of Applicability does not relieve a PWS of its responsibility for compliance. A PWS that meets the applicability requirements, but does not receive an EPA Notice of Applicability, must contact the ICR Utilities Coordinator, TSD, USEPA, 26 West Martin Luther King Drive, Cincinnati, OH 45268, so the Agency can send the necessary materials.

2. Applicability Determinations

In order to account for both retail and wholesale populations served by treated water produced by a PWS, and to determine specific monitoring requirements for each treatment plant operated by the PWS, each PWS subject to this regulation must calculate the population served by its entire system and by each of its plants. To make these calculations, the PWS must complete Appendix A to § 141.141(a). A PWS that serves no retail population is required to use an EPA-developed equation to calculate the wholesale population that it serves and determine applicability (Cummins, 1987). This equation, included in Appendix A, was developed from hundreds of data points showing the relationship between flow and population served.

For the ICR, a treatment plant includes any site where a disinfectant or oxidant is added to the water prior to the water entering the distribution system (e.g., a chlorinator at a well). A PWS that uses multiple wells drawing from the same aquifer and has no central treatment plant is considered to have one treatment plant for those wells and must monitor accordingly.

C. Applicability of ICR Requirements to Specific Classes of PWSs

The following discussion identifies the ICR requirements that are applicable to each class of PWSs covered by this final rule. Sections D–G explain each of these requirements in greater detail.

1. PWSs Serving at Least 100,000 People and Using Surface Water, or Ground Water Under the Direct Influence of Surface Water, as a Source

a. Monitoring for DBPs and Related Parameters

All PWSs in this class must monitor for DBPs, DBP precursors, and other chemical parameters at specific locations throughout each treatment plant operated by the PWS on a monthly basis for a period of 18 months. Such PWSs also must characterize treatment processes (e.g., filtration or sedimentation) monthly for the 18 month period. The only exception to this requirement is that PWSs receiving all of their water from a supplier and not further disinfecting that water at the entrance to their distribution system are not required to conduct such monitoring.

In addition, for each treatment plant that uses chloramines, hypochlorite solution, ozone, or chlorine dioxide for treatment or disinfection residual maintenance, a PWS must conduct an analysis of parameters related to those disinfectants, such as cyanogen chloride for PWSs that use chloramines. This additional monitoring must also be conducted by PWSs that disinfect finished water at the entrance to their distribution system and receive that water from a PWS that treated the water with chloramines, hypochlorite solution, ozone, or chlorine dioxide.

b. Monitoring for Disease-causing Microorganisms and Microbial Indicators

Unless a PWS meets the requirements for reduced monitoring (as described in section E), all PWSs in this class must: (1) monitor their source water at the intake of each treatment plant that treats surface water for *Cryptosporidium*, *Giardia*, total culturable viruses, total coliforms, and fecal coliforms or *Escherichia coli* (*E. coli*); and (2) monitor their finished water for these microorganisms when *Cryptosporidium* and *Giardia* exceed 10 per liter in the source water, or when total culturable virus levels exceed one per liter in the source water.

c. Treatment Studies

i. Treatment Study Applicability (Total Organic Carbon (TOC)) Monitoring

All PWSs must monitor for TOC to determine at which treatment plants they must conduct treatment studies. PWSs must conduct TOC monitoring at the following locations:

—At the influent of each treatment plant that treats surface water and serves a population of 100,000 people or more.
—On finished water at each treatment plant serving a population of 100,000 people or more and using ground water as the source.
—For PWSs that serve at least 100,000 people but have no individual treatment plant serving 100,000 or more, PWSs must conduct TOC monitoring at the treatment plant serving the largest population. PWSs must monitor for TOC at the influent of the treatment plant if it treats surface water and must monitor finished water if it treats ground water.

ii. Bench- and Pilot-scale Treatment Studies

Unless a PWS qualifies for one of the exceptions discussed in section F of this preamble, PWSs in this class must conduct bench- and/or pilot-scale treatment studies to determine the effectiveness of granular activated carbon (GAC) or membranes in reducing the levels of DBP precursors.

2. PWSs Serving at Least 100,000 People, Using Only Ground Water as a Source

a. Monitoring for DBPs and Related Parameters

All PWSs in this class must monitor for DBPs, DBP precursors, and other chemical parameters at specific locations throughout each treatment plant operated by the PWS on a monthly basis for a period of 18 months. Such PWSs also must characterize treatment processes (e.g., aeration or ion exchange) monthly for the 18 month period. The only exception to this requirement is that PWSs receiving all of their water from a supplier and not further disinfecting that water at the entrance to their distribution system are not required to conduct such monitoring.

In addition, for each treatment plant that uses chloramines, hypochlorite solution, ozone, or chlorine dioxide for treatment or disinfection residual

maintenance, a PWS must conduct an analysis of parameters related to those disinfectants. This additional monitoring must also be conducted by PWSs that disinfect finished water at the entrance to their distribution system and receive that water from a PWS that treated the water with chloramines, hypochlorite solution, ozone, or chlorine dioxide.

b. Treatment Studies

i. Treatment Study Applicability (TOC) Monitoring

All PWSs must monitor for TOC to determine at which treatment plants they must conduct treatment studies. PWSs must conduct TOC monitoring at the following locations:

—On finished water at each treatment plant serving a population of 100,000 people or more and using ground water as the only source.

—For PWSs that serve at least 100,000 people but have no individual treatment plant serving 100,000 or more, PWSs must conduct TOC monitoring on finished water at the treatment plant serving the largest population.

ii. Bench- and Pilot-scale Treatment Studies

Unless a PWS qualifies for one of the exceptions provided in section F of this preamble, PWSs in this class must conduct bench- and/or pilot-scale treatment studies to determine the effectiveness of granular activated carbon (GAC) or membranes in reducing the levels of DBP precursors.

3. PWSs Serving at Least 50,000 People, But Less Than 100,000, and Using Ground Water as a Source

PWSs serving at least 50,000, but less than 100,000, (with at least 50,000 served by ground water) are required to monitor for TOC in the finished water at the treatment plant serving the largest population. Subsequently, unless a PWS qualifies for one of the exceptions provided in section F, PWSs in this class must conduct bench- and/or pilot-scale treatment studies to determine the effectiveness of granular activated carbon (GAC) or membranes in reducing the levels of DBP precursors.

D. Disinfection Byproducts (DBPs) and Related Monitoring Requirements

1. General Monitoring (§§ 141.141(c) and 141.142(a))

PWSs affected by this requirement must conduct monthly monitoring for DBPs, DBP precursors, and other chemical parameters at each treatment plant and in the distribution system. These PWSs will also be required to characterize treatment processes (e.g., filtration and sedimentation) in the treatment plant on a monthly basis for 18 months. PWSs receiving all of their water from a supplier and not further disinfecting that water at the entrance to the distribution system are not required to conduct any monitoring under this rule.

2. Additional Monitoring Requirements for PWSs Using Chloramines, Hypochlorite Solution, Ozone, or Chlorine Dioxide (§§ 141.142(a) (2)–(5))

For each treatment plant that uses chloramines, hypochlorite solution, ozone, or chlorine dioxide for treatment or disinfection residual maintenance, a PWS must also conduct an analysis of such parameters as cyanogen chloride, chlorate, pH, temperature, free residual chlorine, bromide, bromate, ammonia, and aldehydes. For consecutive systems (i.e., PWSs receiving finished water from another PWS), the receiving PWS must consult with the provider to ensure that all such additional analyses are completed. For example, the rule requires a PWS covered by the ICR that receives finished water that has been treated with chlorine dioxide to conduct additional monitoring of parameters such as chlorite, chlorate, chlorine dioxide residual, and aldehydes. A PWS receiving finished water has the obligation to determine whether the water it receives has been treated with chloramines, chlorine dioxide, ozone, or hypochlorite solution and what additional monitoring, if any, is required, and to conduct the necessary monitoring.

3. Analytical Methods (§ 141.142(b))

For conducting the required analyses, PWSs are required to use the methods specifically approved for subpart M. With the exception of optional analyses for assimilable organic carbon (AOC) and biodegradable organic carbon (BDOC), only results from laboratories that have been approved by EPA to perform sample analyses for DBPs will be acceptable. Laboratories may apply for approval under the provisions of § 141.142(b)(2).

E. Microbiological Monitoring Requirements

1. Monitoring (§§ 141.141(d) and 141.143(a))

a. Source Water Monitoring

Microbiological monitoring requirements include monitoring for disease-causing microorganisms, such as *Cryptosporidium* and *Giardia*, total culturable viruses, and indicator organisms. To be eligible for reduced monitoring, a PWS must notify EPA in its response to the EPA Notice of Applicability of its plans to reduce monitoring, which is available under the following provisions:

—A PWS may avoid the requirement to conduct finished water monitoring of *Cryptosporidium* and *Giardia* (§ 141.143(a)(2)(iii)) by complying instead with alternative monitoring requirements, including particle counting at several locations within the treatment plant.

—A PWS may avoid virus monitoring (§ 141.143(a)(2)(iv)), if the PWS has monitored for total coliforms, fecal coliforms, or *E. coli* in the treatment plant influent for at least five days/week for any consecutive six month period beginning January 1, 1994, and 90 percent of all samples taken in that six-month period contain no greater than 100 total coliforms/100 milliliters (ml), or 20 fecal coliforms/100 ml, or 20 *E. coli*/100 ml. For purposes of making this determination, PWSs may use source water coliform data collected under the SWTR. EPA and the Negotiating Committee agreed that raw waters that contained densities of total coliforms, fecal coliforms, or E. coli lower than the specified density value were unlikely to contain measurable levels of viruses.

b. Finished Water Monitoring

PWSs must conduct finished water monitoring at any treatment plant at which it detects, during the first 12 months of monitoring, 10 or more *Giardia* cysts, or 10 or more *Cryptosporidium* oocysts, or one or more total culturable viruses, per liter of water. The PWS must analyze finished water samples for the same organisms analyzed for in source water until 18 months of source water microbial monitoring are completed.

c. Archiving

If either *i* or *ii* below occurs, PWSs must arrange to submit samples of treatment plant influent and finished water to EPA for virus archiving each month until the 18 months of microbial monitoring are complete.

i. After the PWS learns that viruses were detected in any previous sample of finished water.

ii. After the PWS learns that a density of at least 10 viruses per liter was detected in any previous treatment plant influent sample.

2. Analytical Methods (§ 141.143(b))

PWSs are required to use the analytical methods approved for subpart

M for pathogens and indicator organisms. In addition, systems are required to use EPA-approved laboratories for analysis of *Giardia, Cryptosporidium,* and total culturable viruses. As proposed, a PWS must use laboratories certified for microbiology analyses under the EPA or State drinking water program for the analysis of total coliforms, fecal coliforms, and *E. coli.* Laboratory approval criteria for *Giardia, Cryptosporidium,* and total culturable viruses are found in the ''ICR Microbial Laboratory Manual'', EPA 600/R–95/178, April 1996. Periodically, the Agency will update the list of EPA-approved laboratories under this rule.

F. Disinfection Byproduct Precursor Removal Studies: Bench- and Pilot-Scale Treatment Studies and Treatment Study Applicability Monitoring

1. Determination of Treatment Study Requirements: Treatment Study Applicability (TOC) Monitoring (§ 141.141(e) (2)–(3)

To determine which treatment plants will be required to conduct bench- and/or pilot-scale testing, PWSs are required to conduct treatment study applicability monitoring. Treatment study applicability monitoring requires monitoring for TOC for 12 consecutive months. PWSs must monitor for TOC in the influent of each treatment plant that treats surface water and serves a population of 100,000 people or more. For treatment plants serving a population of 100,000 people or more and using ground water as the source, TOC monitoring must be conducted on finished water. For PWSs that serve at least 100,000 people but have no individual treatment plant serving 100,000 or more, TOC monitoring must be conducted at the treatment plant serving the largest population. PWSs serving at least 50,000, but fewer than 100,000 (with at least 50,000 served by ground water), are required to monitor finished water TOC at the treatment plant serving the largest population. A PWS operating multiple treatment plants using the same source is only required to conduct one treatment study for those treatment plants.

2. Treatment Study Requirements (§ 141.144(b))

Treatment studies will consist of bench- and/or pilot-scale testing systems for at least one of the two appropriate candidate technologies (granular activated carbon (GAC) or membrane processes) for the reduction of organic DBP precursors. The treatment studies must be designed to yield representative performance data and to allow the development of treatment cost estimates for different levels of organic DBP control. To simulate the most likely treatment scenario, treatment studies will need to be conducted with the effluent from the treatment processes that are already in place to remove DBP precursors and TOC. PWSs are required to conduct pilot-scale studies at treatment plants serving 500,000 people or more and may conduct either bench- or pilot-scale studies at those serving fewer than 500,000.

a. Bench-scale Testing (§ 141.144(b)(1))

Bench-scale tests are continuous flow tests using the rapid small scale column test (RSSCT) for GAC and either flat sheet or single-element bench test apparatus for membranes. Water to be used in bench-scale tests must be representative of water which would be applied to the advanced treatment full-scale technology. The testing will include the information specified in this rule and in the ''Manual for Bench- and Pilot-scale Treatment Studies'', EPA 814–B–96–003, April 1996. EPA has provided utilities flexibility to select a bench-scale protocol appropriate for its circumstances.

b. Pilot-scale Testing (§ 141.144(b)(2))

PWSs must conduct pilot-scale tests as continuous flow tests. For GAC, the PWS must use GAC of a particle size representative of that used in full-scale practice, a pilot GAC column with a minimum inner diameter of 2.0 inches, and hydraulic loading rate (volumetric flow rate/column cross-sectional area) representative of that used in full-scale practice. For membranes, the PWS must use a staged array to achieve a recovery of at least 75%. Pilot-scale testing must include the information specified in this rule and in the ''Manual for Bench- and Pilot-scale Treatment Studies'', EPA 814–B–96–003, April 1996.

3. Treatment Study Exceptions (§§ 141.141(e)(3) and 141.141(e)(7)(i))

PWSs that would otherwise be required to conduct a bench- and/or pilot-scale treatment study are exempt from treatment study requirements if they operate treatment plants that:

—Use chlorine as both the primary and residual disinfectant and have, as an annual average, levels less than 40 micrograms per liter (μg/l) for THM4 and less than 30 μg/l for HAA5. The quarterly average is calculated by averaging results from all individual distribution system samples taken during the quarter. The annual average is calculated by averaging the four quarterly averages.

—Use surface water that does not exceed a TOC level of 4.0 milligrams per liter (mg/l) in the treatment plant influent, when calculated by averaging the 12 monthly TOC samples.

—Use ground water not under the direct influence of surface water that does not exceed a TOC level of 2.0 mg/l in the finished water, when calculated by averaging the 12 monthly TOC samples.

—Already use full-scale GAC or membrane technology. These PWSs must submit full-scale plant data and data that show that the technology effectively removes DBP precursors and must monitor the full-scale process to comply with DBP and related monitoring requirements.

4. Joint Studies (§§ 141.141(e)(4) and 141.141(e)(7)(ii))

PWSs that use common water resources and similar treatment trains (e.g., conventional filtration treatment or softening) may conduct joint treatment studies with other PWSs. A PWS operating more than one treatment plant using similar treatment trains on the same source is not required to conduct multiple studies. PWSs wishing to conduct joint studies must submit a letter of intent to EPA signed by all PWSs planning to participate in the study, as well as the additional information specified in § 141.141(e)(7)(ii) of the rule. Once all applicability monitoring is complete, each PWS must formally apply for EPA approval of a joint study. The minimum number and type of treatment studies to be conducted in a joint study are specified in § 141.141(e)(4) of the rule.

5. Alternatives to Treatment Studies (§§ 141.141(e)(5) and 141.141(e)(7)(iii))

In lieu of conducting a treatment study, a PWS may apply to EPA to contribute funds to a cooperative research effort. The PWS must show in its application to EPA that the treatment plant for which the waiver of the treatment study is sought uses a common water resource which is being studied by another PWS or a cooperative of PWSs. If EPA approves the application, the PWS shall contribute funds for use in a dedicated cooperative research program related to disinfectants, DBPs, and enhanced surface water treatment. The mandatory contributions that must be made under this option are as follows: $300,000 for a treatment plant serving a population of 500,000 or more, and $100,000 for a treatment plant serving a population of fewer than 500,000.

6. Grandfathered Studies (§§ 141.141(e)(6) and 141.141(e)(7)(iv))

PWSs that have conducted studies of precursor removal using GAC or membrane technology and which meet specified criteria may use the results of those studies, if approved by EPA, in lieu of conducting another treatment study. PWSs using grandfathered studies must submit appropriate information on the earlier studies, such as data, study description, equipment used, protocol, analytical methods, and information to develop a full-scale cost estimate, and obtain EPA approval.

G. Dates, Schedules and Reporting Requirements

EPA intends to notify PWSs that they are subject to this rule. PWSs receiving a Notice of Applicability from EPA must respond within 35 days of receipt.

1. Sampling Plans (§ 141.141(f))

PWSs required to comply with subpart M requirements must submit sampling plans to EPA for review and approval no later than eight weeks after receiving sampling software and requirements from EPA. Once EPA notifies the PWS that the plan has been approved, the PWS must begin monitoring the following month.

2. Monitoring

PWSs must begin treatment study applicability monitoring (i.e., TOC monitoring) no later than three months from the date the rule is published in the Federal Register, regardless of whether the sampling plan has been approved. For other applicable monitoring requirements, a PWS must begin monitoring the month after receiving notice that the PWS's sampling plan has been approved by EPA. If the PWS must conduct both DBP and microbiological monitoring, the PWS must begin monitoring for both in the same month.

3. Data Reporting (§§ 141.142(c) and 141.143(c))

PWSs must submit monthly monitoring reports electronically on diskettes in the format that EPA has prescribed and will be providing to affected PWSs. This electronic reporting is necessary because of the need for EPA to evaluate and manipulate the data.

4. Treatment Studies (§ 141.141(f)(4))

A PWS must begin treatment studies not later than 23 months from the date that the ICR is published in the Federal Register. PWSs must submit a report of each completed treatment study not later than 38 months after the final rule appears in the Federal Register.

H. Summary

Table IV–1 below provides a listing of the requirements contained in today's rule cross-referenced to the section of the rule where each requirement appears.

TABLE IV–1.—SUMMARY OF SUBPART M REGULATORY REFERENCES

Subject	DBP and related monitoring	Microbiological monitoring	Treatment studies
Definitions	§ 141.140	§ 141.140	§ 141.140
PWS applicability	§ 141.141(b)	§ 141.141(b)	§ 141.141(b)
Treatment plant applicability	§ 141.141 (b), (c)	§ 141.141 (b), (d)	§ 141.141 (b), (e)
Schedule	§ 141.141(f)(2)	§ 141.141(f)(3)	§ 141.141(f)(4)
Monitoring requirements	§ 141.142(a)	§ 141.143(a)	§ 141.144 (a), (b)
Analytical methods	§ 141.142(b)	§ 141.143(b)	§ 141.144(c)
Reporting requirements	§ 141.142(c)	§ 141.143(c)	§ 141.144(d)

V. Significant Changes to the Proposed Rule

In response to comments received during the public comment period, EPA made many changes to the rule. All comments were evaluated, and EPA has prepared a comment-response document that contains EPA's responses to those public comments. That document, along with other documents that support the rule, is available in the Drinking Water Docket. The following sections provide a discussion of the most significant comments considered.

A. Rule Applicability

The most far-reaching change in rule applicability was removing PWSs serving 10,000 to 99,999 that use surface water from any ICR requirements. EPA decided to take this action because the analytical method for protozoan measurement had proven to be very complex and difficult, and EPA was concerned about whether an adequate number of laboratories would be able to meet the approval criteria, which include passing a performance evaluation sample.

Many commenters noted that the DBP and related monitoring and reporting required in the proposed rule were not applicable to their PWS. These commenters believed that many of the proposed requirements would not make sense based on the configuration or operational practices of their PWS. During development of the ICR data system, EPA held a number of public meetings with representatives of PWSs and others to evaluate the applicability of the proposed requirements for the universe of treatment plants. These meetings helped EPA to: (1) Clarify the categories of PWSs that would appropriately be required to meet the different requirements of the ICR and (2) clarify treatment plant monitoring and data collection requirements. For example, the Agency modified proposed rule language to include PWSs that sell or buy large amounts of water in the appropriate applicability category. Also, EPA has reorganized the rule to make it easier to find applicability and monitoring requirements.

EPA has coordinated with the American Water Works Association (AWWA) to form a group of technical experts that will be available to PWSs to answer questions about this rule concerning applicability, sampling plans, and monitoring. PWSs may contact these experts at 800–200–0984 or on the Internet at 103327.2057@compuserve.com.

B. Data Quality Objectives

Several commenters noted that EPA did not clearly identify data quality objectives for the large amount of data to be generated by this rule. In response, EPA participated in several public workshops that addressed this issue. During the workshops, statisticians, data managers, scientists, and engineers reviewed the proposed requirements to ensure that the data reporting is necessary and adequate to achieve the goals of the rule. Also, EPA has developed a quality control program to ensure that data used in modeling are appropriate for regulatory development.

C. Data System

Commenters noted that EPA's data system for PWSs at the time of proposal,

the Federal Reporting Data System (FRDS), was inadequate to handle and manipulate the large amount of data that will be reported under this rule. Commenters stated that the Agency needed to develop a new data system that is able to receive, store, retrieve, manipulate, and analyze data submitted by PWSs. Additionally, commenters noted that once such a data system became available, EPA would have to test the data system to ensure its smooth operation.

EPA used a contractor as the primary data systems developer for this project. The contractor worked closely with EPA personnel and a broad array of technical experts from drinking water suppliers and other interested parties to understand the regulatory requirements, develop data manipulation procedures and report capability, produce adequate user instructions, and ensure the data system could perform necessary data handling and manipulation.

The utility data system has undergone alpha, beta, and gamma testing and revision and has been found to meet EPA's needs. Other data systems, for laboratory quality assurance data and mainframe data storage and manipulation, are undergoing similar testing and revision. Testing and revision will be completed before data entry begins under the rule.

D. Data Base Development

Many commenters stated that EPA, not PWSs, should fund the development of a data base adequate to meet the objectives of the ICR (i.e., determine what regulatory requirements are necessary for the control of disinfectants, DBPs, and pathogens). Under section 1445(a)(1) of the Act, however, EPA is authorized to require PWSs to conduct monitoring and provide information necessary to establish drinking water regulations, including evaluating the health risks of unregulated contaminants.

The information collected under this rule will enable EPA to determine current occurrence levels and patterns for unregulated contaminants. Because the ICR will provide EPA with detailed information on what treatment PWSs already have in place and how well such treatment processes work, the rule will also allow the Agency to develop predictive models to evaluate the effect that various changes in treatment will cause. Participants in the regulatory negotiation process understood the importance of the data collection effort as it relates to the objectives of the SDWA and agreed, as part of the negotiation, to participate in the effort.

E. Protozoan Analytical Method

Many commenters expressed concern that EPA lacks an analytical method to provide adequate quality data for *Cryptosporidium*. Also, some commenters believed that the method that the Agency proposed was too complex and difficult for reliable use by most laboratories. EPA has taken several steps to address these concerns. The first was to establish stringent laboratory approval criteria to assure adequate quality analyses and ensure that data quality objectives are met. EPA developed data quality objectives after consultation with outside parties, including statisticians and microbiologists, to determine minimum percentage recoveries and precision to meet data analytical objectives (i.e., to characterize national occurrence of *Cryptosporidium* for the purpose of conducting a regulatory impact analysis). Based on performance evaluation testing of microbiological laboratories, EPA believes that only laboratories that maintain high standards will be able to comply with the EPA criteria.

In the ICR proposal, any PWS that treated surface water and served a population of at least 10,000 would have been required to sample at each treatment plant, with more sampling required for PWSs serving at least 100,000. However, because only a small number of laboratories would be available to analyze samples, EPA reduced the universe of PWSs that must collect and analyze *Cryptosporidium* samples. In the final rule, only PWSs that treat surface water and serve a population of at least 100,000 are required to sample for *Cryptosporidium*. A PWS serving fewer than 100,000 is not required to take any microbiological samples. By reducing both the number of PWSs that are required to sample and the number of samples that some of the remaining PWSs are required to take, EPA expects that the number of laboratories who will qualify to conduct testing will be able to handle the workload.

Since PWSs serving fewer than 100,000 people are no longer required to conduct microbiological monitoring, EPA intends to conduct two sample surveys to collect microbiological occurrence data at smaller PWSs to determine the correlation with the data collected at PWSs serving at least 100,000 people. These sample surveys will be conducted at PWSs using surface water serving (1) 10,000 to 100,000 people and (2) fewer than 10,000 people. A secondary purpose of these sample surveys will be to collect occurrence data for areas where no PWSs will be collecting microbiological occurrence data because there are no PWSs serving at least 100,000 people that use surface water (e.g., the upper Great Plains and Rocky Mountain area).

EPA has determined that the purposes of the ICR will not be adversely affected by reducing the number of PWSs required to provide data. In conjunction with requiring fewer samples, EPA has continued to refine the analytical method and validate its accuracy and precision in non-EPA laboratories. Results of field testing that used various source waters in multiple laboratories indicate that a well-operated laboratory will be able to exceed EPA's minimum recoveries. The field testing results also indicate that well-operated laboratories will be able to provide adequate data for deriving national occurrence data that will be used in national cost estimates for evaluating different ESWTR regulatory options. Depending on the criteria developed for the interim ESWTR, data collected under the ICR may also be useful for implementing the interim ESWTR. EPA further believes that analysis of these data may aid in the identification of target indicators that smaller PWSs using surface water can utilize for determining the level of treatment needed for compliance with the ESWTR.

EPA believes that meaningful national occurrence data and regulatory impact analyses for different ESWTR regulatory options can be derived from ICR data if laboratories achieve, on average, greater than an 8% recovery for protozoan cysts. EPA simulation studies indicated that if this laboratory performance is achieved, PWSs should be able to detect and enumerate protozoa at least twice (among 18 monthly ICR raw water samples) at most sites where protozoa are actually present. This level of occurrence, with use of a statistically-derived adjustment factor for estimating true protozoan concentrations from measured values, would enable EPA to estimate the number of systems, nationally, that require different levels of treatment to achieve a desired finished water concentration, as might be prescribed under the ESWTR. Such an analysis, together with treatment cost and performance information for various technologies, would allow EPA to estimate national costs for different ESWTR regulatory options. Also, samples in which *Cryptosporidium* are not detected will help EPA evaluate the extent to which analyzable sample volume and percent recovery affect the ability to quantify source water protozoan concentrations. Such information will help EPA evaluate the

extent to which the protozoan method may need to be improved, or special monitoring provisions adopted, to enable appropriate treatment requirements to be prescribed for all systems under the ESWTR. For example, depending upon the extent which better methods can be developed for implementation of the ESWTR, utilities may be able to increase the number of raw water samples collected (beyond the minimum that may be required) to enable more sensitive quantification of source water concentrations, and more accurate level of treatment requirement estimates.

To provide for higher quality data to estimate national occurrence and conduct a national regulatory impact analysis, EPA is prescribing stringent laboratory approval criteria specific to the ICR. For a laboratory to qualify for conducting protozoan analysis, it must (a) conduct a comprehensive inventory to ensure the extensive equipment and personnel requirements are met, (b) employ at least one principal analyst (with previous experience of having analyzed at least 100 samples using the IFA procedure) to verify all microscopic counts, (c) pass an on-site inspection that includes observation of the analysis being performed by the laboratory, and (d) achieve sufficient recovery and precision on PE samples provided by EPA. EPA does not normally undertake the actions noted in (a) through (c) as part of laboratory approval and will require more frequent PE samples (in d)) than usual. EPA intends to provide technical assistance to laboratories during the laboratory approval process to enhance laboratory performance.

While performance by ICR approved laboratories should be adequate for conducting national regulatory impact analysis, EPA believes that better method performance, and knowledge of how that performance varies for specific water qualities, will be needed for individual PWSs to comply with future rules. To address this issue, EPA is conducting research to improve method performance. In the short term, EPA is evaluating the extent to which the IFA method can be improved, focusing mainly on the effects of different filters and smaller raw water sample volumes. In the long term, as part of its five year research plan, EPA is attempting to develop new methods that can achieve better recovery and precision, and distinguish whether the oocysts that are detected are alive or infectious to humans. Many researchers outside of EPA are also involved with these efforts.

One shortcoming of PE samples is that they do not reproduce the full range of sampling or water quality conditions of ICR monitoring. To augment the ICR, EPA will conduct a sample survey of 50 PWSs serving 100,000 to measure *Cryptosporidium* under tightly controlled laboratory conditions. Only those *Cryptosporidium* data from the ICR which meet data quality objectives will be used, with EPA survey data, in a cost analysis. EPA believes it appropriate to require *Cryptosporidium* data under the ICR because: (1) the incremental cost of its inclusion is low (since the same method and sample is used for *Giardia*), (2) a sufficient number of laboratories are expected to meet the data quality objectives, (3) the more experience laboratories have with the method, the better their performance should be, and (4) through subsequent testing, an adjustment factor can be generated to improve the utility of ICR-generated protozoan data.

F. Other Changes

Other changes to the rule include requiring all systems taking samples for microorganisms to also collect a full 18 months of virus samples (with no provisions for reduced monitoring), unless a system meets certain source water quality criteria. EPA is concerned about the possibly significant variability in the virus density over time. Therefore, the final rule eliminates the provision that allowed a PWS to avoid further virus sampling if no viruses were found during the first 12 months of sampling.

EPA decided not to include *Clostridium perfringens* and coliphage in the list of microbial parameters to evaluate their potential use as indicators. EPA was not confident that a valid laboratory approval and performance evaluation process could be implemented and believes that evaluation of indicators could be better accomplished under a separate research project. EPA will allow particle counting in lieu of finished water *Cryptosporidium* and *Giardia* monitoring, in order to develop data to evaluate the usefulness of particle counting as a surrogate for *Cryptosporidium* and *Giardia* removal.

The ICR also will require PWSs to submit treatment plant influent and finished water samples for virus archiving under certain conditions. EPA will use these samples to conduct research on occurrence and treatment for specific viruses.

EPA has also added an additional analytical method (Standard Method 4500–Cl B) for determining free chlorine concentration in hypochlorite stock solutions. A commenter pointed out that this method is able to determine concentrations at much higher levels than the proposed methods, reducing the need for large dilutions and their associated potential for error. Because this method is not sensitive at concentrations typically found in drinking water, its use is restricted to analyses of hypochlorite solutions. Other approved analytical methods may be used for any required free chlorine analyses, including hypochlorite solutions.

G. Other Changes Considered

EPA also received comments on several other requirements that, after evaluation, were not changed in the final ICR. One such comment addressed the provision in the proposed rule to limit analyses of cyanogen chloride and aldehyde to the EPA laboratory. Some commenters disagreed with EPA's decision to limit cyanogen chloride and aldehyde analyses to the EPA laboratory. Since EPA did not believe that it could have developed performance evaluation samples and implemented a laboratory approval program in the period of time that the Agency believed it had available between proposal and promulgation, EPA's laboratory will continue to be the only laboratory to analyze these samples under the final rule. EPA believed that the following issues could not be resolved in time: (1) the standard for cyanogen chloride may not be stable for more than a few weeks and (2) the methods are not simple (both require highly skilled analysts and must be analyzed within 48 hours; aldehyde analysis is subject to contamination). The EPA laboratory will provide sample containers and will not charge PWSs for these analyses.

VI. State Implementation

The February 10, 1994, notice proposed that EPA, rather than States, administer this rule. Many commenters believed that States should be involved in the ICR and should be given primary enforcement responsibility (primacy). Among their reasons were: States have more experience with local conditions; administration of drinking water rules by more than one party will cause confusion and contradictions and would be cumbersome; it sends a message that the public water system supervision program is not fully delegated; it would increase noncompliance; it would not allow systems to use State waivers; State administration would allow for local support and training and facilitate corrective action; and EPA is not authorized to confer partial primacy under the SDWA.

The rationale for proposing that EPA administer the ICR was that this rule,

unlike other drinking water rules, is an information-gathering effort of a limited duration, and the time constraints for implementing this rule would strain State resources. The Negotiating Committee, including the member representing State drinking water agencies, concurred on this point during the regulatory negotiation. Some commenters agreed, indicating that States should not administer the program. At least one commenter remarked that States do not have the time or resources to meet the ambitious ICR schedule.

EPA continues to believe that the short times involved with this rule make it imperative that the Agency administer the rule. While some States might be able to put all necessary mechanisms for rule implementation (including regulatory authority and laboratory approval) into place in the short-term (three months after promulgation), most would not. EPA also believes that data such as these, which are to be used for regulatory development (rather than for compliance) needs national standardization to maximize the data's usefulness. To ensure coordination with other implementation activities, EPA will be sharing data with the States and will inform the States about any enforcement actions the Agency intends to take to implement this rule.

VII. Cost of Rule

The ICR is estimated to result in national costs of $129 million, with a range of $117 to $148 million, to be expended over a three year period. Since this cost does not exceed $100 million per year, it does not qualify as a ''major rule'' for purposes of Executive Order 12866, or for the purposes of the Unfunded Mandate Reform Act of 1995. EPA has prepared an economic impact analysis which establishes that this action would not be a major rule within the meaning of the Executive Order. A copy of this analysis is available in the docket. This analysis has been submitted to the Office of Management and Budget for review. The following is a summary of the cost estimates for implementation of this rule.

A. Cost Estimates for Final ICR as Compared to the Proposed ICR

The range of the final total ICR cost estimates are exactly the same as the range of cost estimates in the proposed rule. Comparisons between the costs of the proposed rule and the costs of the final rule are not straightforward, however, due to a number of factors. Some of these factors resulted in higher cost estimates for some components of the final rule, while other factors resulted in lower cost estimates for various components of the final rule. The major factors which resulted in changes to the final cost analysis include the following items.

1. Decreases in the Final ICR Cost Estimates

The original cost estimates for DBP monitoring were found to have been over-estimated in the proposed ICR due to a flawed assumption regarding the number of treatment sites that systems using ground water would be required to monitor. The proposed rule assumed that DBP monitoring would be conducted at every treatment site within a ground water system. The cost estimate in the final rule, however, more realistically assumes that ground water systems will be required to conduct DBP sampling at two treatment sites representing different aquifers. This revised assumption reduced costs by $30 million. The cost estimate for the final ICR also reflects the elimination of microbial monitoring requirements for PWSs that serve fewer than 100,000 people.

2. Increases in the Final ICR Cost Estimates

The final rule cost estimates for DBP monitoring for surface water systems show an increase of $11 million. This increase reflects a number of revised assumptions including: changes regarding the number of samples actually required by the monitoring requirements; a deeper appreciation of the complexity of some treatment trains (an issue which was brought to light during the development of the ICR data management system); and the inclusion of some purchased water systems that re-disinfect.

In addition, numerous unit cost assumptions within the analysis were revised upwards to reflect public comments. Most notably, the startup costs, microbial monitoring costs, and data reporting costs were increased, taking into account information received from commenters on the analysis accompanying the proposed rule.

3. Uncertainty

These national cost estimates have an inescapable range of uncertainty associated with them. A sensitivity analysis performed in response to public comments as part of the revised economic impact analysis indicates that the greatest source of uncertainty is the cost of the pilot- and bench-scale treatment studies. These studies were estimated to cost $57 million in the proposed rule, with high and low bounds of $76 and $45 million. In the final rule, EPA has retained the original cost estimates and accompanying ranges for the cost of bench- and pilot-scale treatment studies. EPA has also finalized an option for utilities to contribute to a research fund in lieu of conducting pilot- and bench-scale testing to reduce any possible duplication of effort and possibly reduce costs to the PWS. The net effect of this option on total costs is unpredictable. It is clear, however, that the pilot- and bench-scale testing will remain the largest and most uncertain element of the total cost.

B. Total Cost and Burden Estimates for the Final ICR

The total estimated cost of $129 million for the final ICR is indicated in the third column of Table VII–1. The following five elements contribute to the total cost:

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Table VII - 1: Total Cost and Burden Estimates for the Information Collection Rule[1]

	Respondents Affected	Costs (K$)		Burden (hr.)		Responses	
		All Respondents	Per Respondent	All Respondents	Per Respondent	All Respondents	Per Respondent
Compliance Activities							
141.141 - Start-Up Activities							
233 Non-purchased Surface Water Systems>100K	440 plants	5,280	12	132,000	300	1,320	3
165 Non-purchased Ground Water Systems>50K	165 systems	1,980	12	49,500	300	495	3
22 Purchased Surface Water Systems>100K	22 systems	264	12	6,600	300	66	3
2 Purchased Ground Water Systems>100K	2 systems	24	12	600	300	6	3
Subtotal:		*7,548*		*188,700*		*1,887*	
141.143 - Microbiological Monitoring							
233 Non-purchased Surface Water Systems>100K	440 plants	*17,196*	*39*	*175,923*	*400*	*55,440*	*126*
141.142 - DBP and Related Monitoring							
233 Non-purchased Surface Water Systems>100K	440 plants	30,489	69	239,172	544	720,258	1,637
59 Non-purchased Ground Water Systems>100K	118 treat.sites	5,857	50	43,409	368	114,144	967
22 Purchased Surface Water Systems>100K	22 treat.sites	1,090	50	7,919	360	18,396	836
2 Purchased Ground Water Systems>100K	2 treat.sites	99	49	709	354	1,656	828
Subtotal:		*37,535*		*291,209*		*854,454*	
Data Reporting (141.142 - 143)							
233 Non-purchased Surface Water Systems>100K	440 plants	8,103	18	268,693	611	8,213	19
165 Non-purchased Ground Water Systems>50K	224 treat.sites	1,142	5	36,528	163	3,396	15
22 Purchased Surface Water Systems>100K	22 treat.sites	99	5	3,168	144	396	18
2 Purchased Ground Water Systems>100K	2 treat.sites	9	5	288	144	36	18
Subtotal:		*9,353*		*308,677*		*12,041*	
141.144 - TOC Monitoring and Treatment Studies							
TOC Studies							
106 Ground Water Systems 50-100K	106 treat.sites	70	0.66	636	6	1,272	12
Bench and Pilot Studies							
233 Surface Water Systems>100K	178 plants[2]	48,300	271	322,000	1,809	178	1
165 Ground Water Systems>50K	33 plants[2]	8,550	259	57,000	1,727	33	1
Subtotal:		*56,920*		*379,636*		*1,483*	
Total:		***128,552***		***1,344,146***		***925,305***	

[1]Total costs and burden over 18 months, except for pilot studies which extend over two and one-half years.

[2]Surface water treatment plants with influent TOC > 4 mg/l; ground water treatment plants with effluent TOC > 2 mg/l.

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1. Start-up Activities (§ 141.141)

Start-up activities are estimated to cost a total of $7.6 million. This estimate has been revised upward from the original cost estimate of $515,000 in the proposed ICR to reflect public comments. Start-up activities consist of reading and understanding the requirements of the rule, determining applicability and evaluating treatment plants to determine specific sampling requirements for each treatment plant, preparing sampling plans, and installing and learning to operate computer software to report monitoring results. Start-up costs will be spread across an estimated 422 community water systems, resulting in an average cost of $18,000 per system.

2. Microbiological Monitoring (§ 141.143)

Microbial monitoring, which is estimated to apply to 440 plants in 233 community surface water systems serving at least 100,000 people, is estimated to cost $17.2 million. The average cost per plant is estimated to be $39,000.

3. DBP and Related Monitoring (§ 141.142)

DBP monitoring is estimated to apply to 292 surface and ground water community water systems that purchase none, or only a portion, of their water and serve at least 100,000 people. DBP monitoring is also estimated to apply to an additional 24 community water systems that purchase all their finished water and disinfect that water prior to distribution, and serve at least 100,000 people. DBP monitoring is estimated to cost $37.5 million nationally, resulting in average costs of $50,000 per treatment site for ground water systems and $69,000 per treatment site for surface water systems.

This estimate is approximately $20 million less than the estimate presented in the preamble to the proposed rule due to a flawed assumption (discussed above) regarding the number of treatment sites that PWSs using ground water would be required to monitor. The analysis accompanying the proposed rule assumed that DBP monitoring would be conducted at every treatment site within a ground water system (a total of 1,295 sites in 59 ground water systems). The present analysis, however, more realistically assumes DBP sampling at two treatment sites per system (a total of 118).

4. Electronic Data Reporting (§§ 141.143 and 141.142)

The ICR requires monthly electronic reporting of microbial monitoring results and DBP monitoring results along with various process parameters of water treatment processes related to microbial treatment and DBP formation. The total cost is estimated to be $9.4 million nationally, with an average cost of $14,000 per treatment plant. This estimate compares to $3.9 million estimated in the proposed rule.

5. TOC Monitoring and Bench- and Pilot-Scale Treatment Studies (§ 141.144)

Required TOC monitoring and bench- and pilot-scale treatment studies are estimated to have a total national cost of $57 million, with a range of $45 million to $75 million. For each treatment study, costs are estimated to range from $150,000 to $750,000. This requirement applies, with some exceptions, to all surface water treatment plants serving at least 100,000 persons (or the largest treatment plant in the PWS if no single treatment plant serves at least 100,000) that have an influent TOC concentration greater than 4 mg/l. It also applies to all ground water treatment plants serving at least 100,000 persons (or the largest treatment plant in the PWS if no single treatment plant serves at least 100,000) that have a finished water TOC concentration greater than 2 mg/l, or to the largest ground water treatment plant in PWSs serving 50,000 to 99,999 (with at least 50,000 served by ground water), if that treatment plant has a finished water TOC concentration greater than 2 mg/l.

VIII. Other Statutory Requirements

A. Executive order 12866

Under Executive Order 12866, (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact or entitlements, grants, user fees, or loan programs or the rights and obligations of the recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action'' within the meaning of the Executive Order. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires EPA to explicitly consider the effect of proposed regulations on small entities. The Act requires EPA to consider regulatory alternatives if a rule has a significant economic impact on a substantial number of small entities. The Small Business Administration defines a small water utility as one which serves fewer than 3,300 people.

This Final Rule is consistent with the objectives of the Regulatory Flexibility Act because it will not have any economic impact on any small entities. The rule only applies to PWSs serving more than 50,000 people; thus, PWSs serving fewer than 50,000 people would not be affected. Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 et seq. An Information Collection Request document has been prepared by EPA (ICR No. 270.35) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 401 M Street SW., Washington, DC 20460 or by calling (202) 260–2740. The information requirements are not effective until OMB approves them.

Public burden for this collection of information is estimated to total 1,344,146 hours, about 200,794 more than estimated in the proposed rule, reflecting public comments on the previous analysis. There are five elements contributing to the total burden estimate, as detailed in Table VII–1. The total burden associated with start-up activities is estimated to be 188,700 hours. The total burden associated with microbial monitoring is estimated to be 175,923 hours (§ 141.143). Total burden for DBP monitoring is estimated to be 291,209

hours (§ 141.142). Total burden for the process data reporting requirement is estimated to be 308,677 hours (§§ 141.142 and 141.143). Total burden associated with the bench- and pilot-scale treatment study requirement is estimated to be 379,636 hours (§ 141.144).

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.42 hours per response and 1,062 hours per respondent. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2136), 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence.

D. Enhancing the Intergovernmental Partnership

As described in greater detail in the preamble to the proposed ICR, EPA used a negotiated rulemaking process to develop the regulatory approach to the problems associated with disinfection. The Negotiating Committee included representatives of:

—Local public health, drinking water supply, and elected officials; and
—State public health, regulated utilities commissioners, and drinking water program officials.

Committee members were supported by other program and financial officials and Washington-based association directors (e.g., Association of State Drinking Water Administrators, National League of Cities) both during meetings and between meetings of the Committee. Also, EPA made documents publicly available and associations distributed them to interested members.

During evaluation of public comments and development of the final requirements, EPA held several public meetings to discuss monitoring requirements, the data management system, applicability, and data quality objectives.

E. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, requires each agency, unless prohibited by law, to assess the effects of federal regulations on State, local, and tribal governments and the private sector. Under Section 202 of the Unfunded Mandates Act, EPA must prepare an unfunded mandate statement to accompany any proposed rule where the estimated costs to State, local, or tribal governments, or to the private sector, will be $100 million or more in any one year. Under Section 205, EPA must select the most cost-effective or least burdensome alternative that achieves the requirements for actions covered by Section 202, or explain why this was not possible. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly affected by the rule.

The unfunded mandate statement under Section 202 must include: (1) A citation of the statutory authority under which the rule is proposed, (2) an assessment of the costs and benefits of the rule and the federal resources available to defray the costs, (3) where feasible, estimates of future compliance costs and disproportionate impacts upon particular geographic or social segments of the nation or industry, (4) where relevant, an estimate of the effect on the national economy, and (5) a description of EPA's prior consultation with State, local, and tribal officials.

Since this rule is not estimated to impose annual costs of $100 million or more on either State, local, or tribal governments, or on the private sector, EPA is not required to prepare an unfunded mandate statement. Because the rule only applies to PWSs serving at least 50,000 persons, no small governments are affected.

F. Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

For the purposes of Congressional review, OMB has determined that this rule is not major under SBREFA. Therefore, this rule is effective 35 days after publication.

IX. References

APHA. 1995. American Public Health Association. ''Standard methods for the examination of water and wastewater'' (19th ed.). Washington, DC.

AWWA. 1991. ''Guidance manual for compliance with the filtration and disinfection requirements for public water systems using surface water sources.'' American Water Works Association, Denver, CO.

Cummins, Michael D. Memorandum to Stephen Clark titled ''Average Flow and Design Capacity for Technologies and Cost Documents.'' October 5, 1987.

EPA. U.S. Environmental Protection Agency. April 1996. ''ICR Comment Response Document'', EPA 811–R–96–001.

EPA. U.S. Environmental Protection Agency. April 1996. ''ICR Sampling Manual'', EPA 814–B–96–001.

EPA. U.S. Environmental Protection Agency. April 1996. ''DBP/ICR Analytical Methods Manual'', EPA 814–B–96–002.

EPA. U.S. Environmental Protection Agency. April 1996. ''ICR Microbial Laboratory Manual'', EPA 600/R–95/178.

EPA. U.S. Environmental Protection Agency. April 1996. ''ICR Manual for Bench- and Pilot-scale Treatment Studies'', EPA 814–B–96–003.

EPA. U.S. Environmental Protection Agency. April 1996. ''Reprints of EPA Methods for Chemical Analyses under the Information Collection Rule'', EPA 814–B–96–006.

EPA. U.S. Environmental Protection Agency. April 1996. ''ICR Water Utility Database System Users' Guide'', EPA 814–B–96–004.

List of Subjects in 40 CFR Part 141

Administrative practice and procedure, Analytical methods, Chemicals, Incorporation by reference, Intergovernmental relations, Microorganisms, Monitoring, National Primary Drinking Water Regulations, Reporting and recordkeeping requirements, Water supply.

Dated: May 1, 1996.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 141 of title 40 of the Code of Federal Regulations is amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9.

2. Section 141.2 is amended by adding ''or PWS'' to the definition for ''Public water System'' to read as follows:

§ 141.2 Definitions.

* * * * *

Public water system or PWS * * *

* * * * *

3. Section 141.6 is amended in paragraph (a) by revising the reference ''(a) through (h)'' to read ''(a) through (i)'' and by adding paragraph (i) to read as follows:

§ 141.6 Effective dates.

* * * * *

(i) Regulations for information collection requirements listed in Subpart M are effective August 14, 1996, and shall remain effective until December 31, 2000.

4. A new Subpart M is added consisting of §§ 141.140 through 141.144 to read as follows:

Subpart M—Information Collection Requirements (ICR) for Public Water Systems

Sec.
141.140 Definitions specific to subpart M.
141.141 General requirements, applicability, and schedule for information collection.
141.142 Disinfection byproduct and related monitoring.
141.143 Microbial monitoring.
141.144 Disinfection byproduct precursor removal studies.

Subpart M—Information Collection Requriements (ICR) for Public Water Systems

§ 141.140 Definitions specific to subpart M.

The following definitions apply only to the requirements of subpart M of this part and are arranged alphabetically.

Distribution system means the components of a PWS that are under the control of that PWS located after the point where the finished water sample is taken and that provide distribution, storage, and/or booster disinfection of finished water.

Distribution System Equivalent (DSE) sample means a sample collected from the distribution system for the purpose of comparing it with the ''simulated distribution system (SDS) sample''. The DSE sample shall be selected using the following criteria:

(1) No additional disinfectant added between the treatment plant and the site where the DSE sample is collected;

(2) Approximate detention time of water is available; and

(3) There is no blending with finished water from other treatment plants.

Entry point to distribution system means a location following one or more finished water sample points but prior to the beginning of the distribution system.

Finished water means water that does not undergo further treatment by a treatment plant other than maintenance of a disinfection residual.

Haloacetic acids (five) (HAA5) means the sum of the concentration in micrograms per liter of the haloacetic acids mono-, di-, and trichloroacetic acid; mono-, and di-, bromoacetic acid, rounded to two significant figures.

Haloacetic acids (six) (HAA6) means the concentration in micrograms per liter of the haloacetic acids mono-, di-, and trichloroacetic acid; mono-, and di- bromoacetic acid; and bromochloroacetic acid, rounded to two significant figures.

Haloacetonitriles (HAN) means the concentration in micrograms per liter of the haloacetonitriles dichloro-, trichloro-, bromochloro-, and dibromo-acetonitrile, rounded to two significant figures.

Haloketones (HK) means the concentration in micrograms per liter of the haloketones 1,1-dichloropropanone and 1,1,1- trichloropropanone, rounded to two significant figures.

Intake means the physical location at which the PWS takes water from a water resource. Thereafter, the water is under the control of that PWS.

Notice of applicability means a notice sent by EPA to a PWS that indicates that EPA believes that the PWS must comply with some or all requirements of subpart M. The PWS is required to reply to this notice by providing information specified in the notice (e.g., retail and wholesale population served, types of water sources used, volume of water treated) by the date provided in subpart M.

Process train means some number of unit processes connected in series starting from the treatment plant influent and ending with finished water. A particular unit process may be in more than one process train.

Purchased finished water means finished water purchased by one PWS from another PWS (the wholesaler). Purchased finished water includes both purchased finished water that is redisinfected and purchased finished water that is not.

Simulated distribution system (SDS) sample means a finished water sample incubated at the temperature and detention time of a ''DSE sample'' collected from the distribution system. Analytical results of the SDS sample will be compared with the DSE sample to determine how well the SDS sample predicts disinfection byproduct formation in the actual distribution system sample.

Total finished water means the flow (volume per unit of time) of finished water obtained from all treatment plants operated by a PWS and includes purchased finished water. This flow includes water entering the distribution system and water sold to another PWS.

Treatment plant means the PWS components that have as their exclusive source of water a shared treatment plant influent and that deliver finished water to a common point which is located prior to the point at which finished water enters a distribution system or is diverted for sale to another PWS. For these components of the PWS to be considered part of one treatment plant, the PWS must be able to collect one representative treatment plant influent sample, either at a single sample point or by a composite of multiple influent samples, and there must exist a single sampling point where a representative sample of finished water can be collected. For the purpose of subpart M, a treatment plant is considered to include any site where a disinfectant or oxidant is added to water prior to the water entering the distribution system. Facilities in which ground water is disinfected prior to entering a distribution system, and facilities in which purchased finished water has a disinfectant added prior to entering a distribution system, are considered treatment plants.

Treatment plant influent means water that represents the water quality challenge to a particular plant.

Treatment system means all treatment plants operated by one PWS.

Trihalomethanes (four) (THM4) means the sum of the concentration in micrograms per liter of the trihalomethanes chloroform, bromodichloromethane, dibromochloromethane, and bromoform, rounded to two significant figures.

Unit process means a component of a treatment process train which serves any treatment purpose such as mixing or sedimentation for which design and operating information is requested in § 141.142(a), Table 6c, of this subpart.

Water resource means a body of water before it passes through an intake structure. Examples of a water resource

include a river, lake, or aquifer. For a PWS which purchases finished water, the water resource is the wholesale PWS which supplies the purchased finished water. Generally water resources are not under the direct control of a PWS.

Watershed control practice means protection of a water resource from microbiological contamination prior to the water entering an intake. These protective measures might include, but are not limited to, a watershed control program approved under § 141.71(b)(2) of this part, or land use restrictions.

§ 141.141 General requirements, applicability, and schedule for information collection.

(a) *General requirements.* (1) The purpose of subpart M is to collect specified information from certain PWSs for a limited period of time. Accordingly, subpart M is of limited duration and is effective for a defined period (see § 141.6 (i) and § 141.141(e) of this part). Since subpart M does not establish continuing obligations, a PWS that has completed all of its requirements at the required duration and frequency may discontinue its information collection efforts even if subpart M is still in effect.

(2) For the purpose of this subpart, a PWS shall make applicability determinations based on completion of data gathering, calculations, and treatment plant categorization specified in Appendix A to paragraph (a) of this section.

(3) For the purpose of this subpart, a PWS that uses multiple wells drawing from the same aquifer and has no central treatment plant is considered to have one treatment plant for those wells and shall conduct required monitoring under this specification. A PWS with multiple wells in one or more aquifers that are treated in the same treatment plant is considered to have one treatment plant for those wells and shall conduct required monitoring under this specification.

(i) To the extent possible, the PWS should sample at the well with the largest flow and at the same well each month for the duration of required monitoring.

(ii) A PWS must report information from § 141.142(a) Tables 6a through 6e of this subpart for each well that the PWS sampled.

(4) For the purpose of this subpart, a PWS shall treat ground water sources that have been classified by the State as under the direct influence of surface water by May 14, 1996, as surface water sources. A PWS shall treat ground water sources that either have not been classified by the State (as under the direct influence of surface water or not) or have been classified by the State as ground water, by May 14, 1996, as ground water sources.

Appendix A to 40 CFR 141.141(a)

Purpose. The purpose of this appendix is to enable the PWS to assign proportional amounts of its retail and wholesale population served to specific treatment plants. The PWS shall then use these values to determine which specific requirements in subpart M that it must comply with and on what schedule.

Period of applicability determination. For the purpose of this appendix, a PWS shall make applicability determinations based on population calculated as annual averages based on PWS records of treatment system or treatment plant operation during calendar year 1995.

—If a natural disaster made a treatment system or treatment plant inoperable for one or more calendar months in 1995, the applicability determination will be based on those months in 1995 during which the treatment system or treatment plant was in operation, plus the calendar months from 1994 that are representative of those months of 1995 during which the treatment system or treatment plant was inoperable. The total time period shall be 12 months.

—If the treatment system or treatment plant was not in operation during one or more calendar months during 1995 due to a seasonal reduction in demand for finished water, the months that the treatment system or treatment plant was not in operation are to be included in the 12 months of applicability determination with zero flow indicating no operation.

—If the treatment system or treatment plant was not in operation for one or more calendar months in 1995 due to construction and/or maintenance, the applicability determination will be based on those months in 1995 during which the treatment system or treatment plant was in operation, plus the calendar months from 1994 that correspond to those months of 1995 during which the treatment system or treatment plant was inoperable. The total time period shall be 12 months.

—Treatment systems or treatment plants whose total operational lifetime is fewer than 12 calendar months as of December 1995 are not required to comply with subpart M requirements.

—PWSs that purchase all their water from one or more other PWSs and do not further treat any of their water are not required to comply with subpart M requirements.

Applicability determination. To determine applicability, the PWS is required to collect certain operational data and perform specified mathematical operations. All operational data and calculated values will be expressed as either ''F'' (for flow) or ''P'' (for population), with a one or two character subscript. Table A–1 contains a more detailed explanation.

TABLE A–1.—: APPENDIX A SUBSCRIPT IDENTIFICATION PROTOCOL

General.

1. ''F'' indicates a flow value. The PWS must use million gallons per day (MGD) to express the flow throughout its calculations.
2. ''P'' indicates a population value, expressed as a number of people.

Subscripts.

1. ''P_R'' is retail population, ''F_W'' is wholesale flow, and ''F_N'' is purchased finished water that is not further treated.
2. Each ''F'' value (in Table A–2) or ''P'' value (in Table A–4) will have a two character designator.
   a. The first character in the subscript indicates the source type. Possible entries are ''S'' (for surface water or ground water under the direct influence of surface water), ''G'' (for ground water not under the direct influence of surface water), ''P'' (for finished water purchased from another PWS and further treated at the entrance to the distribution system, such as by redisinfection), and ''C'' (for combined, or the sum of all water treated by the PWS, including purchased water that is further treated at the entrance to the distribution system).
   b. The second character in the subscript indicates the specific identification of the treatment plant. This will be a number (e.g., 1, 2, 3, * * *, with # being a non-specific designator) and ''T'' (for a Total).

Data from operational records. The PWS shall determine the following information based on operational records.

—P_R=Retail population served by the PWS =_____ (number of people)

—F_N=treated water bought from one or more other PWSs and not further treated at the entry point to the distribution system =_____ (MGD)

—F_W= finished water sold to one or more other PWSs, regardless of whether buying PWSs further treat the finished water =_____ (MGD)

—Flows from specific water resources to specific treatment plants. For each treatment plant operated by the PWS, the PWS must determine the flow from each water resource that provides water to the treatment plant. In the following table, the PWS must enter flow from each type of water resource into the appropriate block, using the subscript identification protocol in Table A–1.

—$F_{S\#}$=surface water treated at treatment plant ''#'' =_____ (MGD) (enter into Table A–2)

—$F_{G\#}$=ground water treated at treatment plant ''#'' =_____ (MGD) (enter into Table A–2)

—$F_{P\#}$=treated water bought from one or more other PWSs and further treated at treatment plant ''#'' prior to the entry point to the distribution system =_____ (MGD) (enter into Table A–2)

TABLE A–2.—TREATED FLOW VALUES

Water resources (by type source)	Sources of treated water (FLOW)			
	Treatment plants			
	#1	#2	#3	#4
Surface water (S)	(F_{S1})	(F_{S2})	(F_{S3})	(F_{S4})
Ground water (G)	(F_{G1})	(F_{G2})	(F_{G3})	(F_{G4})
Purchased finished water that is further treated (P)	(F_{P1})	(F_{P2})	(F_{P3})	(F_{P4})
Combined (C)	(F_{C1})	(F_{C2})	(F_{C3})	(F_{C4})

NOTE: The $F_{C\#}$ value is calculated by adding the $F_{S\#}$, $F_{G\#}$, and $F_{P\#}$ values in the column above.

—F_{CT}=finished water produced in all of the PWS's treatment plants (calculated by adding the combined flows from each treatment plant (Σ ($F_{C\#}$)). =_____ (MGD)

Calculated values. The PWS must calculate the following values.

—Population equivalents. Divide the flow values in Table A–2 by the conversion factor K below (a PWS-specific per capita finished water usage rate) and enter in the corresponding box in Table A–3 below. For each treatment plant operated by the PWS, the PWS must determine the population served by each type of water resource that provides water to the treatment plant.

Conversion factor=K=(F_{CT}+F_N − F_W)/P_R=_____

For Table A–3, P=F/K, using F values from Table A–2 (e.g., P_{S1}=F_{S1}/K).

TABLE A–3: POPULATION SERVED VALUES

Water resources (by type source)	Population served by treated water (number of people)			
	Treatment plants			
	#1	#2	#3	#4
Surface water (S)	(P_{S1})	(P_{S2})	(P_{S3})	(P_{S4})
Ground water (G)	(P_{G1})	(P_{G2})	(P_{G3})	(P_{G4})
Purchased finished water that is further treated (P)	(P_{P1})	(P_{P2})	(P_{P3})	(P_{P4})
Combined (C)	(P_{C1})	(P_{C2})	(P_{C3})	(P_{C4})

Note: The $P_{C\#}$ value is calculated by adding the $P_{S\#}$, $P_{G\#}$, and $P_{P\#}$ values in the column above.

—P_{CT}=number of people served by finished water produced in all of the PWS's treatment plants (calculated by adding the combined populations served by each treatment plant (Σ ($P_{C\#}$))) =_____ (people)

Note: A PWS that sells all its finished water and thus has no retail population must calculate the population served by the PWS by raising the PWS's average treated flow (in MGD) to the 0.95 power and multiplying the result by 7,700. As an equation, this would appear as:

PWS population served=7,700 (PWS's average treated flow in MGD)$^{0.95}$

The PWS may then calculate the population served by each of its treatment plants by multiplying the PWS population served times the average treated flow from the treatment plant divided by the average treated flow for the PWS. As an equation, this would appear as:

$$\text{Treatment plant population served} = \frac{\text{PWS population served} \times \text{treatment plant flow}}{\text{PWS average treated flow}}$$

Treatment plant categorization. A PWS must categorize its treatment plants to determine its specific compliance requirements by reviewing Table A–4 below.

TABLE A–4.—TREATMENT PLANT CATEGORIES

Treatment plant category	P_{CT}	$P_{C\#}$	$P_{S\#}$	$P_{G\#}$
A	≥100,000	≥100,000	≥1	NA.
B	≥100,000	≥100,000	Zero	NA.
C	≥100,000	$P_{C\#}$ is <100,000 and is largest $P_{C\#}$ in PWS.	≥1	NA.
D	≥100,000	$P_{C\#}$ is <100,000 and is largest $P_{C\#}$ in PWS.	Zero	NA.
E	≥100,000	<100,000 and is not largest $P_{C\#}$ in PWS	≥1	NA.
F	≥100,000	<100,000 and is not largest $P_{C\#}$ in PWS	Zero	NA.
G	50,000–99,999 and P_{GT} ≥ 50,000.	NA	NA	Largest $P_{G\#}$.

NA—not applicable.

(b) Applicability.

(1) Table 1 of this paragraph is a summary of treatment plant categorization under the provisions of Appendix A to paragraph (a) of this section.

TABLE 1.—TREATMENT PLANT CATEGORIES

Treatment plant category	PWS combined population served	Treatment plant combined population served	Treatment plant surface water population served	Treatment plant ground water population served
A	≥100,000	≥100,000	≥1	NA.
B	≥100,000	≥100,000	zero	NA.
C	≥100,000	Plant serves <100,000 and is largest plant.	≥1	NA.
D	≥100,000	Plant serves <100,000 and is largest plant.	zero	<100,000.
E	≥100,000	Plant serves <100,000 and is not largest plant in PWS.	≥1	NA.
F	≥100,000	Plant serves <100,000 and is not largest plant in PWS.	zero	<100,000.
G	50,000–99,999 and ≥ 50,000 served by ground water.	NA	NA	Largest ground water plant.

NA–not applicable.

(2) Table 2 of this paragraph specifies applicability for requirements contained in §§ 141.142, 141.143, and 141.144 of this part, based on treatment plant categorization determined under the provisions of Appendix A to paragraph (a) of this section.

TABLE 2—SUBPART M APPLICABILITY

Subpart M Requirements	Categories of treatment plants[1]						
	A	B	C	D	E	F	G
§ 141.142.—DBP and Related Monitoring							
Table 1a and 1b	X	X	X	X	X	X	
Table 2[2]	X	X	X	X	X	X	
Table 3[2]	X	X	X	X	X	X	
Table 4a and 4b[2]	X	X	X	X	X	X	
Table 5a and 5b[2]	X	X	X	X	X	X	
Table 6	X	X	X	X	X	X	
§ 141.143—Microbiological Monitoring							
Treatment plant influent monitoring	X		X		X		
Finished water monitoring[3]	X		X		X		
§ 141.144—Applicability Monitoring and Treatment Studies							
Treatment study applicability monitoring	X	X	X	X			X
Pilot-scale treatment studies[4]	X	X					
Bench- or pilot-scale treatment studies[4]	X	X	X	X			X

[1] As determined by Appendix A to paragraph (a) of this section.

[2] Table 2 required only for treatment plants using chloramines. Table 3 required only for treatment plants using hypochlorite solution. Table 4a and 4b required only for treatment plants using ozone. Table 5a and 5b required only for treatment plants using chlorine dio xide.

[3] Only required for a PWS that, during any of the first twelve months of monitoring at the treatment plant influent, detects 10 or more *Giardia* cysts, or 10 or more *Cryptosporidium* oocysts, or one or more total culturable viruses in one liter of water; or calculates a numerical value of the *Giardia* or *Cryptosporidium* concentration equal to or greater than 1000 per 100 liters or virus concentration equal to or greater than 100 per 100 liters; or detects no pathogens in the sample and calculates a numerical value of the detection limit for *Giardia* or *Cryptosporidium* concentration equal to or greater than 1000 per 100 liters or virus concentration equal to or greater than 100 per 100 liters.

[4] Pilot-scale treatment studies are required for treatment plants that serve a population of 500,000 or greater. Bench- or pilot-scale treatment studies are required for treatment plants that serve a population of fewer than 500,000.

(c) *Disinfection Byproduct and Related Monitoring.* A PWS must comply with the monitoring requirements in § 141.142 of this subpart for treatment plants in treatment plant categories A, B, C, D, and E listed in Table 1 in paragraph (b)(1) of this section. The PWS shall monitor monthly for 18 consecutive months at each treatment plant, even if a treatment plant was not used for one or more calendar months. When the treatment plant is not operating, the PWS shall file the report required under § 141.142(c) of this subpart to indicate zero flow, and need only conduct treatment plant influent monitoring under the provisions of § 141.142 of this subpart. A PWS must comply with the monitoring requirements in § 141.142 of this subpart for treatment plants in treatment plant categories F listed in Table 1 in paragraph (b)(1) of this section monthly for 18 consecutive months at each treatment plant, except if a treatment plant was not used for one or more calendar months. When the treatment plant is not operating, the PWS shall file the report required under § 141.142(c) of this subpart to indicate zero flow, and is not required to conduct treatment plant influent monitoring under the provisions of § 141.142 of this subpart.

(d) *Microbiological Monitoring.* A PWS must comply with the monitoring requirements in § 141.143 of this subpart for treatment plants in treatment plant categories A, C, and E listed in Table 1 in paragraph (b)(1) of this section and Table 3 of this paragraph. The PWS shall conduct 18 consecutive months of microbiological monitoring at each treatment plant, even if it is not operated each calendar month.

TABLE 3.—MICROBIOLOGICAL MONITORING REQUIREMENTS FOR SUBPART M

Microbial sample	Treatment plant category	
	A, C and E	
	Treatment plant influent	Finished water [1]
Total culturable viruses	1/month [2]	1/month.
Total coliforms	1/month	1/month.
Fecal coliforms or *E. coli*	1/month	1/month.
Giardia	1/month	1/month.[3]
Cryptosporidium	1/month	1/month.[3]

[1] Only required for a PWS that, during any of the first twelve months of monitoring at the treatment plant influent, detects 10 or more *Giardia* cysts, or 10 or more *Cryptosporidium* oocysts, or one or more total culturable viruses in one liter of water; or calculates a numerical value of the *Giardia* or *Cryptosporidium* concentration equal to or greater than 1000 per 100 liters or virus concentration equal to or greater than 100 per 100 liters; or detects no pathogens in the sample and calculates a numerical value of the detection limit for *Giardia* or *Cryptosporidium* concentration equal to or greater than 1000 per 100 liters or virus concentration equal to or greater than 100 per 100 liters. The PWS shall collect one sample of finished water during each month that the treatment plant is operated at each such treatment plant beginning in the first calendar month after the PWS learns of such a result. A PWS shall continue finished water monitoring monthly until 18 months of treatment plant influent monitoring has been completed.

[2] A PWS may avoid virus monitoring if the PWS has monitored total coliforms, fecal coliforms, or *E. coli* in the source water for at least five days/week for any period of six consecutive months beginning after January 1, 1994, and 90% of all samples taken in that six-month period contained no greater than 100 total coliforms/100 ml, or 20 fecal coliforms/100 ml, or 20 *E. coli*/100 ml.

[3] A PWS may avoid the requirement for finished water monitoring of *Giardia* and *Cryptosporidium* if the PWS notifies EPA that it will comply with the alternative monitoring requirements in § 141.143(a)(2)(iii). The PWS must still conduct finished water monitoring for all other microorganisms, except that *Giardia* and *Cryptosporidium* monitoring in the finished water is not required.

(e) *Disinfection Byproduct Precursor Removal Studies (Treatment Studies).*

(1) A PWS shall comply with treatment study applicability monitoring in paragraph (e)(2) of this section at each treatment plant in treatment plant categories A, B, C, D, and G listed in Table 1 in paragraph (b)(1) of this section. A PWS shall comply with the treatment study requirements in § 141.144 of this subpart at each such treatment plant, except for those treatment plants:

(i) Meeting the source water quality, disinfection practice, or disinfection byproduct precursor removal practice criteria in paragraph (e)(3) of this section, for which no treatment study is required; or

(ii) Meeting the common water resource criteria in paragraph (e)(4) of this section, for which several PWSs may conduct treatment studies jointly, in lieu of separately; or

(iii) Meeting the common water resource criteria in paragraph (e)(5) of this section, for which a PWS may contribute funds towards research, in lieu of conducting a treatment study; or

(iv) At which a previous treatment study that meets the criteria in paragraph (e)(6) of this section has already been conducted, for which a PWS may use the results of this previous treatment study, in lieu of conducting another treatment study; or

(v) Operated by the PWS that use the same water resource, as classified by the procedure in paragraph (e)(4) of this section. The PWS is not required to conduct more than one treatment study for those treatment plants. If both pilot-scale and bench-scale treatment studies would otherwise be required for treatment plants on the same water resource, the PWS shall conduct a pilot-scale study. A PWS with multiple water resources shall conduct treatment studies for each treatment plant that uses different water resources.

(2) Treatment study applicability monitoring.

(i) PWSs shall monitor total organic carbon (TOC) monthly for 12 months. Treatment plants using surface water shall monitor treatment plant influent. Treatment plants using ground water shall monitor finished water.

(ii) Treatment study applicability monitoring for THM4 and HAA5 is only required by a PWS that intends to qualify for avoiding a treatment study under the provisions of paragraph (e)(3)(i) of this section.

(iii) Total organic halides formed under the uniform formation conditions (UFCTOX) monitoring is only required by a PWS that intends to qualify for a joint treatment study under the provisions of paragraph (e)(4)(i)(A)(*2*) of this section or for the alternative to conducting a treatment study under the provisions of paragraph (e)(5) of this section.

(3) *Criteria under which no treatment study is required.* A PWS identified in paragraph (e)(1) of this section is not required to conduct a treatment study at any treatment plant that satisfies any criteria in paragraphs (e)(3) (i) through (iv) of this section, provided that the PWS has also complied with the requirements in paragraph (e)(7)(i) of this

section and EPA has approved the PWS's request to avoid the treatment study.

(i) Treatment plants that use chlorine as both the primary and residual disinfectant and have, as an annual average of four quarterly averages, levels of less than 40 μg/l for THM4 and less than 30 μg/l for HAA5. Quarterly averages are the arithmetic average of the four distribution system samples collected under the requirements of § 141.142(a)(1) of this subpart.

(ii) Treatment plants using surface water that do not exceed a TOC annual average of 4.0 mg/l in the treatment plant influent, measured in accordance with §§ 141.141(f)(4) and 141.144(a) of this subpart and calculated by averaging the initial 12 monthly TOC samples.

(iii) Treatment plants using only ground water not under the direct influence of surface water that do not exceed a TOC annual average of 2.0 mg/l in the finished water, measured in accordance with §§ 141.141(f)(4) and 141.144(a) of this subpart and calculated by averaging the initial 12 monthly TOC samples.

(iv) Treatment plants that already use full scale membrane or GAC technology. For a treatment plant that already uses full-scale GAC or membrane technology capable of achieving precursor removal, a PWS shall conduct monitoring and submit full-scale plant data required for disinfection byproduct and related monitoring by § 141.142(a) of this subpart, ensuring that the GAC or membrane processes are included in the process train being monitored. For a treatment plant to be considered to have membrane technology to achieve precursor removal, the PWS shall have used nanofiltration or reverse osmosis membranes. GAC capable of removing precursors is defined as GAC with an empty bed contact time (EBCT) of 15 minutes or greater, with a time between carbon reactivation or replacement of no more than nine months. PWSs that operate treatment plants that use GAC with either an EBCT of less than 15 minutes or a replacement or reactivation frequency for GAC longer than nine months may submit a request to avoid treatment studies under the provisions of paragraph (e)(7)(i) of this section by including data demonstrating effective DBP precursor removal.

(4) *Criteria under which joint treatment studies are allowed.* (i) PWSs that use common water resources and have similar treatment trains may conduct joint treatment studies. A common water resource for all types of surface water resources requires the mean treatment plant influent TOC or UFCTOX of each of the cooperating treatment plants to be within 10% of the average of the mean treatment plant influent TOCs or UFCTOX of all the cooperating treatment plants. A common water resource for all types of ground water resources requires the mean treatment plant finished water TOC or UFCTOX of each of the cooperating treatment plants to be within 10% of the average of the mean treatment plant finished water TOCs or UFCTOX of all the cooperating treatment plants. The mean is calculated from the monthly TOC or UFCTOX monitoring data for the initial twelve months of monitoring under § 141.144(a) of this subpart. Similar treatment trains means that, for example, softening plants may not conduct joint studies with conventional treatment plants. In addition, the applicable requirements in paragraphs (e)(4)(i) (A) through (C) of this section shall be met for the water resource to be considered a common water resource. If otherwise eligible, a PWS may choose to either perform a joint treatment study with other eligible systems or contribute funds to a cooperative research program, as described in paragraph (e)(5) of this section, as an alternative to conducting a treatment study.

(A) *River sources.* Treatment plants with river intakes are considered to have a common water resource if the PWS meets either criteria in paragraphs (e)(4)(i)(A) (*1*) or (*2*) of this section.

(*1*) The intakes are no more than 20 river miles apart and TOC at each treatment plant influent is within 10% of the mean TOC of all the treatment plant influents.

(*2*) The intakes are at least 20, but no more than 200, river miles apart and the PWS demonstrates that the mean water resource UFCTOX is within 10% of the mean UFCTOX of all the treatment plant influents, based on UFCTOX analytical results of the same 12 consecutive months for all cooperating treatment plants.

(B) *Lake/reservoir.* Treatment plants with lake or reservoir intakes are considered to have a common water resource if the same lake or reservoir serves all the cooperating treatment plants and TOC at each treatment plant influent is within 10% of the mean TOC of all the treatment plant influents.

(C) *Ground water not under the direct influence of surface water.* Treatment plants with intakes from a single aquifer are considered to have a common water resource if treatment plant finished water TOC at each treatment plant is within 10% of the mean finished water TOC of all the treatment plants.

(ii) PWSs that meet the requirements of paragraph (e)(4)(i) of this section shall conduct at least the number and type of joint studies noted in the following tables. Joint studies shall only be conducted among treatment plants in the same size category, i.e. a population served of either ≥500,000 or of <500,000. The maximum number of treatment plants with a population served ≥500,000 persons allowed to join together to conduct a study is three. The maximum number of treatment plants with a population served <500,000 persons allowed to join together to conduct a study is six.

JOINT STUDIES REQUIREMENT FOR TREATMENT PLANTS WITH A POPULATION SERVED OF <500,000

Number of plants	Minimum studies to be conducted
2	1 pilot (GAC or membrane).
3	1 pilot and 1 bench (GAC or membrane).
4	2 pilots (GAC and/or membrane).
5	2 pilots (GAC and/or membrane), 1 bench (GAC or membrane).

JOINT STUDIES REQUIREMENT FOR TREATMENT PLANTS WITH A POPULATION SERVED OF <500,000—Continued

Number of plants	Minimum studies to be conducted
6	2 pilots and 2 bench (GAC and/or membrane).

JOINT STUDIES REQUIREMENT FOR TREATMENT PLANTS WITH A POPULATION SERVED OF ≥500,000

Number of plants	Minimum studies to be conducted
2	1 pilot (GAC or membrane), 2 bench (GAC and/or membrane).
3	2 pilots (GAC and/or membrane).

(5) *Criteria under which an alternative to conducting a treatment study is allowed.* In lieu of conducting the required treatment study, a PWS may apply to EPA to contribute funds to a cooperative research effort. The PWS shall submit an application to EPA Technical Support Division, ICR Precursor Removal Studies Coordinator, 26 W. Martin Luther King Drive, Cincinnati, OH 45268. The application shall show that the treatment plant for which the waiver of the treatment study is sought uses a common water resource, as described in paragraph (e)(4) of this section, that is being studied by another PWS or cooperative of PWSs operating treatment plants in the same size category. A PWS operating treatment plants serving a population of fewer than 500,000 may also contribute to this fund if there is a common water resource (as defined in paragraph (e)(4) of this section) treatment plant serving 500,000 or more conducting a treatment study. If EPA approves the application, the PWS shall contribute funds in the amount specified in paragraph (e)(5)(i) of this section to the Disinfection Byproducts/Microbial Research Fund, to be administered by the American Water Works Association Research Foundation (AWWARF) under the direction of an independent research council, for use in a dedicated cooperative research program related to disinfectants, disinfection byproducts, and enhanced surface water treatment.

(i) The PWS shall contribute $300,000 for a treatment plant with a population served of 500,000 or more. The PWS shall contribute $100,000 for a treatment plant with a population served of fewer than 500,000.

(ii) The PWS shall send the contribution to the address specified in EPA's approval letter not later than 90 days after EPA approves the PWS application for waiver of the treatment study.

(6) *Criteria under which a previous treatment study is acceptable (grandfathered studies).* A PWS that has conducted studies of precursor removal that meet all the criteria in paragraphs (e)(6)(i) and (ii) of this section may use the results of that study in lieu of conducting another treatment study.

(i) The PWS used analytical methods specified in Table 7 of § 141.142(b)(1) of this subpart and used the analytical and quality control procedures described in ''DBP/ICR Analytical Methods Manual'', EPA 814–B–96–002.

(ii) The PWS followed a protocol similar to that specified and supplies the data specified in ''ICR Bench- and Pilot-scale Treatment Study Manual'' (EPA 814–B–96–003, April 1996).

(7) *Process for a PWS to obtain EPA approval of criteria applicability.* A PWS wanting to avoid the requirements for a treatment study under the provisions of paragraphs (e)(3) through (6) of this section shall submit the applicable information in paragraphs (e)(7)(i) through (iv) of this section and in ''ICR Bench- and Pilot-scale Treatment Study Manual'' (EPA 814–B–96–003, April 1996) and all monitoring data required under §§ 141.142(a) and 141.143(a) of this subpart to EPA, Technical Support Division, ICR Precursor Removal Studies Coordinator, 26 W. Martin Luther King Drive, Cincinnati, OH 45268.

(i) *Approval of request to avoid treatment studies.* A PWS that believes it qualifies to avoid the requirements for a treatment study under the provisions of paragraph (e)(3)(i) through (iii) of this section shall submit the information showing the applicable criterion for not conducting the study has been met not later than November 14, 1997. A PWS wanting to avoid the requirements for a treatment study under the provisions of paragraph (e)(3)(iv) of this section shall submit the supporting information, including any pilot- or full-scale data showing effective precursor removal, not later than November 14, 1997. A PWS that applies to avoid a treatment study under the provisions of paragraph (e)(4) through (6) of this section and subsequently qualifies to avoid a treatment study under the provisions of paragraph (e)(3)(i) through (iii) of this section may elect to avoid a treatment study under the provisions of paragraph (e)(3)(i) through (iii) of this section. If the PWS elects to avoid a treatment study under the provisions of paragraph (e)(3)(i) through (iii) of this section, the PWS shall notify all PWSs that were associated with the application to avoid a treatment study under the provisions of paragraph (e)(4) through (6) of this section.

(ii) *Approval of request to conduct joint studies.* A PWS that believes it qualifies to avoid the requirements for a treatment study under the joint study provisions of paragraph (e)(4) of this section shall submit a letter of intent to EPA with the information in paragraphs (e)(7)(ii)(A) through (F) of this section for all treatment plants to be included in the joint study not later than May 14, 1997. The letter shall be signed by all PWSs planning to participate in the joint study. All PWSs shall submit a combined application for joint studies approval to EPA (including 12 months of treatment plant influent TOC or finished water TOC results or UFCTOX results, as appropriate, for each treatment plant to be included in the joint study) not later than November 14, 1997.

(A) Data to support their common water resource designation.

(B) Information to demonstrate that treatment plants have similar treatment trains.

(C) Information that treatment plants are in the same size category.

(D) The treatment plant influent TOC or finished water TOC results, or UFCTOX results, as appropriate, from the first six months of monitoring.

(E) What studies will be conducted (i.e., combination of bench/pilot and GAC/membrane).

(F) Any additional supporting data.

(iii) *Approval of request for alternative to treatment studies.* A PWS that believes it qualifies to avoid the requirements for a treatment study under the provisions for an alternative in paragraph (e)(5) of this section shall submit a letter of intent expressing its intention to contribute funds to the cooperative research effort not later than May 14, 1997. The letter shall identify the other treatment plants using the same water resource which will be conducting studies. Each PWS shall submit an application for approval of alternative to treatment studies to EPA (including 12 months of treatment plant influent TOC or finished water TOC results or UFCTOX results, as appropriate) not later than November 14, 1997. EPA shall notify the PWS whether a treatment study is required (because there is no other appropriately sized treatment plant using the same water resource conducting a treatment study) or if the PWS can avoid the study by contributing funds to the cooperative research effort specified in paragraph (e)(5) of this section.

(iv) *Approval of request to use grandfathered studies.* A PWS that believes it qualifies to avoid the requirements for a treatment study under the grandfathered study provisions of paragraph (e)(6) of this section shall submit the following information not later than February 14, 1997: a description of the study, the equipment used, the experimental protocol, the analytical methods, the quality assurance plan, and any reports resulting from the study. EPA shall review the information and inform the PWS whether or not the prior study meets the ICR requirements. Not later than November 14, 1997, the PWS must submit study data in the format specified in ''ICR Manual for Bench- and Pilot-scale Treatment Studies'', EPA 814–B–96–003, April 1996. An approved grandfathered study can be justification for common water resource PWSs contributing to the cooperative research effort under the provisions of paragraph (e)(5) of this section, but may not be used as joint treatment studies unless it incorporates the requirements listed in § 141.141(e)(4) of this section and the PWS submits written concurrence of the PWS which conducted the study.

(f) *Effective dates.* (1) A PWS shall respond to the Notice of Applicability sent by EPA within 35 calendar days of receipt of that notice. The PWS's response to the Notice shall indicate what requirements in subpart M apply to each treatment plant operated by the PWS. If a PWS meets the applicability criteria in paragraph (b) of this section and has not received a Notice of Applicability from EPA by June 28, 1996, that PWS must request a Notice of Applicability from EPA by contacting the ICR Utilities Coordinator, TSD, USEPA, 26 West Martin Luther King Drive, Cincinnati, OH 45268, not later than July 15, 1996.

(2) A PWS required to monitor under both paragraphs (c) and (d) of this section shall begin monitoring to comply with the provisions of § 141.142 (Disinfection Byproduct and Related Monitoring) and § 141.143 (Microbiological Monitoring) of this subpart in the same month. The PWS must submit the sampling plans required by §§ 141.142(c)(2)(ii) and 141.143(c)(3)(ii) of this subpart at the same time.

(3) *Disinfection Byproduct and Related Monitoring.* A PWS operating a treatment plant required to comply with § 141.142 of this subpart shall begin monitoring in the calendar month following approval of the DBP and related monitoring sampling plan submitted under the provisions of § 141.142(c)(2)(ii) of this subpart. Once a PWS has begun monitoring, it shall continue to monitor for 18 consecutive months.

(4) *Microbiological Monitoring.* A PWS operating a treatment plant identified in paragraph (d) of this section shall begin monitoring under the provisions of § 141.143 of this subpart in the calendar month following approval of the sampling plan submitted under the provisions of § 141.143(c)(3)(ii) of this subpart. Once a PWS has begun monitoring, it shall continue to monitor for 18 consecutive months.

(5) DBP precursor removal studies. (i) *TOC, UFCTOX, THM4, and HAA5 monitoring.* A PWS required to comply with § 141.144 of this subpart shall begin TOC, UFCTOX, THM4, and HAA5 monitoring specified in paragraph (e)(2) of this section not later than August 14, 1996 and continue this monitoring for 12 consecutive months for TOC and UFCTOX and four consecutive quarters for THM4 and HAA5.

(ii) A PWS required to conduct a disinfection byproduct precursor removal study (treatment study) under the provisions of paragraph (e)(1) of this section shall begin conducting such treatment studies not later than April 14, 1998 and submit the report(s) of the completed study to EPA not later than July 14, 1999.

§ 141.142 Disinfection byproduct and related monitoring.

(a) *Monitoring requirements.* Samples taken under the provisions of this section shall be taken according to the procedures described in the ''ICR Sampling Manual,'' EPA 814–B–96–001, April 1996. If a treatment plant configuration results in two required sampling points from any table in this section when in fact it is a single location, duplicate analyses are not required for the same location and time. A PWS that uses purchased finished water shall determine whether any monitoring of treatment plant influent is required under paragraphs (a)(2) through (5) of this section because of certain treatment (e.g., use of hypochlorite or chlorine dioxide) of the water provided by the selling PWS.

(1) A PWS shall obtain a complete set of samples at the frequency and location noted in Tables 1a and 1b of this section for treatment plants required to test under § 141.141(b) of this subpart. Samples shall be taken according to the sampling plan approved under the provisions of paragraph (c)(2)(ii) of this section.

(i) Samples of finished water shall be collected at a point after which all treatment processes for a particular treatment plant are complete (including the clearwell and final point of chlorination) and before the distribution system begins. A PWS that purchases finished water shall collect a sample before additional disinfectant is added to the purchased finished water. A PWS shall collect a sample of purchased finished water only if the PWS redisinfects the purchased finished water. A sample of finished water is a sample representing the final product water from a particular treatment plant.

(ii) A sample of treatment plant influent for a PWS that treats untreated water shall be taken at a location at the upstream end of a treatment plant where waters from all intakes are blended prior to any treatment or chemical addition. For treatment plants that have multiple intakes and add chemicals at the intake, the sample of treatment plant influent shall be a flow proportional composite of intake samples collected before chemical addition and before pretreatment. If the intakes are expected to have the same source water quality, one representative intake sample may be taken. If a disinfectant is added at or before the intake (e.g., for zebra mussel control), the sample shall be taken in the vicinity of the intake so that the sample is not contaminated by the disinfectant. A sample of treatment plant influent for a PWS that treats purchased finished water is taken at a location just before the purchased finished water is treated. An intake sample is collected after the intake but before blending with waters from other intakes and before addition of chemicals or any treatment.

TABLE 1A.—MONTHLY MONITORING REQUIREMENTS FOR TREATMENT PLANTS

Sampling point	Monthly analyses [1]
Treatment plant influent for non-finished water	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, UV_{254}, Bromide, Ammonia.
Treatment plant influent for purchased finished water [2].	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, UV_{254}, Disinfectant residual [3].
Before first point of oxidant addition	Chlorine demand test.
Washwater return between washwater treatment plant and point of addition to process train [4].	pH, Alkalinity, Turbidity, Temperature, Calcium and Total hardness, TOC, UV_{254}, Bromide, Ammonia, Disinfectant residual [3] if disinfectant is used.
Additional water sources added to process train after treatment plant influent. The sample point is before additional water is blended with the process train.	pH, Alkalinity, Turbidity, Temperature, Calcium and Total hardness, TOC, UV_{254}, Bromide, Ammonia, Disinfectant residual [3] if disinfectant is used.
Before Filtration	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, and UV_{254}.
After Filtration	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, and UV_{254}.
Before each Point of Disinfection [5]	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, and UV_{254}.
After every unit process that is downstream from the addition of chlorine or chloramines.	Disinfectant Residual [3].
Finished water sample point (Plant effluent)	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, UV_{254}, Disinfectant Residual [3].
Entry point to distribution system [6]	pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, TOC, UV_{254}, Disinfectant Residual [3].

[1] TOC: total organic carbon. UV_{254}: absorbance of ultraviolet light at 254 nanometers.

[2] Samples of purchased finished water shall be taken prior to addition of any more disinfectant.

[3] Free chlorine residual and total chlorine residual shall be measured in treatment systems using free chlorine. Total chlorine residual, but not free chlorine residual, shall be measured in treatment systems using chloramines as the residual disinfectant.

[4] Washwater return shall be sampled prior to blending with the process train.

[5] For utilities using ozone or chlorine dioxide, Tables 4 and 5, respectively, of this section, show additional monitoring requirements at this sampling point. Addition of ammonia for the purpose of converting free chlorine to chloramines is considered a point of disinfectant addition. PWSs that disinfect just before filtration may use the ''before filtration'' sampling point analytical results to meet the monitoring requirement for this point.

[6] Entry point to distribution system only required for treatment plants that blend finished water with finished water from other treatment plant(s) prior to entry point of distribution system. For most treatment plants, the finished water sample point and the entry point to the distribution system are the same.

TABLE 1B.—QUARTERLY MONITORING REQUIREMENTS FOR TREATMENT PLANTS

Sampling point	Quarterly analyses [1]
Treatment plant influent for non-finished water	TOX.
Treatment plant influent for purchased finished water.	THM4, HAA6 [7], HAN, CP, HK, CH, TOX.
Washwater Return between washwater treatment plant and point of addition to process train.	TOX.
After filtration if disinfectant is applied at any point in the treatment plant prior to filtration.	THM4, HAA6 [7], HAN, CP, HK, CH, TOX.
Finished water sample point (Plant Effluent)	THM4, HAA6 [7], HAN, CP, HK, CH, TOX.
Entry point to distribution system [2]	THM4, HAA6 [7], HAN, CP, HK, CH, TOX.
SDS [3]	THM4, HAA6 [7], HAN, CP, HK, CH, TOX, pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, Disinfectant Residual [5].

TABLE 1B.—QUARTERLY MONITORING REQUIREMENTS FOR TREATMENT PLANTS—Continued

Sampling point	Quarterly analyses[1]
Four monitoring points in distribution system[4,6]	THM4, HAA6[7], HAN, CP, HK, CH, TOX, pH, Alkalinity, Turbidity, Temperature, Calcium and Total Hardness, Disinfectant Residual[5].

[1] TOC: total organic carbon. THM4: trihalomethane (four). HAA6: haloacetic acids (six). HAN: Haloacetonitriles. CP: chloropicrin. HK: haloketones. CH: chloral hydrate. TOX: total organic halide. For THM4, HAA6, HAN, and HK, analytical results for individual analytes shall be reported.

[2] Entry point to distribution system only required for treatment plants that blend finished water with finished water from other treatment plant(s) prior to entry point of distribution system. For most treatment plants, the finished water sample point and the entry point to the distribution system are the same.

[3] Simulated Distribution System (SDS) sample shall be collected at the finished water sampling point (or entry point to distribution system if finished water from two or more plants are blended prior to entering the distribution system) and analyzed using the method specified in § 141.142. PWSs using purchased finished water are not required to take an SDS sample at treatment plants that use only purchased finished water.

[4] For each treatment plant, one distribution system equivalent sample location (known as DSE) shall be chosen to correspond to the SDS sample, one sample location shall be chosen to be representative of maximum residence time for the treatment plant, and the remaining two sample locations shall be representative of the average residence time in the distribution system for the treatment plant. PWSs using purchased finished water shall take three samples representing the average residence time in the distribution system for the treatment plant and one representing the maximum residence time for the treatment plant (no DSE sample required).

[5] Free chlorine residual and total chlorine residual shall be measured in treatment systems using free chlorine. Total chlorine residual, but not free chlorine residual, shall be measured in treatment systems using chloramines as the residual disinfectant.

[6] A PWS may use TTHM compliance monitoring locations and analytical results under § 141.30 of this part to the extent that such locations and analytical results are consistent with the requirements of this section.

[7] PWSs are encouraged to also analyze for the additional haloacetic acids bromodichloro-, chlorodibromo-, and tribromo-acetic acid, and report the results as part of the reports specified in paragraph (c)(1) of this section.

(2) *Additional requirements for PWSs using chloramines.* For each treatment plant that uses chloramines for treatment or disinfection residual maintenance, a PWS shall also conduct the additional sampling identified in Table 2 of this section. A PWS shall send samples of cyanogen chloride taken under the provisions of this paragraph for analysis to EPA, following the procedures contained in the ''ICR Sampling Manual,'' EPA 814–B–96–001, April 1996.

TABLE 2.—ADDITIONAL QUARTERLY MONITORING FOR TREATMENT PLANTS USING CHLORAMINES

Sampling point	Quarterly analyses
Treatment plant influent for purchased finished water[1]	Cyanogen Chloride[2].
Finished water sample point (plant effluent)	Cyanogen Chloride[2].
Distribution system sample point representing a maximum residence time in distribution system relative to the treatment plant.	Cyanogen Chloride[2].

[1] Applicable only when wholesale water provider is using chloramines.

[2] EPA shall provide all analytical results to the PWS. The PWS shall report all results in its monthly report.

(3) *Additional requirements for PWSs using hypochlorite solutions.* For each treatment plant that uses hypochlorite solutions for treatment or disinfection residual maintenance, a PWS shall also conduct the additional sampling identified in Table 3 of this section.

TABLE 3.—ADDITIONAL QUARTERLY MONITORING FOR TREATMENT PLANTS USING HYPOCHLORITE SOLUTIONS

Sampling point	Quarterly analyses
Treatment plant influent for non-finished water	Chlorate.
Treatment plant influent for purchased finished water[1]	Chlorate.
Hypochlorite Stock Solution	pH, Temperature, Free Residual Chlorine, Chlorate.
Finished Water Sample Point (Plant Effluent)	Chlorate.

[1] Applicable only when wholesale water provider is using hypochlorite solutions.

(4) *Additional requirements for PWSs using ozone.* For each treatment plant that uses ozone for treatment, a PWS shall also conduct the additional sampling identified in Tables 4a and 4b of this section. A PWS shall collect samples for bromate taken under the provisions of this paragraph in duplicate, with the PWS analyzing one aliquot and submitting the other aliquot for analysis to EPA, following the procedures contained in the ''ICR Sampling Manual,'' EPA 814–B–96–001, April 1996. A PWS shall submit samples for aldehydes taken under the provisions of this paragraph for analysis to EPA, following the procedures contained in the ''ICR Sampling Manual,'' EPA 814–B–96–001, April 1996.

TABLE 4a.—ADDITIONAL MONTHLY MONITORING FOR TREATMENT PLANTS USING OZONE

Sampling point	Monthly analyses
Ozone Contactor Influent	Bromide, bromate[2,3], and ammonia.

TABLE 4a.—ADDITIONAL MONTHLY MONITORING FOR TREATMENT PLANTS USING OZONE—Continued

Sampling point	Monthly analyses
Each Ozone Contact Chamber Effluent [1]	Ozone residual.
Ozone Contactor Effluent	Bromate[2].
Finished Water Sample Point (Plant Effluent)	Bromate[2].

[1] Each ozone contactor can be subdivided into its contact chambers. Measure ozone residual in effluent of all contact chambers until <0.05 mg/l is measured in two consecutive chambers.
[2] EPA shall provide all analytical results to the PWS. The PWS shall report all results in its monthly report.
[3] PWSs are not required to analyze a bromate sample at this location. However, PWSs are still required to submit a sample to EPA for analysis.

Table 4B.—ADDITIONAL QUARTERLY MONITORING FOR TREATMENT PLANTS USING OZONE

Sampling point	Quarterly analyses
Ozone Contactor Influent	Aldehydes [1] and AOC/BDOC [2].
Ozone Contactor Effluent	Aldehydes [1] and AOC/BDOC [2].
Finished Water Sample Point (Plant Effluent)	Aldehydes [1] and AOC/BDOC [2].

[1] EPA shall measure the following aldehydes: formaldehyde, acetaldehyde, propanal, butanal, pentanal, glyoxal, and methyl glyoxal. EPA may analyze for other aldehydes. EPA shall provide all analytical results to the PWS. The PWS shall report all results in its monthly report.
[2] Analysis and submission of data for both assimilable organic carbon (AOC) and biodegradable organic carbon (BDOC) are optional. Analytical methods for AOC and BDOC are listed in ''DBP/ICR Analytical Methods Manual,'' EPA 814–B–96–002, April 1996.

(5) *Additional sampling requirements for PWSs using chlorine dioxide.* For each treatment plant that uses chlorine dioxide for treatment or disinfection residual maintenance, a PWS shall also conduct the additional sampling identified in Tables 5a and 5b of this section. A PWS shall collect samples for bromate taken under the provisions of this paragraph in duplicate, with the PWS analyzing one aliquot and submitting the other aliquot for analysis to EPA, following the procedures contained in the ''ICR Sampling Manual,'' EPA 814–B–96–001, April 1996. A PWS shall submit samples for aldehydes taken under the provisions of this paragraph for analysis to EPA, following the procedures contained in the ''ICR Sampling Manual,'' EPA 814–B–96–001, April 1996.

TABLE 5A.—ADDITIONAL MONTHLY MONITORING FOR TREATMENT PLANTS USING CHLORINE DIOXIDE

Sampling point	Monthly analyses
Treatment plant influent for purchased finished water [1]	Chlorine Dioxide Residual, Chlorite, Chlorate.
Before first chlorine dioxide application	Chlorate, bromate [2,3].
Before application of ferrous salts, sulfur reducing agents, or GAC	Chlorine Dioxide Residual, Chlorite, Chlorate, pH.
Finished water sample point (plant effluent)	Chlorine Dioxide Residual, Chlorite, Chlorate, Bromate [2].
Three distribution system sampling points (1 near first customer, 1 in middle of distribution system, and 1 representative of maximum residence time in the distribution system).	Chlorine Dioxide Residual, Chlorite, Chlorate, pH, and Temperature.

[1] Applicable only when wholesale water provider is using chlorine dioxide.
[2] EPA shall provide all analytical results to the PWS. The PWS shall report all results in its monthly report.
[3] PWSs are not required to analyze a bromate sample at this location. However, PWSs are still required to submit a sample to EPA for analysis.

TABLE 5b.—ADDITIONAL QUARTERLY MONITORING FOR TREATMENT PLANTS USING CHLORINE DIOXIDE

Sampling point	Quarterly analyses
Before First Chlorine Dioxide Application	Aldehydes [1] and AOC/BDOC [2].
Before First Point of Downstream Chlorine/Chloramine Application After Chlorine Dioxide Addition.	Aldehydes [1] and AOC/BDOC [2].
Finished Water Sample Point (Plant Effluent)	Aldehydes [1] and AOC/BDOC [2].

[1] EPA shall measure the following aldehydes: formaldehyde, acetaldehyde, propanal, butanal, pentanal, glyoxal, and methyl glyoxal. EPA may analyze for other aldehydes. EPA shall provide all analytical results to the PWS. The PWS shall report all results in its monthly report.
[2] Analysis and submission of data for both assimilable organic carbon (AOC) and biodegradable organic carbon (BDOC) are optional. Analytical methods for AOC and BDOC are listed in ''DBP/ICR Analytical Methods Manual,'' EPA 814–B–96–002, April 1996.

(6) *Additional requirements.* A PWS shall also report the applicable information in Tables 6a through 6e of this section. A PWS is required to provide the information in paragraphs (a)(6)(i) through (iii) of this section for each unit process listed in Table 6c. The PWS may provide the information in paragraphs (a)(6)(iv) and (v) of this section for each unit process listed in Table 6c. T_{10} and T_{50} tracer studies shall be conducted as specified in ''Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources'', Appendix C.

(i) Unit process flow (MGD) at time of sampling.

(ii) T_{10} (minutes). A PWS shall determine T_{10} based on a one-time tracer study in the clearwell of all treatment plants required to conduct

microbiological monitoring under the provisions of § 141.141(d) of this subpart. The PWS may use results of a tracer study conducted to meet the requirements of subpart H (Filtration and Disinfection) of this part to meet this requirement. For subsequent T_{10} determinations, the PWS shall use a flow-proportional interpolation of the clearwell tracer study. For unit processes other than a clearwell, a PWS shall either estimate T_{10} or use an interpolation of tracer study T_{10} using multiple flows for each unit process in which a disinfectant residual exists.

(iii) Chemicals in use at time of sampling. Report chemical name, chemical dose at time of sampling, and measurement formula. Measurement formulas (e.g., mg/l as Aluminum) shall be provided to determine the correct amount of the chemical compound being added.

(iv) Short circuiting factor (optional). The short circuiting factor is an assumed value for the ratio of T_{10} to nominal contact time (volume divided by flow).

(v) T_{50} (minutes) (optional). T_{50} should be reported only if based on a tracer study.

TABLE 6a.—PUBLIC WATER SYSTEM INFORMATION

Permanent data	Design data	Monthly data
Public Water System:		
Utility Name		Sampling Dates: From (date) To (date).
Public Water Supply Identification Number (PWSID)		Retail population on day of sampling.
Water Industry Data Base (WIDB) Number [Optional]		Wholesale population on day of sampling.
Official Contact Person:		Monthly average Retail flow (MGD).
Name		Monthly average Wholesale flow (MGD).
Mailing Address		
Phone Number [optional]		
FAX Number [optional]		
ICR Contact Person:		
Name		
Mailing Address		
Phone Number [optional]		
FAX Number [optional]		
E-Mail Address [optional]		
Treatment Plant: [1]		
Plant name	Plant type (e.g., Conventional Filtration, Direct Filtration, In-Line Filtration, Two Stage Softening, Disinfection Only/Groundwater, Other Groundwater treatment)	Hours of operation (hours per day)
ICR plant number assigned by EPA [2]		Sludge solids production (lb/day)
PWSID number of treatment plant [3]		Percent solids in sludge (%)
State approved (permitted) plant capacity (MGD)		
Historical minimum water temperature (°C)		
Installed sludge handling capacity (lb/day)		
Process Train:		
Name	Process Train Type (e.g., Conventional Filtration, Direct Filtration, In-Line Filtration, Two Stage Softening, Disinfection Only/Groundwater, Other Groundwater treatment)	

[1] A PWS that operates more than one treatment plant shall report treatment plant information in this table for each treatment plant.
[2] EPA shall assign ICR plant number after the PWS submits sampling plan.
[3] PWSID of treatment plant if different from the PWSID reported in ''Public Water System''.

TABLE 6b.—PLANT INFLUENT INFORMATION

Permanent data	Monthly data
Water Resource [1]	
Name of resource:	If Reservoir/Lake: Mean Residence Time (days).
Type of resource (One of the following):	
1 Flowing stream	
2 Reservoir/Lake	
3 Ground water classified as under the direct influence of surface water (GWUDI)	
4 Ground water	
5 Purchased finished water	
6 Non-Fresh (such as salt water)	
Intake-Surface Water [2]	
Location of intake: [3]	Flow on day of sampling (MGD).
Latitude (deg/min/sec)	
Longitude (deg/min/sec)	
Hydrologic unit code (8 digit), if known [4]	
Stream Reach Code (3 digit) (if known)	
River mile number (mile) (if known)	
Is watershed control practiced? (yes/no)	

TABLE 6b.—PLANT INFLUENT INFORMATION—Continued

Permanent data	Monthly data
Intake-Ground Water [5] [6]	
Location of intake: Latitude (deg/min/sec) Longitude (deg/min/sec) Hydrological unit code (8 digit), if known [4] Is wellhead protection practiced? (yes/no)	Flow on day of sampling (MGD).
Intake-Purchased Finished Water [7]	
Name of supplying utility ..... PWSID of supplying utility	Flow on day of sampling (MGD).
Plant Influent [8]	
	Monthly average flow (MGD). Flow at time of sampling (MGD).

[1] Each treatment plant shall have at least one water resource. Each water resource shall have at least one intake. A treatment plant that uses more than one water resource shall report water resource information in this table for each water resource.
[2] Intake-Surface Water describes the physical location of an intake structure located in a river, lake, or other surface water resource or, for ground water under the direct influence of surface water, the physical location of a well.
[3] The location of the intake will allow cross referencing into other data bases containing information on possible contamination threats to the intake.
[4] The hydrologic unit code will allow cross referencing into other data bases containing information on possible contamination threats to the intake.
[5] An Intake-Ground Water describes the physical location of a well or well field (if multiple wells draw from a common aquifer.
[6] A PWS is not required to report information for ground water that is not treated.
[7] A PWS is required to report information for purchased finished water only if that water is further treated.
[8] Multiple ''Intakes'' combine into one ''Plant Influent.'' Each treatment plant has only one treatment plant influent. The treatment plant influent shall mark the point in the treatment plant where the ''Plant Influent'' sample shall be collected as described in Tables 1, 2, 3 and 5 of this section.

TABLE 6c.—UNIT PROCESS INFORMATION

Design data	Monthly data
Presedimentation Basin [1]	
Tube Settler Brand Name Plate Settler Brand Name Baffling type[2]	Liquid volume (gallons). Surface area (ft^2). Projected Tube Settler Surface Area (ft^2). Projected Plate Settler Surface Area (ft^2).
Ozone Contact Basin	
Information for the complete ozone contact basin: Type of Ozone Contactor (One of the following) 1 Bubble Diffusion 2 Turbine Number of Chambers Information for each ozone contact chamber: Chamber sequence number Liquid volume (ft^3) Surface area (ft^2) Water/Ozone flow regime (one of the following) 1 Counter-current 2 Co-current	Information for the complete ozone contact basin: Ozone CT (mg min/l).[10] Ozone Giardia Inactivation (logs). Ozone Virus Inactivation (logs). Ozone concentration in feed gas (% by weight). Total Ozone Gas Flow Rate to Contactor (SCFM).[3] Type of feed gas used to generate ozone (one of the following). 1 Air. 2 Oxygen. Total Ozone Applied Dose (mg/l). Information for each ozone contact chamber: Percent ozone gas flow split to this chamber (%). Hydrogen peroxide dose (mg/l).
Washwater Return Point [8]	
Indicate which washwater treatment processes are being used on day of sampling Is there treatment (yes/no):	Flow of returned washwater at time of sampling (MGD). 24 hr average flow prior to sampling (MGD).

TABLE 6c.—UNIT PROCESS INFORMATION—Continued

Design data	Monthly data
If yes: Plain sedimentation (yes/no) Coagulation/sedimentation (yes/no) Filtration (yes/no) Disinfection (yes/no) Other Treatment (Text)	
Rapid Mix	
Type of mixer (one of the following): 1 Mechanical 2 Hydraulic 3 Static 4 Other Baffling type [2]	Mean velocity gradient ''G'' (sec^{-1}).[4] Liquid volume (gallons).
Flocculation Basin	
Type of mixer (one of the following): 1 Mechanical 2 Hydraulic Number of stages Baffling type [2]	Mean velocity gradient ''G'' (sec^{-1}) in each stage.[4] Liquid volume of each stage (gallons).
Sedimentation Basin	
Tube settler brand name Plate settler brand name Baffling type [2]	Liquid volume (gallons). Surface area (ft^2). Projected tube settler surface area (ft^2). Projected plate settler surface area (ft^2).
Solids Contact Clarifier	
Brand name: Type (check all that apply): Rectangular basin Upflow Reactor-clarifier Sludge blanket Tube settler brand name Plate settler brand name Baffling type [2]	Liquid volume (gallons). Surface area of settling zone (ft^2). Projected tube settler surface area (ft^2). Projected plate settler surface area (ft^2).
Adsorption Clarifier	
Brand Name Baffling type [2]	Liquid volume (gallons). Surface area (ft^2).
Dissolved Air Flotation	
Baffling type [2]	Liquid volume (gallons). Surface area (ft^2). Percent recycle rate (%). Recycle stream pressure (psi).
Recarbonation Basin	
Baffling type [2]	Liquid volume (gallons). Surface area (ft^2).

TABLE 6c.—UNIT PROCESS INFORMATION—Continued

Design data	Monthly data
Filtration	
Media Type (one of the following): 1 Dual media (Anthracite/Sand) 2 GAC over sand 3 Tri media (Anthracite/Sand/Garnet) 4 Sand 5 Deep bed monomedia anthracite 6 Deep bed monomedia GAC 7 Greensand 8 Other Design depth of GAC (inch) Type and manufacturer of activated carbon Design media depth (inch) Minimum water depth to top of media (ft) Depth from top of media to top of backwash trough (ft)	Liquid volume (gallons). Surface area (ft^2). Average filter run time (hr).
Slow Sand Filtration	
Media type Media depth Media size	Surface area (ft^2). Average filter run length. Cleaning method.
Diatomaceous Earth Filter	
	Effective DE filter surface (ft^2). Precoat (lb/ft^2). Bodyfeed (mg/l). Run length (hours).
Granular Activated Carbon—Post-Filter Adsorber	
Manufacturer of activated carbon Type of activated carbon	Liquid volume (gallons). Surface area (ft^2). Carbon volume (ft^3). Empty bed contact time (minutes). Operating reactivation frequency (days).
Membranes	
Model name: Type (one of the following): 1 Reverse osmosis 2 Nanofiltration 3 Ultrafiltration 4 Microfiltration 5 Electrodialysis Number of stages Molecular weight cutoff (daltons) Design flux (gpd/ft^2) Design pressure (psi)	Surface area (ft^2). Percent recovery (%). Operating pressure (psi). Operating flux (gpd/ft^2). Cleaning method (one of the following) Hydraulic. Chemical. Cleaning frequency (days).
Air Stripping	
Packing height (ft) Design air to water ratio (volume/volume) Type of packing (Name) Nominal size of packing (inch)	Horizontal cross-section area (ft^2). Air flow (SCFM).[3]
Ion Exchange	
Resin (Name) Resin manufacturer Design exchange capacity (equ/ft^3)[3] Bed depth (ft)	Liquid volume (gallons). Surface area (ft^2).

TABLE 6c.—UNIT PROCESS INFORMATION—Continued

Design data	Monthly data
Disinfection Contact Basin [5 6]	
Baffling type [2]	Liquid volume (gallons). Surface area (ft^2).
Clearwell [7]	
Baffling type [2] Minimum liquid volume (gallons) Covered or Open	Liquid volume (gallons). Surface area (ft^2).
Additional Water Sources [9]	
Type of water source: Purchased Finished water Untreated ground water Treated ground water Untreated surface water Treated surface water Other	Flow of additional source (MGD).[6]
Other Treatment	
Purpose	Surface area (ft^2) [optional]. Liquid Volume (gallons) [optional].

[1] A reservoir to which oxidants, disinfectants, or coagulants are added is considered a presedimentation basin.
[2] Baffling type classified as one of the following: 1 (Unbaffled (mixed tank)), 2 (Poor (inlet/outlet only)), 3 (Average (Inlet/Outlet and intermediate)), 4 (Superior (Serpentine)), or 5 (Perfect (Plug flow)). Information on classifying baffling types can be found in ''Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources'', Appendix C.
[3] ''SCFM'' is standard cubic feet per minute. ''Equ/ft^3'' is equivalents per cubic foot.
[4] The mean velocity gradient is typically computed as G=square root of (P/uV) where P=power expended, u=viscosity, and V=liquid volume.
[5] The disinfection contact basin shall have a stable liquid level.
[6] Disinfection Contact Basin can be used to represent a pipe with a long contact time.
[7] A clear well may have a variable liquid level.
[8] The ''Washwater Return'' shall mark the point in the process train where washwater joins the main flow.
[9] Additional water sources includes water that is added to the process train after the influent.
[10] Ozone CT calculated using the procedure contained in ''Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources'', Appendix O, 1991.

TABLE 6d.—ADDITIONAL PROCESS TRAIN INFORMATION

Design data	Monthly data
Disinfectant Addition	
	Disinfectants in use at time of sampling. Dose (mg/l). Chemical formula (e.g., mg/l as chlorine).
Finished Water Sample Point (Plant Effluent) [1 2]	
	Monthly average flow (MGD). Flow at time of sampling (MGD).

[1] This shall mark the end of a treatment plant.
[2] Unless the finished water of this treatment plant is blended with finished water from another treatment plant, this point is also the entry point to the distribution system.

TABLE 6e.—FINISHED WATER DISTRIBUTION INFORMATION

Design data	Monthly data
Entry Point to Distribution System [1]	
	Monthly average flow (MGD). Flow at time of sampling (MGD).

TABLE 6e.—FINISHED WATER DISTRIBUTION INFORMATION—Continued

Design data	Monthly data
Wholesale Information [2]	
Name of purchaser PWSID of purchaser	Flow at time of sampling (MGD).
Distribution System	
Typical maximum residence time (days) Average residence time (days) Design volume of distribution system storage (million gallon) Total surface area of open reservoirs in distribution system storage (ft^2)	Maximum residence time (days). Average residence time (days). Number of disinfection booster stations in operation at time of sampling: Chlorine. Chloramine. Chlorine dioxide. Range of distribution system disinfectant dosages. Chlorine: High (mg/l) Low (mg/l). Chloramine: High (mg/l) Low (mg/l). Chlorine dioxide: High (mg/l) Low (mg/l).

[1] Multiple treatment plants can feed into one entry point to the distribution system. If there is only one treatment plant then ''Finished Water Sample Point (Plant Effluent)'' and ''Entry Point to Distribution System'' are the same.
[2] The supplying public water system shall report ''Wholesale Information'' for each public water system which purchases finished water.

(b) Analytical methods. (1) A PWS shall use the methods identified in Table 7 of this section for conducting analyses required by this subpart.

TABLE 7.—ANALYTICAL METHODS APPROVED FOR SUBPART M

Analyte	Methodology [1]		
	40 CFR reference [2]	EPA method	Standard method [3]
pH, alkalinity, calcium hardness, temperature.	§ 141.23(k)(1)		
Turbidity	§ 141.74(a)(1)		
Disinfectant residuals: free chlorine, total chlorine, chlorine dioxide, ozone.	§ 141.74(a)(2)		4500–Cl B [9]
Trihalomethanes: chloroform, bro	§ 141.24(e)	551.1 [4]	
modichloromethane, dibro			
mochloromethane, bromoform			
Haloacetic acids: mono-, di-, and trichloroacetic acids; mono- and dibromoacetic acid; bromochloroacetic acid.		552.1, [5] 552.2 [4]	6251 B
Chloral hydrate		551.1 [4]	
Haloacetonitriles: di- and trichloroacetonitrile; bromochloroacetonitrile; dibromoacetonitrile.		551.1 [4]	
Haloketones: 1,1-Dichloropropanone; 1,1,1-trichloropropanone.		551.1 [4]	
Chloropicrin		551.1 [4]	
Chlorite		300.0 [6]	
Chlorate		300.0 [6]	
Bromide		300.0 [6]	
Bromate		300.0 [6]	
Total Organic Halide (TOX)			5320 B
Total Organic Carbon			5310 B, 5310 C, 5310 D
UV absorbance at 254 nm			5910
Simulated Distribution System Test (SDS).			5710 C
Total Hardness			2340 B,[7] 2340 C
Ammonia	§ 136.3, Table 1b [8]	350.1 [6]	4500–NH_3 D, 4500–NH_3 G
Chlorine Demand Test			2350 B

[1] Analyses shall be conducted by using mandatory analytical and quality control procedures contained in ''DBP/ICR Analytical Methods Manual'', EPA 814–B–96–002.
[2] Currently approved methodology for drinking water compliance monitoring is listed in Title 40 of the Code of Federal Regulations in the sections referenced in this column. The 18th and 19th editions of *Standard Methods for the Examination of Water and Wastewater,* American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005, are equivalent for the methods cited in these sections. Therefore, either edition may be used.

[3] Except where noted, all methods refer to the 19th edition of *Standard Methods for the Examination of Water and Wastewater,* American Public Health Association, 1015 Fifteenth Street NW, Washington, D.C. 20005.

[4] Analytical method reprinted in ''Reprints of EPA Methods for Chemical Analyses Under the Information Collection Rule'', EPA 814–B–96–006. Originally published in ''Methods for the Determination of Organic Compounds in Drinking Water—Supplement III,'' EPA/600/R–95/131, August 1995, PB95–261616.

[5] Analytical method reprinted in ''Reprints of EPA Methods for Chemical Analyses Under the Information Collection Rule'', EPA 814–B–96–006. Originally published in ''Methods for the Determination of Organic Compounds in Drinking Water—Supplement II,'' EPA/600/R–92/129, August 1992, PB92–207703.

[6] Analytical method reprinted in ''Reprints of EPA Methods for Chemical Analyses Under the Information Collection Rule'', EPA 814–B–96–006. Originally published in ''Methods for the Determination of Inorganic Substances in Environmental Samples,'' EPA/600/R–93/100, August 1993, PB94–121811.

[7] The following methods, cited at § 141.23(k)(1) of this part, can be used to determine calcium and magnesium concentrations for use in conjunction with Standard Method 2340 B: EPA Method 200.7, Standard Method 3111 B, Standard Method 3120 B, or ASTM Method D511–93 B.

[8] PWSs may use only the automated electrode method from § 136.3, Table 1b.

[9] Standard Method 4500–Cl B is approved only for determining free chlorine residual concentrations in hypochlorite stock solutions. This method may not be used for any other disinfectant residual analyses.

(2) Analyses under this section shall be conducted by laboratories that have received approval from EPA to perform sample analysis for compliance with this rule. Laboratories that wish to become approved shall contact EPA in writing at USEPA, Technical Support Division, ICR Laboratory Coordinator, 26 W. Martin Luther King Drive, Cincinnati, OH 45268 not later than November 14, 1996. Requirements for approval are included in ''DBP/ICR Analytical Methods Manual'', EPA 814–B–96–002.

(c) *Reporting.* (1) A PWS shall report required data and information collected under the provisions of paragraph (a) of this section to EPA, using an EPA-specified computer readable format. A PWS shall submit a monthly report that indicates the analytical results of all samples collected, including quarterly samples taken in that same month, and all process train data. These reports shall be submitted on a diskette no later than the fourth month following sampling. In addition to the information in Tables 1 through 6 in paragraph (a) of this section, reports shall include PWSID, ICR plant identification, sample date, analysis date, laboratory identification numbers, analytical methods used, sample identification numbers, quality assurance code, internal standards, surrogate standards, and preserved sample pH, if appropriate.

(2) *Additional Requirements.* A PWS shall submit a DBP and related monitoring sampling plan for EPA approval, using software provided by EPA, for each treatment plant specified in § 141.141(b)(2) of this subpart that indicates sampling point locations and monitoring to be conducted at each point, and process treatment train information. This sampling plan shall be submitted to EPA at the same time and on the same diskette as the microbiological sampling plan required by § 141.143(c)(3) and no later than eight weeks after the PWS receives the Notice of ICR Final Applicability Determination from EPA, using the procedure specified in ''ICR Sampling Manual'', EPA 814–B–96–001, April 1996.

(3) All reports required by this section shall be submitted to USEPA (ICR4600), ICR Data Center, Room 1111 East Tower, 401 M Street SW., Washington, DC 20460.

(4) The PWS shall keep all data for at least three years following data submission to EPA.

(d) *Incorporation by reference.* The documents and methods listed in paragraphs (d) (1) and (2) of this section are incorporated by reference for purposes specified in this section. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be inspected at USEPA, Drinking Water Docket (4101), 401 M Street SW., Washington, DC 20460, or at Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

(1) ''Standard Methods for the Examination of Water and Wastewater,'' 19th edition, 1995. Available from the American Public Health Association, 1015 Fifteenth Street, NW., Washington, DC 20005.

(2) ''Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources'', Appendices C and O, 1991. Available from American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235.

§ 141.143 Microbial monitoring.

(a) Monitoring requirements. (1) *Parameters.* A PWS shall sample for the following parameters for the period specified in § 141.141(d) of this subpart and at the location specified and using the analytical methods specified in paragraphs (a)(2) and (b), respectively, of this section. For each sample, a PWS shall determine the densities of total coliforms, fecal coliforms or *Escherichia coli, Giardia, Cryptosporidium,* and total culturable viruses for each treatment plant required to monitor under the provisions of § 141.141(b) of this subpart.

(2) *Monitoring locations.* (i) A PWS shall collect one sample of the treatment plant influent at the frequency specified in § 141.141(d) of this subpart.

(A) A sample of treatment plant influent shall be taken at a location at the upstream end of a treatment plant where waters from all intakes are blended prior to any treatment or chemical addition.

(B) For treatment plants that have multiple intakes and add chemicals at the intake, the PWS shall take an intake sample of the water resource with the poorest microbiological quality (or, if that cannot be determined, the water resource with the highest flow) collected before chemical addition and before pretreatment. If the intakes are expected to have the same source water quality, one representative intake sample may be taken. If a disinfectant is added at or before the intake (e.g., for zebra mussel control), the sample shall be taken in the vicinity of the intake in such manner that the sample is not contaminated by the disinfectant.

(ii) A PWS that, during any of the first twelve months of monitoring at the treatment plant influent, detects 10 or more *Giardia* cysts, or 10 or more *Cryptosporidium* oocysts, or one or more total culturable viruses, in one liter of water; or calculates a numerical value of the *Giardia* or *Cryptosporidium* concentration equal to or greater than 1000 per 100 liters or virus concentration equal to or greater than 100 per 100 liters; or detects no pathogens in the sample and calculates a numerical value of the detection limit for *Giardia* or *Cryptosporidium* concentration equal to or greater than 1000 per 100 liters or virus concentration equal to or greater than 100 per 100 liters; shall also collect one sample of finished water per month at each such treatment plant, beginning in the first calendar month after the PWS learns of such a result. The sample of finished water shall be collected at a point after which all treatment

processes for a particular treatment plant are complete (including the clearwell and final point of disinfection) and before the distribution system begins. For each sample of finished water, PWSs shall determine the density of total coliforms, fecal coliforms or *E. coli, Giardia, Cryptosporidium*, and total culturable viruses. A PWS shall continue finished water monitoring monthly until 18 months of treatment plant influent monitoring has been completed.

(iii) In lieu of conducting finished water monitoring of *Giardia* and *Cryptosporidium* specified in paragraph (a)(2)(ii) of this section, a PWS may notify EPA in its response to the notice of applicability required by paragraph (c)(3)(i) of this section that the PWS will comply with the alternative monitoring requirements in paragraphs (a)(2)(iii) (A) and (B) of this section. The PWS shall still conduct finished water monitoring for all other microorganisms, except for *Giardia* and *Cryptosporidium* monitoring in the finished water.

(A) The PWS measures the particle counts in the treatment plant influent, at points immediately prior to filtration and after filtration (but before the addition of post-filtration chemicals). Particle counting shall be conducted on the same treatment train as is sampled for monitoring conducted under the provisions of § 141.142(a) of this subpart. Such samples shall be collected monthly during the entire 18-month monitoring period, using the procedures contained in the ''ICR Sampling Manual'', EPA 814–B–96–001, April 1996. The PWS may use either grab or continuous particle counting. Particle counting shall be conducted during the same time as protozoa monitoring required by paragraph (a)(2)(iii)(B) of this section.

(*1*) If grab sampling is conducted, the PWS shall collect 12 samples per location at the treatment plant influent, filter influent, and filter effluent, over either a 24-hour period or the duration of the filter run, whichever is shorter.

(*2*) If continuous particle counting is conducted, the PWS shall collect 12 instrument readings per location, evenly spaced in time, at the treatment plant influent, filter influent, and filter effluent, over either a 24-hour period or the duration of the filter run, whichever is shorter.

(*3*) For each sample, the PWS shall measure particle counts per milliliter in the size ranges of 3µm-5µm, 5µm-7µm, 7µm-10µm, 10µm–15µm, and >15µm, and shall report to EPA the mean value in each size range of the 12 values collected over the sampling period.

(B) The PWS collects and analyzes at least four consecutive months of *Giardia* and *Cryptosporidium* samples at the same locations specified in paragraph (a)(2)(iii)(A) of this section, within the first 12 months of the 18 months of sampling. The PWS shall collect *Giardia* and *Cryptosporidium* samples during the same time period as it is conducting particle counting. The minimum sample volume for *Giardia* and *Cryptosporidium* analyses shall be 100 liters for treatment plant influent and 1,000 liters for water that has undergone any treatment. The PWS may use results of monitoring for *Giardia* and *Cryptosporidium* in the treatment plant influent specified in paragraph (a)(2) of this section to meet the requirements of this paragraph as long as such monitoring meets the requirements of both this paragraph and paragraph (a)(2) of this section.

(iv) If a PWS has monitored total coliforms, fecal coliforms, or *E. coli* in the treatment plant influent for at least five days/week for any period of six consecutive months beginning after January 1, 1994 and 90% of all samples taken in that six-month period contained no greater than 100 total coliforms/100 ml, or 20 fecal coliforms/100 ml, or 20 *E. coli*/100 ml, the PWS may request to not conduct virus monitoring for that treatment plant, for the duration of the requirement. Even if approved, the PWS may subsequently be required to monitor under the criteria in paragraph (a)(2)(iv)(A) of this section. This request shall be submitted as part of the response to the notice of applicability required by paragraph (c)(3)(i) of this section.

(A) If the PWS is subsequently required to monitor the finished water under the provisions of paragraph (a)(2)(ii) of this section, the PWS shall monitor, along with the other specified organisms, total culturable viruses, as specified in paragraph (a)(2)(i) of this section for treatment plant influent and as specified in paragraph (a)(2)(ii) of this section for finished water, until 18 months of microbial monitoring is completed.

(B) A PWS may use coliform data collected under § 141.71(a)(1) of this part for this purpose but, if this is done, the PWS shall submit two separate monitoring reports. One report, to meet the requirements of § 141.71(a)(1) of this part, shall continue to be submitted as required by subpart H of this part. The other report shall be submitted to meet the requirements of paragraph (c)(3) of this section.

(C) If a PWS does not provide EPA with six months of suitable coliform results as part of its response to the notice of applicability, the PWS shall begin virus monitoring. If a PWS begins virus monitoring and subsequently provides EPA with six months of coliform results that are at or below the indicated density limit, and EPA approves the request to not conduct virus monitoring, the PWS may avoid subsequent treatment plant virus monitoring.

(b) Analytical Methods. (1) A PWS shall use the methods listed in paragraphs (b)(1)(i) through (v) of this section for monitoring under this subpart.

(i) Fecal coliforms—specified at § 141.74(a)(1) of this part, except that whenever paired source water samples and finished water samples are to be collected, only the fecal coliform procedure (Standard Method 9221E), as specified in § 141.74(a)(1) of this part, using EC Medium, can be used. The time between sample collection and initiation of sample analysis shall not exceed eight hours. Samples shall be chilled, but not frozen, and shipped at a temperature of less than 10°C. Samples not processed immediately at the laboratory shall be refrigerated. The laboratory must invalidate samples that arrive frozen or at a temperature greater than 10°C.

(ii) Total coliforms—specified at § 141.74(a)(2) of this part. The time between sample collection and initiation of sample analysis shall not exceed eight hours. Samples shall be chilled, but not frozen, and shipped at a temperature of less than 10°C. Samples not processed immediately at the laboratory shall be refrigerated. The laboratory must invalidate samples that arrive frozen or at a temperature greater than 10°C.

(iii) *E. coli*—as specified by § 141.21(f)(6)(i) through (iii) of this part, except that the density shall be reported. PWSs using the EC+MUG and ONPG-MUG tests shall use either a 5-tube or 10-tube 10-ml configuration, with serial dilutions of the original sample as needed, and report the Most Probable Number. PWSs may also use a commercial multi-test system for *E. coli* enumeration, as long as they use M-Endo medium for the initial isolation of the organisms, pick every colony on the plate with the appearance of a total coliform, and streak it for purification before subjecting the colony to a multi-test system. The time between sample collection and initiation of sample analysis, regardless of method used, shall not exceed eight hours. Samples shall be chilled, but not frozen, and shipped at a temperature of less than 10°C. Samples not processed immediately at the laboratory shall be

refrigerated. The laboratory must invalidate samples that arrive frozen or at a temperature greater than 10°C.

(iv) *Giardia* and *Cryptosporidium*—ICR Protozoan Method, as described in ''ICR Microbial Laboratory Manual'', EPA 600/R–95/178, April 1996.

(v) Total culturable viruses—Virus Monitoring Protocol, as described in ''ICR Microbial Laboratory Manual'', EPA 600/R–95/178, April 1996.

(2) *Laboratories.* A PWS shall use EPA-approved laboratories to analyze for *Giardia, Cryptosporidium,* and total culturable viruses. A PWS shall use laboratories certified for microbiology analyses by either EPA or a State under the EPA or State drinking water program for the analysis of total coliforms, fecal coliforms, and *E. coli.* Laboratories that wish to become approved shall contact EPA in writing at USEPA, Technical Support Division, ICR Laboratory Coordinator, 26 W. Martin Luther King Drive, Cincinnati, OH 45268 not later than August 14, 1996. Laboratory approval criteria for *Giardia, Cryptosporidium,* and total culturable viruses are found in the ''ICR Microbial Laboratory Manual'', EPA 600/R–95/178, April 1996.

(3) A PWS shall send EPA a virus archive sample prepared as described in Chapter VIII of ''ICR Microbial Laboratory Manual'', EPA 600/R–95/178, April 1996, for each water sample identified in paragraph (b)(3)(i) or (ii) of this section.

(i) Samples of treatment plant influent and finished water, for every month after the PWS learns that viruses were detected in any previous sample of finished water.

(ii) Samples of treatment plant influent and finished water, regardless of whether viruses are detected in the finished water, for every month after the PWS learns that a density of at least 10 viruses/L was detected in any previous treatment plant influent water sample.

(iii) A PWS may arrange to have virus samples shipped directly to EPA by its virus laboratory for archiving.

(iv) Samples shall be sent on dry ice to ICR Virus Archiving Coordinator following the procedures specified in ''ICR Microbial Laboratory Manual'', EPA 600/R–95/178, April 1996.

(c) *Reporting.* (1) A PWS shall report data and information required under paragraphs (a) and (b) of this section using an EPA-specified computer readable format. A PWS shall submit a monthly report on a diskette, no later than the fourth month following sampling, that indicates the analytical results of all samples collected. Reports shall include PWSID, ICR plant identification, sample date, analysis date, laboratory identification numbers, analytical methods used, sample identification numbers, analytical batch numbers, quality assurance code, and processing batch numbers, if appropriate.

(2)(i) For a PWS using the alternative to *Giardia* and *Cryptosporidium* monitoring in paragraph (a)(2)(iii) of this section, the PWS shall report to EPA the mean value in each size range of the 12 particle counting values collected over the sampling period. In addition, during the four consecutive months when the PWS collects *Giardia* and *Cryptosporidium* samples specified in paragraph (a)(2)(iii)(B) of this section, the PWS shall report to EPA, for each measured site, the densities of *Giardia* and *Cryptosporidium* at each measured site. This information shall be submitted at the same time as the report required by paragraph (c)(1) of this section.

(ii) A PWS that is not required to monitor for total culturable viruses under the provisions of paragraph (a)(2)(iv) of this section shall report to EPA the dates and results of all total coliform, fecal coliform, or *E. coli* monitoring used by the PWS to determine that additional virus monitoring is unnecessary. The report shall indicate all data collected during the six-month time period, and how the data were used to calculate compliance with this requirement.

(3) *Additional Requirements.* A PWS shall submit a microbiological sampling plan for EPA approval, using software provided by EPA, for each treatment plant specified in § 141.141(b) of this subpart that indicates sampling point locations and monitoring to be conducted at each point. This sampling plan shall be submitted to EPA at the same time and on the same diskette as the DBP and related monitoring sampling plan required by § 141.142(c)(2) and no later than eight weeks after the PWS receives the Notice of ICR Final Applicability Determination from EPA, using the procedure specified in ''ICR Sampling Manual'', EPA 814–B–96–001, April 1996.

(4) All reports required by this section shall be submitted to USEPA (ICR4600), ICR Data Center, Room 1111 East Tower, 401 M Street SW., Washington, DC 20460.

(5) The PWS shall keep all data for at least three years following data submission to EPA.

§ 141.144 Disinfection byproduct precursor removal studies.

(a) *TOC, UFCTOX, THM4, and HAA5 applicability monitoring.* A PWS required to comply with this section shall conduct TOC, UFCTOX, THM4, and HAA5 monitoring specified in § 141.141(e)(2) of this subpart. A PWS may use monitoring results from samples required by § 141.142(a) of this subpart to meet this requirement to the extent that all requirements in each section are met.

(b) *Treatment study requirements.* A PWS identified in § 141.141(b) of this subpart shall conduct disinfection byproduct precursor removal studies (treatment studies). The treatment study shall use bench-and/or pilot-scale systems for at least one of the two appropriate candidate technologies (GAC or membrane processes) for the reduction of organic DBP precursors. The treatment studies shall be designed to yield representative performance data and allow the development of national treatment cost estimates for different levels of organic disinfection byproduct control. The treatment objective of the studies is the achievement of levels of byproducts less than 40 μg/L TTHM and 30 μg/L HAA5, as an annual average. The treatment study shall be conducted with the effluent from treatment processes already in place that remove disinfection byproduct precursors and TOC, to simulate the most likely treatment scenario. PWSs are permitted to optimize these processes or pilot additional processes appropriate for pretreatment for treatment studies. In order to minimize the formation of DBPs, the test water for both the bench- and pilot-scale tests shall be obtained from a location before the first point at which oxidants or disinfectants that form halogenated disinfection byproducts are added. If the use of these oxidants or disinfectants precedes any full-scale treatment process that removes disinfection byproduct precursors, then bench- and pilot-scale treatment processes that represent these full-scale treatment processes are required prior to the GAC or membrane process. A PWS should exercise sound judgement in its selection of treatment process to study and the point at which to obtain water for study. Depending upon the type of treatment study, the study shall be conducted in accordance with the following criteria.

(1) Bench-scale tests are continuous flow tests using rapid small scale column test (RSSCT) for GAC and small scale membrane test apparatus as specified in ''ICR Manual for Bench- and Pilot-scale Treatment Studies'' (EPA 814–B–96–003, April 1996).

(i) GAC bench-scale testing shall include information on the experimental conditions and results necessary to adequately determine the scaled-up breakthrough curves under

the conditions of each RSSCT. At least two empty bed contact times (EBCTs) shall be tested using the RSSCT. These RSSCT EBCTs shall be designed to represent a full-scale EBCT of 10 min and a full-scale EBCT of 20 min. Additional EBCTs may be tested. The RSSCT testing is described in the ''ICR Bench- and Pilot-scale Treatment Study Manual'' (EPA 814–B–96–003, April 1996). The RSSCT tests at each EBCT shall be run quarterly to ascertain the impact of seasonal variation. Thus a total of four RSSCTs at each EBCT should be run. When seasonal variation is not significant, as is the case in most ground waters, the quarterly tests should be run to investigate other variables, as described in the ''ICR Bench- and Pilot-scale Treatment Study Manual'' (EPA 814–B–96–003, April 1996). The RSSCT shall be run until the effluent TOC concentration is at least 70% of the average influent TOC concentration or the effluent TOC reaches a plateau at greater than 50% of the influent TOC (i.e., the effluent TOC does not increase over a two-month full-scale-equivalent time period by more than 10% of the average influent TOC concentration) or a RSSCT operation time that represents the equivalent of one year of full-scale operation, whichever is shorter. The average influent TOC is defined as the running average of the influent TOC at the time of effluent sampling. If, after completion of the first quarter RSSCTs, the PWS finds that the effluent TOC reaches 70% of the average influent TOC within 20 full-scale equivalent days on the EBCT=10 min test and within 30 full-scale equivalent days on the EBCT=20 min test, the last three quarterly tests shall be conducted using membrane bench-scale testing with only one membrane, as described in paragraph (b)(1)(ii) of this section.

(ii) Membrane bench-scale testing shall include information on the experimental conditions and results necessary to determine the water quality produced by the membrane treatment and a preliminary estimate of productivity. The testing procedures and monitoring and reporting requirements are described in the ''ICR Bench- and Pilot-scale Treatment Study Manual'' (EPA 814–B–96–003, April 1996). A minimum of two different membrane types with nominal molecular weight cutoffs of less than 1000 shall be investigated. Membrane tests shall be conducted quarterly over one year to determine the seasonal variation. Thus, a total of four bench-scale tests with each membrane shall be run. If seasonal variation is not significant, as is the case of most ground waters, the quarterly tests should be run to evaluate the impact of other variables, such as pretreatment, or additional membranes could be tested. Alternatively, a PWS may choose to conduct a long-term, single element study using a single membrane type in lieu of evaluating two membranes in four quarterly short-term tests, using the protocol in the ''ICR Bench- and Pilot-scale Treatment Study Manual'' (EPA 814–B–96–003, April 1996).

(2) A PWS shall conduct pilot-scale testing as continuous flow tests. For GAC, the PWS shall use GAC of particle size representative of that used in full-scale practice, a pilot GAC column with a minimum inner diameter of 2.0 inches, and hydraulic loading rate (volumetric flow rate/column cross-sectional area) representative of that used in full-scale practice. The PWS shall design a pilot-scale membrane system as a staged array of elements as described in ''ICR Manual for Bench- and Pilot-scale Treatment Studies'', EPA 814–B–96–003, April 1996.

(i) GAC pilot-scale testing. (A) The pilot testing procedures and monitoring and reporting requirements are prescribed in the ''ICR Bench- and Pilot-scale Treatment Study Manual'' (EPA 814–B–96–003, April 1996).

(B) At least two EBCTs shall be tested, EBCT=10 min and EBCT=20 min, using the pilot-scale plant. Additional EBCTs may be tested.

(C) The pilot tests at each EBCT shall continue until the effluent TOC concentration is at least 70% of the average influent TOC concentration on two consecutive TOC sample dates that are at least two weeks apart or the effluent TOC reaches a plateau at greater than 50% of the influent TOC (i.e., the effluent TOC does not increase over a two-month period by more than 10% of the average influent TOC concentration). If either of these criteria is met for the 20-minute EBCT prior to six months run time, a second pilot test at each EBCT shall be conducted following the same sampling requirements. In all cases the maximum length of the pilot study (one or two tests) is one year. The average influent TOC is defined as the running average of the influent TOC at the time of sampling. The pilot-scale testing shall be timed to capture seasonal variation. If seasonal variation is not significant, as is the case with most ground waters, the pilot-scale test runs shall be designed to evaluate the impact of other variables, such as pretreatment.

(ii) Membrane pilot-scale testing.

(A) The membrane pilot testing procedures and monitoring and reporting requirements are prescribed in the ''ICR Bench- and Pilot-scale Treatment Study Manual'' (EPA 814–B–96–003, April 1996).

(B) The membrane test system shall be designed to yield information on loss of productivity (fouling), pretreatment requirements, cleaning requirements, and permeate quality and operated at a recovery representative of full-scale operation.

(C) The pilot-scale testing shall be run for one year.

(3) Chlorination under simulated distribution system (SDS) conditions shall be used prior to the measurement of THM4, HAA6, TOX, and chlorine demand. These conditions are described in ''ICR Manual for Bench- and Pilot-scale Treatment Studies'' (EPA 814–B–96–003, April 1996) and represent the average conditions in the distribution system at that time with regard to holding time, temperature, pH, and chlorine residual. If chlorine is not used as the final disinfectant in practice, then a chlorine dose shall be set to yield a free chlorine residual of 1.0 to 0.5 mg/l after a holding time, temperature, and pH equal to those representative of the distribution system averages.

(c) *Analytical Methods.* All analyses required by paragraphs (a) and (b) of this section shall be conducted using the methods and the mandatory analytical and quality control procedures contained in either ''DBP/ICR Analytical Methods Manual'' (EPA 814–B–96–002, April 1996) or ''ICR Manual for Bench- and Pilot-scale Treatment Studies'' (EPA 814–B–96–003, April 1996). In addition, TOC analyses required by paragraph (a) of this section shall be conducted by a laboratory approved under the provisions of § 141.142(b)(2) of this subpart.

(d) *Reporting.* (1) TOC and UFCTOX reporting. A PWS shall submit the monthly results of 12 months of TOC or UFCTOX monitoring required by paragraph (a)(1) of this section and the annual average of those monthly results not later than October 14, 1997. This report is not required to be submitted electronically. Although a PWS may use monitoring results from samples required by § 141.142(a) of this subpart to meet this requirement, it shall submit separate reports to meet this reporting requirement and the reporting requirement in § 141.142(c)(1) of this subpart.

(2) A PWS shall report all data collected under the provisions of paragraph (b) of this section. In addition, a PWS shall report the information for water resource and full-scale and pilot- or bench-scale

pretreatment processes that precede the bench/pilot systems. These data and information shall be reported in the format specified in ''ICR Manual for Bench- and Pilot-scale Treatment Studies'' (EPA 814–B–96–003, April 1996) not later than July 14, 1999.

(3) All reports required by this section shall be submitted to USEPA, Technical Support Division, ICR Precursor Removal Studies Coordinator, 26 West Martin Luther King Drive, Cincinnati, OH 45268.

[FR Doc. 96–11370 Filed 5–13–96; 8:45 am]

BILLING CODE 6560–50–P

federal register

Tuesday
May 14, 1996

Part III

Department of Education

34 CFR Part 361

The State Vocational Rehabilitation Services Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 361

RIN 1820–AB13

The State Vocational Rehabilitation Services Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing The State Vocational Rehabilitation Services Program. These regulations are needed to implement section 12(d) of the Rehabilitation Act of 1973 (Act), as amended by the Rehabilitation Act Amendments of 1992 (1992 Amendments) and the Rehabilitation Act Amendments of 1993. Section 12(d) of the Act requires that the Secretary promulgate regulations establishing requirements for the implementation of an order of selection for the receipt of vocational rehabilitation services. An order of selection is required under section 101(a)(5)(A) of the Act if a designated State unit (DSU) determines that it is unable to provide services to all eligible individuals who apply for services. If a DSU establishes an order of selection, it must first provide services to individuals with the most severe disabilities before serving other eligible individuals. The regulations are necessary to ensure the proper administration of the order of selection requirements by DSUs.

EFFECTIVE DATE: These regulations take effect on June 13, 1996.

FOR FURTHER INFORMATION CONTACT: Suzanne Tillman, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3220, Mary E. Switzer Building, Washington, D.C. 20202–2735. Telephone: (202) 205–8303. 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: The State Vocational Rehabilitation Services Program is a State-administered program that provides individualized vocational rehabilitation (VR) services to eligible individuals with disabilities. The purpose of the program is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program for vocational rehabilitation designed to assess, plan, develop, and provide VR services for individuals with disabilities so that they may prepare for and engage in gainful employment.

The program supports the National Education Goal that, by the year 2000, every adult American, including individuals with disabilities, will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

On July 16, 1993, the Secretary published a notice of proposed rulemaking (NPRM) in the Federal Register (58 FR 38482) to implement section 12(d) of the Act, as amended by the 1992 Amendments (Pub. L. 102–569) and the Rehabilitation Act Amendments of 1993 (Pub. L. 103–73), which requires that the Secretary issue regulations on the requirements for implementing an order of selection by a DSU.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 45 parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject under appropriate sections of the regulations. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed. The Secretary also has not addressed comments that relate to issues that are more appropriately dealt with in other program regulations being developed to implement the 1992 Amendments.

In addition, the proposed regulations have been reviewed and revised in accordance with the Department's principles for regulating, which were developed as part of the Administration's regulatory reinvention initiative under the National Performance Review II. The principles are designed to ensure that the Department regulates in the most flexible, most equitable, and least burdensome way possible. As a result of that review, several non-statutory paperwork requirements in the proposed regulations have been eliminated or modified. These changes are discussed in the following paragraphs and in the section-by-section summary.

Section 101(a)(5)(A) of the Act requires a DSU to explain how it will provide VR services to all eligible individuals or, if it cannot provide services to all these individuals, to describe and justify the order of selection the DSU will follow in serving eligible individuals, with first priority being given to individuals with the most severe disabilities. Accordingly, § 361.36(a)(1) of the final regulations requires DSUs that do not establish an order of selection to explain how, on the basis of its projected fiscal and personnel resources and its assessment of the rehabilitation needs of individuals with severe disabilities within the State, the DSU will continue to serve all individuals currently receiving services, provide assessment services to all applicants and VR services to all individuals determined to be eligible in the next fiscal year, and meet all other program requirements.

The proposed regulations would have required each DSU that does not establish an order of selection to provide detailed information to support that decision, including its projected number of applicants, eligible individuals, and qualified personnel, projected costs of services and administration, and projected revenues. The Secretary believes that requiring all DSUs to submit these projections is overly burdensome and unnecessary for those States that have not experienced problems in serving all eligible individuals in recent years. Thus, the requirements in the final regulations are more narrowly tailored to address the underlying problem of ensuring that DSUs do not improperly avoid establishing an order of selection.

The final regulations establish two different information requirements for DSUs that do not plan to establish an order of selection: one for DSUs that have demonstrated the ability to serve all eligible individuals and meet all program requirements and one for DSUs that have not demonstrated this ability. The first information requirement (§ 361.36(a)(2)) applies to DSUs whose past practice demonstrates their ability to serve all eligible individuals without an order of selection. DSUs will be subject to this requirement if they have provided assessment services to all applicants, provided the full range of services to all eligible individuals, made referral forms widely available, conducted outreach efforts to identify and serve those underserved in the past, and have not delayed the development of individualized written rehabilitation programs (IWRPs) or the provision of services for eligible individuals. This provision permits these DSUs to submit a narrative explanation of their ability in the next year to continue to serve everyone and meet all program requirements.

The second information requirement (§ 361.36(a)(3)) applies to DSUs that have not demonstrated their ability to serve all eligible individuals and meet all program requirements without an

order of selection. This more detailed information requirement would apply to DSUs that—(1) Said in their State plans for the current or past year that they could serve everyone, but, in fact, did not do so; (2) Served all eligible individuals in the current or past year by not meeting the requirements in § 361.36(a)(2); or (3) Provided services under an order of selection in the current or preceding fiscal year, but believe that they can serve all eligible individuals in the next fiscal year. These DSUs will be required to provide information, including projections, similar to the information that would have been required of all DSUs under the NPRM. Specifically, these DSUs must describe the changed circumstances that will enable them to serve all eligible individuals in the forthcoming fiscal year and must submit the projections required under § 361.36(a)(3) to support this determination, including projected numbers of applicants, eligible individuals, and qualified personnel, projected costs of services and administration, and projected revenues. In addition, § 361.36(a)(3) requires these DSUs to provide, as relevant, comparable data for the current or preceding fiscal year, or both years, of these projected costs and resources.

These changes in the final regulations are intended to reduce paperwork burdens on DSUs that have a demonstrated capacity to serve all eligible individuals and, at the same time, to ensure that if a DSU decides not to implement an order of selection, even though it has not been able to serve all eligible persons in the past, that the decision is supported in the State plan by sufficient data showing the DSU's projected costs and resources.

Section 361.36(a)—General Provisions

• *Assurance of ability to serve all eligible individuals.*

—Range of Services

Comments: Several commenters on § 361.36(a)(1)(i) of the proposed regulations requested that this provision specify that a DSU is able to provide the full range of services listed in section 103(a) of the Act. These commenters were concerned that a DSU could interpret the wording ''able to provide services'' to mean that it may avoid establishing an order of selection if it is able to provide some, but not all, of the services listed in section 103(a) of the Act.

Discussion: The Secretary agrees with these commenters. A DSU that assures that it is able to provide services to all eligible individuals must be able to provide all of the services listed in section 103(a) of the Act.

Changes: The Secretary has revised § 361.36(a)(1)(i) to provide that the State plan must contain an assurance that the DSU is able to provide the full range of services listed in section 103(a) of the Act, as appropriate, to all eligible individuals.

—Monitoring and review of assurances

Comments: Several commenters were concerned that the Secretary would not adequately monitor compliance with the assurances provided by a DSU. Several commenters recommended that the Secretary thoroughly examine a DSU's decision not to implement an order of selection and approve or disapprove that decision, as appropriate.

One commenter feared that, in order to avoid implementing an order of selection, DSUs may expand counselor caseload sizes beyond the capacity of counselors to serve eligible individuals in a meaningful way. Caseload sizes could continue to grow but might not trigger an order of selection.

One commenter suggested adding factors to measure a DSU's compliance with these regulations. This commenter also suggested that if a DSU is found in substantial noncompliance and fails to take corrective action, it should be subject to financial sanctions.

Several commenters stated that a DSU should be required to evaluate the impact of its order of selection to determine if there are any unintended consequences or exclusions of specific groups of individuals with disabilities.

Discussion: The Secretary ensures that a DSU is complying with its assurances through annual reviews and periodic on-site monitoring of State vocational rehabilitation programs required by sections 107(a)(3)(A) and 107(a)(4)(B) of the Act. Section 107(a)(3)(A) of the Act requires the Secretary, as part of the monitoring process, to conduct on-site visits, including on-site reviews of records, to verify that a DSU is following requirements regarding order of selection. Section 107(a)(4)(B) requires the Secretary to examine, in conducting the review and monitoring, a DSU's provision of services, including, if applicable, order of selection requirements.

Section 101(a)(7) of the Act requires a DSU to ensure, as part of its comprehensive system of personnel development, that it has an adequate supply of qualified personnel to provide vocational rehabilitation services. The regulations require DSUs that do not establish an order of selection to satisfy all VR program requirements, including those relating to the comprehensive system of personnel development. The Secretary also reviews and monitors compliance with section 101(a)(7) of the Act.

The Secretary does not believe it is necessary to add factors to measure a DSU's compliance with the order of selection requirements of the State plan. A DSU's compliance with the order of selection requirements will be monitored like any other State plan requirement, and a DSU's noncompliance with these requirements will be dealt with like any other finding of noncompliance with the State plan requirements.

The Secretary believes that a DSU (along with the State Rehabilitation Advisory Council (Council), if the DSU has a Council), should evaluate the impact of its order of selection as part of its administration of the program and would expect a discussion of this impact in its annual evaluation of the program.

Changes: None.

• *Explanation of how a DSU will serve all eligible individuals.*

—Detailed nature of explanation

Comments: Several commenters opposed the proposed requirement that a DSU provide a detailed explanation of the methods by which it will provide services to all eligible individuals because they believe it is overly burdensome. One commenter believed that the required projections in § 361.36(a)(1)(ii) of the proposed regulations might prevent closer cooperation between consumer groups and DSUs because consumer groups might believe that the incidence and prevalence of their disability is greater than indicated in the statistical data used by the DSU.

Several commenters believed that there is no practical way for a DSU to make the required projections because of the uncertainty of future funding levels and of the effect of the revised eligibility requirements under the Act.

One commenter stated that if projections are required, the Secretary should keep documentation to a minimum. This commenter requested that a DSU be able to use existing data, e.g., Federal census and population data, to make its projections.

Discussion: The legislative history accompanying the 1992 Amendments to the order of selection requirement indicates an expectation on the part of the Congress that the Secretary will promulgate regulations that will obligate States wishing to avoid establishing an order of selection to prove that they are indeed able to serve all eligible individuals. Nevertheless, the data

projections required in the proposed regulations have been significantly reduced in accordance with the Department's principles for regulating. Application of the remaining documentation requirements is limited to—(1) Those DSUs that were unable to serve all eligible individuals (including DSUs that established an order of selection) in the current or preceding fiscal year, but contend they will be able to do so in the next fiscal year; and (2) Those DSUs that were able to serve all eligible individuals in the current or preceding fiscal year only by not meeting the requirements in § 361.36(a)(2). The Secretary believes that the documentation requirements remaining in the regulations to support a DSU's conclusion that it is able to serve all eligible individuals, even though it has been unable to serve all eligible persons in the past, is fully consistent with congressional intent.

The Secretary believes that the required explanation will not impose any additional data collection burdens on a DSU. The Secretary believes that existing information in a DSU's required statewide studies and annual evaluations, comprehensive statewide assessments of the rehabilitation needs of individuals with severe disabilities, comprehensive system of personnel development, and budget data would enable a DSU to provide the required explanation without any need for additional data collection.

The Secretary believes that a DSU should be able to predict funding levels for the program during the upcoming fiscal year through use of State and Federal budget data.

The Secretary believes that Federal census and population data alone are not sufficient for a DSU to make the required projections. These data are not updated often enough for a DSU to rely solely on these sources in making its projections, but may be useful in conjunction with information from a DSU's statewide studies, comprehensive statewide assessments, comprehensive system of personnel development, and budget data.

Changes: The Secretary has revised § 361.36(a)(1)(ii) of the proposed regulations to reduce the data projections that a DSU must provide as part of its explanation of how it is able to serve all eligible individuals. This provision has been relocated to § 361.36(a)(3) of the final regulations and applies only to—(1) DSUs that were unable to serve all eligible individuals during the current or preceding fiscal year; and (2) DSUs that contend that they served all eligible individuals in the preceding and current fiscal years, but cannot attest to meeting the program requirements listed in § 361.36(a)(2) for both those years.

—*Projections for serving all eligible individuals with disabilities*

Comments: Several commenters suggested that the Secretary require a DSU to provide separate projections for serving individuals with non-severe, severe, and the most severe disabilities in providing the data in § 361.36(a)(1)(ii)(A) and (B) of the proposed regulations. These commenters believed that the approach taken in the proposed regulations would allow a DSU to average the costs of serving all populations, and the commenters recommended that a DSU be required to break out the costs of serving individuals with severe and the most severe disabilities. Commenters contended that the average projected cost of serving all individuals is substantially less than the cost of serving the subgroup of individuals with the most severe disabilities because of the variety of services and supports that individuals in this category require. One of these commenters also believed that providing specific data on each of these populations would help to determine the extent to which a DSU has engaged in aggressive outreach efforts to serve a greater number of individuals with the most severe disabilities.

One commenter requested that, in making its projections, a DSU be required to take into consideration the likelihood that more individuals will be applying for services as a result of the revised eligibility requirements established under the 1992 Amendments and that more of these individuals will be individuals with the most severe disabilities because of the expanded requirements to provide personal assistance and rehabilitation technology services.

Discussion: As discussed previously, the Secretary has significantly revised the proposed regulations to require DSUs to submit projections as part of their State plan only in limited circumstances. Specifically, § 361.36(a)(3) requires DSUs that were unable to serve all eligible individuals during the current or previous fiscal year, but believe that they do not need to establish an order of selection in the next fiscal year, to include in their State plans the projected numbers of eligible individuals, the projected costs of serving those individuals, the projected revenues, and the projected number of qualified personnel. (These State plan requirements also apply to DSUs that do not establish an order of selection but cannot provide the assurances in § 361.36(a)(2).) However, any DSU that does not establish an order of selection must still consider the rehabilitation needs of individuals with severe disabilities as part of its explanation under § 361.36(a)(1)(i), even though the final regulations do not require separate projections for individuals with non-severe, severe, and most severe disabilities under § 361.36(a)(3).

The Secretary agrees that averaging the costs of serving all eligible individuals would not provide an accurate estimate of the costs of serving individuals with severe and the most severe disabilities if a State relied solely on cost data for years prior to the enactment of the 1992 Amendments in making its projections. The Secretary believes that in making projections with respect to the cost of serving all eligible individuals, a DSU must consider the costs of serving individuals with severe disabilities.

The Secretary agrees that more individuals with severe disabilities and individuals with the most severe disabilities have become eligible to receive services under the revised eligibility requirements in the 1992 Amendments. However, the Secretary believes that any significant expansion in the number of eligible individuals that is attributable to the revised eligibility criteria has already taken place. Consequently, the Secretary believes there is no need to require DSUs under § 361.36(a)(3) to provide separate projections for serving individuals with non-severe, severe, and most severe disabilities as long as the projected number of all eligible individuals and the projected costs of serving those individuals is provided.

Changes: The Secretary has revised § 361.36(a)(1)(ii) of the proposed regulations to reduce the amount of data and related explanations that must be submitted as part of the State plan. In addition, the regulations require that this data be included as part of the State plan only if—(1) The DSU was unable to serve all eligible individuals in the current or preceding fiscal year; or (2) The DSUs did not meet the requirements in § 361.36(a)(2) in serving all eligible individuals in the current and preceding fiscal years. This provision has been relocated to § 361.36(a)(3) in the final regulations.

—*Cost-containment*

Comments: Several commenters suggested that a DSU be required to control costs before implementing an order of selection. One commenter suggested adding a new requirement to the regulations that a DSU, prior to

implementing an order of selection, implement methods to control costs, including, but not limited to, rigorous administrative controls and oversight, aggressively pursuing comparable services and benefits, paying vendors based on performance outcomes, developing equitable financial need policies, and establishing collaborative program funding through interagency agreements that will enable the DSU to provide services to all eligible persons.

Another commenter requested that a DSU that is unable to secure its full Federal allotment for the program due to insufficient State match be required to demonstrate efforts to obtain the full match in order to be able to implement an order of selection. This commenter also requested that the Secretary question or not approve a DSU's decision to implement an order of selection if it is unable to fill vacant counselor positions due to a statewide freeze on hiring, since counselor salaries are primarily funded by Federal funds.

On the other hand, several commenters requested that a DSU be prohibited from establishing inappropriate, arbitrary, or groundless policy restrictions on the provision of services that are intended to avoid implementation of an order of selection. Some of these commenters recommended that the Secretary establish an appeal process to the Rehabilitation Services Administration (RSA) Regional Offices so that parties may challenge these types of restrictions.

Discussion: The Secretary agrees that a DSU should undertake all efforts to control costs before it opts to establish an order of selection. Some of the means suggested by commenters for controlling costs are already Federal requirements (e.g., program costs must be reasonable and necessary and DSUs must pursue comparable services and benefits before providing most services), while others are State options (e.g., paying vendors based on performance outcomes, developing equitable financial need policies, and establishing collaborative program funding through interagency agreements). The Secretary encourages DSUs to use these State options whenever possible to contain costs.

In conjunction with a DSU's determination of whether it needs to establish an order of selection, a DSU should consider whether the adoption of certain cost containment measures would enable the DSU to serve all eligible individuals. Adoption of cost containment measures, therefore, should be considered both at the time the DSU develops its State plan submission on order of selection prior to the beginning of the fiscal year and whenever changed circumstances during the fiscal year warrant reevaluation of the need to establish an order of selection in accordance with § 361.36(b). If a DSU undertakes cost containment strategies and is still unable to serve all eligible individuals, it is required to establish an order of selection for services.

The Secretary does not believe there is authority to establish a link between a DSU's ability to meet its full matching requirement—and therefore earn its entire allotment—and its right to implement an order of selection. In fact, the inability of a DSU to obtain its full matching contribution may be a factor in its need to establish an order of selection, since a DSU would have fewer program funds available because of insufficient State dollars and the loss of some Federal funds.

As previously noted, the Secretary agrees that DSUs need to proceed carefully in establishing an order of selection. Therefore, the Secretary requires, under § 361.36(e)(1), that a DSU consult with and seriously consider the advice of the Council regarding the need to establish an order of selection. The Secretary does not believe it is necessary or advisable to establish an appeal process that is specifically for order of selection compliance issues. Section 107(c) of the Act provides a general appeals process for substantial noncompliance with any State plan requirement under this program.

Changes: None.

—*Assessment of rehabilitation needs of individuals with severe disabilities*

Comments: One commenter requested that the provision in § 361.36(a)(1)(ii)(B)(1) of the proposed regulations requiring a DSU to assess the rehabilitation needs of ''individuals with severe disabilities'' within the State be changed to require a DSU to assess the needs of ''individuals with the most severe disabilities.'' The commenter believed that this change would be consistent with section 101(a)(5)(A) of the Act.

Discussion: Section 101(a)(5)(A) of the Act provides that the State plan shall contain the plans, policies, and methods to be followed in carrying out the State plan and in its administration and supervision, including the results of a comprehensive, statewide assessment of the rehabilitation needs of ''individuals with severe disabilities'' residing within the State. Therefore, § 361.36(a)(1)(i) of the final regulations correctly tracks the language in section 101(a)(5)(A) of the Act. The Secretary notes, however, that the broad category of ''individuals with severe disabilities'' would include as a subcategory ''individuals with the most severe disabilities.''

Changes: None.

—*Interagency cooperative agreements*

Comments: One commenter requested that the provision in § 361.36(a)(1)(ii)(B)(4) of the proposed regulations, which highlighted or emphasized the consideration of cooperative agreements serving certain groups of individuals with disabilities, be changed to read ''including individuals served by the Individuals with Disabilities Education Act, * * * and any other cooperative agreements'' in order to ensure that equal weight is given to all cooperative arrangements.

One commenter recommended that the Secretary require a DSU to include in its projections estimates of the number of individuals with severe disabilities that will be provided services under the interagency cooperative arrangement with programs that rely on Javits-Wagner-O'Day Act (JWOD Act) set-asides.

Discussion: The Secretary believes that requiring in the State plan separate estimates of the number of individuals with disabilities to be served under interagency cooperative arrangements is overly burdensome. As long as the DSU considers these agreements when ascertaining the projected numbers of eligible individuals and the projected costs of administering its program, there is no need to provide a separate breakdown of the number of applicants or eligible individuals receiving services under each type of agreement.

Changes: In accordance with the Department's principles for regulating, the Secretary has revised the proposed regulations to eliminate the requirement that the DSU include estimates of the number of individuals to be served under interagency cooperative agreements as part of its projected costs of administering the program.

—*Development of order of selection as a contingency plan*

Comments: Several commenters requested that a DSU be required to develop an order of selection regardless of whether it needs to be implemented in the current fiscal year. These commenters believed it is important for each DSU to have an order of selection available as a contingency measure.

Discussion: There is no statutory authority to require a DSU to develop an order of selection if a DSU determines it is presently able to serve all eligible individuals and will be able to do so throughout the fiscal year. Section 101(a)(5)(A) of the Act requires a DSU

to establish an order of selection only if it is unable to serve all eligible individuals.

A DSU could, however, choose to develop the priority categories in an order of selection in anticipation of possible future need, but would still be required at the time of implementation of the order of selection to meet the public participation requirements of section 101(a)(23) of the Act, including consultation with the Council.

Changes: None.

• *Order of selection.*

—*Applicability of order of selection to funds not included in State match or Federal allotment*

Comments: One commenter requested that the order of selection requirement not apply to service funds that are not included in the State match or Federal allotment.

Discussion: The order of selection requirement applies to all expenditures under the State plan, including expenditures made with Federal funds and DSU expenditures made with non-Federal funds that are necessary to meet a DSU's matching and maintenance-of-effort requirements.

Changes: None.

—*Outcome and service goals*

Comments: One commenter suggested adding a paragraph to § 361.36(a)(2) of the proposed regulations requiring a DSU to show the outcome and service goals and the time in which they may be achieved for individuals. The commenter believed that this reporting requirement should be added to ensure that the Secretary will know with specificity the types of services and service outcomes being provided, either if a DSU elects to establish and implement an order of selection or if a DSU assures that it is able to serve all eligible individuals. According to the commenter, if a DSU establishes an order of selection for services, it will be very important for evaluation purposes to define the mix of services, goals, and timelines for providing services to individuals with the most severe disabilities.

Discussion: The Secretary agrees with the change suggested by the commenter. Section 101(a)(5)(A) of the Act requires a DSU to show the outcomes and service goals, and the time within which they may be achieved, for individuals provided services under an order of selection established by a DSU. Section 101(a)(10)(A) of the Act requires a DSU to include in its State plan the outcomes, service goals, and service costs for individuals under each priority category in a DSU's order of selection.

Changes: The Secretary has revised § 361.36(a)(2) of the proposed regulations to provide that a DSU's order of selection must include the order to be followed in selecting eligible individuals to be provided services, a justification of that order of selection, and a description of the outcome and service goals and service costs for individuals with disabilities in each priority category within the order and the time within which these goals may be achieved. This provision has been relocated to § 361.36(a)(1)(ii) of the final regulations.

Section 361.36(b)—Time for Determining Need for and Implementation of an Order of Selection

—*Implementation of an order of selection and opening and closing of priority categories during the fiscal year*

Comments: One commenter recommended requiring a DSU to periodically review whether it needs to establish an order of selection. This commenter also recommended requiring a DSU to periodically update its projections under § 361.36(a)(1) of the proposed regulations so that the DSU, with advice and input from the Council (if the DSU has a Council), can make decisions with current information.

One commenter recommended that the regulations require a DSU to reevaluate its decision not to establish an order of selection at some regular interval identified in the regulations, rather than permit the DSU to determine the timing of its reevaluation. Otherwise, the commenter feared that many DSUs would delay reevaluation and likely be forced to implement an order of selection on an emergency basis.

One commenter suggested that a DSU submit reports to the Secretary and to the Council comparing the actual costs and numbers of individuals served with its projections under § 361.36(a)(1) of the proposed regulations and any adjustments to the projections.

Other commenters suggested that a DSU be required, no later than 45 days after the end of each quarter, to submit a report on how service and expenditure levels for that quarter and cumulatively for the fiscal year compare to the projections made by the DSU under § 361.36(a)(1) of the proposed regulations. These commenters believed that this type of reporting would allow the Secretary to track the accuracy of a DSU's projections. Other commenters recommended requiring a DSU to submit quarterly reports to the Secretary on the accuracy of a DSU's projections and the need to establish an order of selection.

One commenter inquired whether a DSU may implement an order of selection during the fiscal year, rather than at the beginning of the fiscal year. This commenter believed that requiring a DSU to establish an order of selection at the beginning of each fiscal year might cause a DSU to be overly conservative and to close more priority categories than is necessary.

One commenter inquired whether a DSU may adjust, during the fiscal year, which priority categories are open and closed.

Discussion: The Secretary considers DSU reevaluation of the need to establish an order of selection necessary to the proper management of the program. However, the Secretary does not believe that requiring reevaluation at regular intervals during the course of each fiscal year is necessary. A requirement of this type would be overly burdensome and would apply an inflexible standard to determinations that are best governed by a DSU's individual circumstances. The regulations, therefore, require a DSU to reevaluate its decision not to implement an order of selection for services, in consultation with the Council, whenever changed circumstances, such as a decrease in its fiscal or personnel resources or an increase in program costs, indicate that it may no longer be able to provide the full range of services to all eligible individuals. In addition, documentation related to reevaluations is to be provided to the Council, as well as to the Department during RSA's monitoring and review of the order of selection requirement under sections 107(a)(3)(A) and 107(a)(4)(B) of the Act.

A DSU is required to determine the need for an order of selection prior to the beginning of the fiscal year and to reevaluate that need during the year under § 361.36(b) if circumstances change after the beginning of the fiscal year. If changed circumstances warrant establishing an order of selection during the fiscal year, a DSU may implement an order of selection at that time. The Secretary prefers, however, for a DSU to implement an order of selection at the beginning of the fiscal year if it foresees any circumstances that may affect its ability to serve all eligible individuals throughout the year. The preparations needed to establish and implement an order of selection take time. During this time, resources may be further strained. Thus, the Secretary believes that a conservative approach toward implementing an order of selection and opening priority categories is preferable so that sufficient resources are available

throughout the year to serve all individuals with severe disabilities, including individuals with the most severe disabilities.

If a DSU implements an order of selection during the fiscal year, rather than at the outset, and thereafter cannot serve all individuals with severe and the most severe disabilities, it would be out of compliance with the order of selection requirement.

The Secretary believes that a DSU may use its discretion as to the timing for opening and closing priority categories as long as the order of categories is maintained. When considering whether to open a category, a DSU should evaluate not only current resources but also the impact that continuing to serve these eligible individuals under this category will have on resources expected to be available in the next fiscal year, or possibly beyond.

Changes: The Secretary has revised § 361.36(e)(1) to provide that the DSU shall consult with and seriously consider the advice of the Council regarding the need to establish an order of selection, including any reevaluation of the need to establish an order of selection under § 361.36(b)(2).

Section 361.36(c)—Establishing an Order of Selection.

—Further guidance on factors to be considered in establishing an order of selection

Comments: Several commenters recommended that the Secretary provide further guidance on what factors a DSU should use in establishing an order of selection. One of these commenters suggested adding five factors that a DSU should consider in establishing an order of selection: Lower levels of educational achievement; longer lengths of unemployment, under-employment, or lower level jobs; lower levels of self-esteem and self-worth; need for two or more services; and need for services for a longer length of time.

One commenter requested that a statement be added to § 361.36(c) indicating that the criteria for determining which individuals are individuals with the most severe disabilities must be equally applicable to, and not lead to the exclusion of, transitioning students. This commenter was concerned that a DSU may define an ''individual with the most severe disability'' by using factors, such as an employment history of repeated failures, that may exclude youth with severe disabilities.

Discussion: In establishing an order of selection a DSU can only consider severity of disability. The Secretary believes that an order of selection must be based on the factors or criteria contained in the definition of an ''individual with a severe disability'' in section 7(15)(A) of the Act. An ''individual with a severe disability'' is defined as an individual with a disability (1) who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of employment outcome; (2) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and (3) who has one or more physical or mental disabilities, as identified in section 7(15)(A) of the Act, or any other disability or disabilities that cause comparable substantial functional limitation.

In determining which individuals with severe disabilities are individuals with the most severe disabilities, for purposes of providing them with the highest priority in an order of selection, a DSU cannot merely apply the criteria in this definition. Because individuals with the most severe disabilities are a subgroup of individuals with severe disabilities, the Secretary believes that a DSU must refine these criteria to identify this subgroup.

A DSU may refine these factors, for example, by basing its order of selection on the number and degree of functional limitations, the amount of time vocational rehabilitation services would be needed, and the number of vocational rehabilitation services needed. When refining these factors, a DSU may choose to refine one factor or a combination of factors. The purpose of refining these factors is to link the nature and depth of the individual's functional limitations with the need for multiple and complex services that require an extended period of time for completion.

A DSU could refine the first criterion by requiring that an individual demonstrate limitations in three or more functional capacities, such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills. Alternatively, a DSU could specify the degree of functional limitations within one or more functional capacities by requiring that an individual demonstrate a minimum number of specific functional limitations, such as five specific functional limitations, within one or more functional capacities.

Possible examples of specific functional limitations within the functional capacity of self-direction include—(1) Purposeless shifting from one activity to another; (2) Inability to follow through with and complete assignments; (3) Problems related to time management; (4) Making decisions impulsively without consideration for previous plans or experience; (5) Limitations in gathering, organizing, and analyzing information; (6) Difficulties in adapting to changing work requirements; and (7) Inability to monitor work performance and to adjust behaviors and activities if the current performance is not adequate.

A DSU could refine the second criterion by specifying the minimum number of vocational rehabilitation services required by the individual or by specifying the extended period of time required for the provision of services. For example, in order to link the complexity or substantiality of the services provided to the severity of functional limitations, a DSU could establish a criterion that an individual require 2 or more major services that will be at least 12 months in duration. Major services could be defined as those services described in section 103(a) of the Act, excluding diagnostic services; supportive services, such as maintenance and transportation, that complement the provision of major services; and the counseling, guidance, and service coordination provided to every eligible individual.

A DSU could base the minimum time period required for the provision of multiple vocational rehabilitation services on a DSU's experience with the length of time necessary for individuals with severe disabilities to achieve an employment outcome. This extended period of time could be defined as the period of time at the upper end of the range required for individuals with severe disabilities to achieve an employment outcome, after eliminating any exceptional cases.

Socioeconomic factors, such as levels of educational achievement or length of unemployment or underemployment, and personal traits, such as levels of self-esteem, however, cannot be used in establishing an order of selection because these factors are not measures of severity of disability or even measures of disability. For example, using a factor such as low level of educational achievement would tend to include individuals whose disabilities were acquired at birth or during the developmental years while excluding individuals whose disabilities were acquired after having completed high levels of education, even though both groups of individuals might demonstrate equal substantial

functional limitations and have an equal need for multiple services over an extended period of time. Using a factor such as an employment history of repeated failures would have the effect of excluding youth who may have little or no employment history.

Changes: The Secretary has revised § 361.36(c) by adding a new paragraph (1) that states that an order of selection must be based on a refinement of the three criteria in the definition of ''individual with a severe disability'' in section 7(15)(A) of the Act.

• *Priority for individuals with the most severe disabilities.*

—*Federal criteria for defining individuals with the most severe disabilities*

Comments: Several commenters expressed concern about the potential for an individual to be denied services if the individual moves to a State in which the DSU uses different criteria for determining which individuals have the most severe disabilities. One commenter inquired as to whether there will be a consistent procedure for determining severity of disability, and other commenters requested that the regulations include appropriate criteria for defining ''most severe.''

Discussion: There is no statutory authority for the Secretary to establish Federal criteria to determine which individuals are individuals with the most severe disabilities. Section 101(a)(5) of the Act mandates that each DSU has the responsibility to develop its own criteria in this regard.

Changes: None.

—*Functional limitations*

Comments: One commenter requested that the Secretary clarify that a DSU may base an order of selection on limitations of functional capacities in addition to those listed in the statutory definition of ''individual with a severe disability'' in section 7(15)(A)(i) of the Act.

Another commenter suggested that the Secretary encourage DSUs to determine which individuals are the most severely disabled based on the types of functional limitations specified in the definition of ''developmental disability'' in section 6001(5) of the Developmental Disabilities and Bill of Rights Act (DD Act). ''Developmental disability'' is defined, in part, as a severe, chronic disability that results in substantial functional limitations in three or more of the following areas of major life activity: (1) Self-care. (2) Receptive and expressive language. (3) Learning. (4) Mobility. (5) Self-direction. (6) Capacity for independent living. (7) Economic self-sufficiency.

Discussion: A DSU may base an order of selection on limitations of functional capacities in addition to those functional capacities listed in section 7(15)(A)(i) of the Act. This listing is not all-inclusive because it is preceded by the words ''such as.'' However, functional limitations under this program must affect the achievement of an employment outcome. The DD Act definition specifies functional limitations that affect major life activities. Under The State Vocational Rehabilitation Services Program, some of the functional areas specified in the DD Act, such as economic self-sufficiency and capacity for independent living, would not necessarily be considered a functional limitation that impedes the achievement of an employment outcome, but rather would be considered a potential outcome or benefit of the VR program. Therefore, they could not be used as a factor in determining severity of disability under the VR program. As part of a review of a DSU's criteria for identifying individuals with the most severe disabilities, the Secretary would assess the appropriateness of using particular different functional capacities.

Changes: None.

• *Factors that cannot be used in determining order of selection of eligible individuals.*

—*Applying eligibility restrictions to order of selection decisions*

Comments: Several commenters opposed applying eligibility restrictions to order of selection decisions. These commenters stated that the eligibility and order of selection requirements are intended to stand alone under the Act.

Discussion: The Secretary agrees that the eligibility requirements and the order of selection requirements are separate requirements. Eligibility determinations can be based only on the statutory eligibility criteria in section 102(a)(1) of the Act. Determinations of the order of serving eligible individuals can be based only on severity of disability in accordance with section 101(a)(5)(A) of the Act. Neither determination can be based on any of the factors in § 361.36(c)(2).

Changes: None.

—*Residency prohibition*

Comments: One commenter believed that the residency prohibition needed to be clarified because, as worded in the NPRM, it would encourage individuals who live in one State to apply for services in another State.

Discussion: The Secretary's intention was to prohibit an order of selection from being based on any particular durational residency requirement as long as the individual is present in the State and can complete a program of services. The Secretary did not intend to address the issue of the ability of residents of one State to receive VR services in another State.

Changes: The Secretary has revised § 361.36(c)(1)(i) of the proposed regulations to prohibit an order of selection from being based on any duration of residency requirement, provided the individual is present in the State. This provision has been relocated to § 361.36(c)(2)(i) of the final regulations.

—*Type of disability prohibition*

—*Individuals who are blind or visually-impaired*

Comments: One commenter urged the Secretary to ensure that State rehabilitation agencies that serve only individuals who are blind or visually impaired be permitted to continue to serve these individuals if those agencies are operating under an order of selection. In addition, this commenter recommended that State rehabilitation agencies that serve all individuals with disabilities be required to recognize blindness as a severe disability for purposes of order of selection.

Discussion: If a DSU that serves only individuals who are blind or visually impaired is unable to serve all eligible individuals, it must prioritize according to severity of disability.

An individual who is blind or visually impaired must be assessed like all other eligible individuals with disabilities according to the three criteria in the definition of an ''individual with a severe disability'' in section 7(15)(A) of the Act. A DSU may not determine that an individual who is blind or visually impaired automatically meets this definition, i.e., that every individual who is blind or visually impaired is an individual with a severe disability or an individual with a most severe disability. An individual who is blind, however, would automatically satisfy the third element in the definition because ''blindness'' is included among the listing of physical or mental disabilities that the Act recognizes as causing substantial functional limitation.

In addition, if an individual is determined blind pursuant to Title II or Title XVI of the Social Security Act, section 102(a)(2) of the Rehabilitation Act considers that individual to have a severe physical or mental impairment that seriously limits one or more functional capacities in terms of an employment outcome, thus satisfying the first criterion in the definition of an

''individual with a severe disability.'' There is no basis in the Act, however, for automatically determining that an individual who is blind or visually impaired would require multiple vocational rehabilitation services over an extended period of time.

Changes: None.

—*Individuals with disabilities of alcoholism and other drug abuse*

Comments: One commenter was concerned that individuals with disabilities of alcoholism and other drug abuse would not receive fair consideration under an order of selection. In order to ensure fair consideration for these individuals, the commenter requested that criteria be added that require a DSU to include among individuals with the most severe disabilities those individuals with chronic relapsing conditions.

Discussion: Section 105(a)(5)(A) requires a DSU, not the Secretary, to establish criteria for determining which individuals with severe disabilities are individuals with the most severe disabilities. Any criteria established by a DSU for identifying individuals with the most severe disabilities should apply equally to individuals with chronic and individuals with acute disabling conditions. Many individuals with chronic relapsing conditions, such as alcohol or drug abuse, may experience substantial functional limitations and require multiple vocational rehabilitation services over an extended period of time. However, an assessment of whether a particular individual with a disability meets these criteria, including an assessment of an individual who is disabled because of alcohol or drug abuse, must be done on a case-by-case basis.

Changes: None.

—*Source of referral prohibition*

Comments: One commenter inquired whether the emphasis on interagency cooperative arrangements in the Act allows a DSU to establish a priority under an order of selection for eligible individuals referred by school systems under the Individuals with Disabilities Education Act (IDEA) or the Carl D. Perkins Vocational and Applied Education Act (Perkins Act).

Discussion: A DSU may not establish a priority under an order of selection for eligible individuals referred by school systems under IDEA or the Perkins Act because the source of referral is not necessarily an indicator of severity of disability. While some of these individuals might be individuals with severe or the most severe disabilities, all individuals referred by schools under these programs may not necessarily meet these criteria. This determination must be made on an individual basis.

Changes: None.

—*Prohibition against using type of expected employment outcome*

Comments: Several commenters opposed this prohibition. Several commenters contended that the purpose of the Title I program is to assist individuals with disabilities to enter into gainful employment, and, therefore, the type of expected employment outcome should be used as a factor in establishing an order of selection. One commenter contended that one of the evaluation standards for the program to be developed by the Secretary under section 106(a)(2) of the Act may relate to the achievement of competitive employment outcomes and an increase in post-placement earnings. The commenter believed it is unfair to evaluate a DSU on the level of earnings of the individuals it places in employment if it cannot use type of employment and amount of earnings as a factor in establishing an order of selection.

Finally, one commenter inquired whether, given the increased emphasis in the Act on supported employment, a DSU should be permitted to establish a priority in its order of selection for eligible individuals whose employment outcome is in a supported employment setting.

Discussion: Individuals with multiple functional limitations and a need for multiple services over an extended period of time will have varying expected employment outcomes, including competitive employment, supported employment, and other types of employment. Thus, type of expected employment outcome and level of post-placement earnings are not indicative of severity of disability and cannot be used as criteria for determining the level of severity of disability.

Although an individual whose employment outcome is in a supported employment setting would be included in the group of individuals with the most severe disabilities because supported employment services under the Act can only be provided to individuals with the most severe disabilities, a DSU cannot give individuals whose employment outcome is in a supported employment setting priority over other individuals with the most severe disabilities who have different employment outcome goals.

Changes: None.

—*Prohibition against considering the particular service needs of an individual or anticipated cost of services required by an individual*

Comments: Several commenters opposed these prohibitions. Several commenters questioned the logic of prohibiting consideration of service needs when establishing an order of selection because the need for multiple services is part of the definition of ''individual with a severe disability.'' One commenter also pointed out that this restriction is contrary to previous RSA sub-regulatory guidance that has allowed DSUs to use service needs and costs in establishing priority categories for individuals with non-severe disabilities. Finally, one commenter inquired whether it is consistent with the Act for a DSU to establish a priority in its order of selection for eligible individuals who require rehabilitation technology devices and services.

Several commenters believed that the Secretary should revise the regulations to allow a DSU to develop an IWRP for only non-purchased services if resources are not available to also provide purchased services. These commenters requested that a DSU that has established an order of selection for services be allowed to provide a priority to persons who do not have a severe or most severe disability and who need only non-purchased services as long as adequate resources are available to serve first those individuals who are the most severely disabled.

Discussion: The Secretary agrees that clarification is needed. This provision is intended to prohibit a DSU from giving priority to an individual who has one or more specific service needs over another individual who has different service needs. For example, a DSU is prohibited from giving priority to individuals who require physical restoration services over individuals who require vocational training. A DSU is also prohibited from giving priority to individuals who require rehabilitation technology devices and services, as raised by one commenter, over any other individual who requires a different service.

One of the examples provided in the preamble to the proposed regulations to illustrate this provision may have caused confusion. The example stated that a DSU is prohibited from establishing an order of selection that gives priority to individuals who require short-term services over individuals who require long-term services. Since a DSU is required to consider, in establishing its order of selection, an individual's need for vocational rehabilitation services over an extended period of time under the second factor of the definition of ''individual with a

severe disability,'' the use of the words ''short-term'' and ''long-term'' was inappropriate. The example was intended to illustrate the principle that the cost of services cannot be a factor in an order of selection and that DSUs cannot give priority to individuals who need short-term, less costly services over individuals who need longer term and more costly services.

The Secretary believes that there is no basis under the Act for exempting from the order of selection requirement the provision of non-purchased services. The Act does not draw any distinction between the provision of purchased and non-purchased vocational rehabilitation services with respect to a DSU's determination of the order in which it will provide services to eligible individuals if it cannot serve all eligible individuals. The order must be predicated, as section 101(a)(5)(A) requires, on severity of disability: Individuals with the most severe disabilities must be served first.

This means, for example, that if a DSU has established three service categories for serving eligible individuals (i.e., individuals with the most severe disabilities, individuals with severe disabilities, and individuals with non-severe disabilities), then it must be able to provide all needed services, whether purchased or not, to all individuals with the most severe disabilities before serving any individuals with severe disabilities. In addition, it must be able to provide all needed services to all individuals with severe disabilities before serving any individuals in the last category who have less than severe disabilities. An individual's need for only non-purchased services cannot override this order.

Thus, the Secretary believes that a DSU cannot establish a priority category anywhere in its order of selection that provides solely for the provision of non-purchased services, even among individuals with non-severe disabilities. This interpretation represents a policy reversal by RSA of its position in subregulatory guidance (RSA-MT–92–17, March 20, 1992), which permitted a DSU to give a service priority to non-severely disabled individuals whose rehabilitation needs do not require the expenditure of case service funds (i.e., individuals who need only counseling, guidance, and placement services that can be provided by DSU staff) over other non-severely disabled individuals.

To address the concern of some DSUs on this issue, the Secretary has proposed regulations for this program in 34 CFR 361.37(c) that were published in the Federal Register on December 15, 1995 (60 FR 64476) and that would provide a limited exception to this prohibition. These proposed regulations would authorize any DSU that has implemented an order of selection to establish an expanded information and referral program that includes the provision of job referral services to eligible individuals who are not being served under a DSU's order of selection, provided that certain State plan requirements are met. These requirements include a description in the State plan of the level of commitment of staff and other resources for this purpose and an assurance that funds to carry out this program will supplement and not supplant funds available for providing VR services to eligible individuals who are able to be served under the DSU's order of selection.

Changes: The Secretary has clarified § 361.36(c)(1)(vi) of the proposed regulations by providing that the need for specific services by an individual cannot be the basis for an order of selection. This provision has been relocated to § 361.36(c)(2)(vi) of the final regulations.

—*Income level of the individual or the individual's family*

Comments: Several commenters recommended that a DSU be permitted to give priority to persons on public assistance in its order of selection because these individuals have a greater need for services than those who have larger incomes.

Discussion: A DSU may not give priority to persons on public assistance under its order of selection because use of public assistance is a socioeconomic factor that may not necessarily be related to the presence of a disability or to the severity of that disability. Individuals who are on public assistance and who are included in a priority category currently being served by a DSU can receive services. As noted in the preamble to the NPRM, however, the income level of an individual or the individual's family can be a factor only in determining whether an individual is required by a DSU to pay part of the cost of a service. This is a State option permitted under current regulations in 34 CFR 361.47(a).

Changes: None.

—*Transitioning students*

Comments: One commenter believed the intent of section 101(a)(24)(A) (i), (ii), and (iii) of the Act is to ensure that all eligible students receive services in a timely manner and to ensure that there is no gap in services between the school system and the vocational rehabilitation system.

One commenter inquired how a DSU will handle transitioning special education students if an order of selection is implemented. Specifically, the commenter inquired whether a student who is receiving vocational rehabilitation services would continue to receive services if the student falls outside of the priority categories being served under an order of selection established by a DSU.

Another commenter was concerned that transitioning students would be placed on waiting lists for services. This commenter recommended requiring a DSU operating under an order of selection to include in its State plan the plans, policies, and procedures to identify how the DSU will work with education officials and others to meet the needs of transitioning youth and to otherwise fulfill their obligations under the Act concerning the provision of transition services.

Discussion: Even though section 101(a)(24)(A) (i), (ii), and (iii) of the Act strengthen the provisions for transition services to students with disabilities, a student who is determined eligible for services after a DSU implements an order of selection will be served only if the student is among those individuals included in a priority category that is currently being served under the DSU's order of selection.

Section 361.36(d)(3), however, provides that a DSU must ensure that it will continue to provide all needed services under an IWRP to any eligible individual who has begun to receive services prior to the effective date of the order of selection, irrespective of the severity of the individual's disability. Thus, for example, if a transitioning student with severe disabilities is receiving vocational rehabilitation services under an IWRP prior to the effective date of the order of selection, the student will continue to receive all needed services even if the DSU is able under its order of selection to initiate services only to individuals with the most severe disabilities.

Transitioning students who are not included in a priority category that is currently being served under a DSU's order of selection will be placed on a waiting list unless services were begun prior to the implementation of the order of selection.

Changes: None.

—*Individuals with less severe disabilities*

Comments: One commenter inquired whether individuals with less severe disabilities will be systematically left out of the process in those DSUs that implement an order of selection. This

commenter feared that the proposed regulations permit a DSU to refuse services to an individual because his or her disability is not severe enough.

One commenter inquired whether a DSU may limit the number of individuals with non-severe disabilities who may be served under an order of selection so that there will be funds available to serve individuals with a severe disability who may apply for services.

Discussion: The order of selection requirement mandates that services be provided first to individuals with the most severe disabilities before serving other eligible individuals. This means that individuals with the most severe disabilities are served before individuals with severe disabilities and individuals with non-severe disabilities. A DSU that implements an order of selection may be unable to serve eligible individuals with non-severe disabilities.

The Secretary urges DSUs operating under an order of selection to be conservative in assessing their ability to serve individuals other than those with the most severe disabilities before opening additional priority categories. This approach is needed to ensure that sufficient resources are available throughout the year to serve individuals under higher priority categories (i.e., individuals with most severe disabilities and individuals with severe disabilities) who apply for services and become eligible after the beginning of the fiscal year. As stated previously, the Secretary prefers this conservative approach since a potential increase in the number of applicants with severe disabilities might affect the DSU's ability to comply with the order of selection requirements throughout the year.

Changes: None.

Section 361.36(d)—Administrative Requirements

—Identify the order of selection as a State-imposed requirement

Comments: One commenter recommended deleting this requirement. The commenter stated that the only legally permissible reason for implementing an order of selection policy is resource limitations. Since funding for the program is a shared responsibility of State and Federal governments, the commenter believed there was no reason to attribute resource shortfalls exclusively to a State.

Discussion: The Secretary believes that the commenter misinterpreted this provision of the proposed regulations. The intent of the provision was for a DSU to identify its particular order of selection policy as a State-imposed requirement (not the order of selection requirement itself, which is a Federal requirement) since this policy is a State rule or policy relating to the administration or operation of the program under section 17 of the Act. Nevertheless, the Secretary believes that there is no reason to particularly highlight this one State-imposed requirement in the regulations over other State-imposed requirements, such as a State's financial needs test. The Secretary intends to address State-imposed requirements in general in other regulations for this program.

Changes: The Secretary has deleted the requirement in § 361.36(d)(2) of the proposed regulations that a DSU identify its order of selection policy as a State-imposed requirement.

—Written policies

Comments: Several commenters suggested that written policies for an order of selection include requirements that the policies must provide that affected individuals are notified of the State's particular order of selection, the priority category to which they have been assigned, and their right to appeal assignment to a particular priority category.

One commenter suggested revising § 361.36(d)(3) of the proposed regulations to provide that a DSU must establish written policies related to the development, establishment, and administration of the order of selection that should include, but not be limited to, the following: (1) Consultation with the Council. (2) Staff orientation and training. (3) Notification to individuals applying for services, or in an appropriate case, the parent, family member, guardian, advocate, or authorized representative of such an individual. (4) Monitoring procedures. (5) Caseload management. (6) Evaluation of effectiveness of the order of selection. The commenter believed that these policies should be required since they include important accountability elements.

Discussion: The Secretary agrees that a DSU must ensure that each eligible individual is informed of the priority categories that have been established in a DSU's order of selection, of the particular priority category to which he or she has been assigned, and of his or her right to appeal assignment to a particular priority category under the State's procedures for reviewing rehabilitation counselor or coordinator determinations. The Secretary believes these are basic procedural rights that eligible individuals have under this program. These notification requirements are specified in § 361.36(d)(2).

In accordance with the Department's principles for regulating, however, the Secretary has eliminated the requirement in the proposed regulations that DSUs establish written policies related to the development, establishment, and administration of its order of selection. The Secretary believes that requiring DSUs to establish written policies covering all aspects of the implementation of an order of selection is overly burdensome. Nevertheless, the Secretary encourages a DSU to develop policies, as needed, to ensure proper administration of its order of selection, including policies in areas such as staff orientation and training, monitoring procedures, caseload management, and evaluation and management of the order of selection.

Changes: The Secretary has revised § 361.36(d)(3) of the proposed regulations to require a DSU to notify all eligible individuals of the priority categories in a DSU's order of selection, their assignment to a particular category, and their right to appeal assignment to a particular priority category. This provision has been relocated to § 361.36(d)(2) of the final regulations.

—Continuity of services

Comments: One commenter requested clarification of this provision. The commenter noted that a person could have a completed and signed IWRP, but not yet have begun to receive services under the IWRP. This commenter requested that the regulations be revised to provide that anyone with a completed and signed IWRP must continue to receive services in accordance with their approved IWRP, irrespective of the severity of their disability. Another commenter inquired whether the continuity of services requirement entitles an individual who is receiving services under one DSU's order of selection to receive services from a DSU in another State if that individual moves and falls outside of the priority categories being served by the DSU in the second State.

Discussion: The continuity of services requirement ensures that an eligible individual who has begun to receive services under an IWRP prior to the effective date of a DSU's order of selection will continue to receive all needed services, including services that may be necessary because of amendments to the IWRP, irrespective of the severity of that individual's disability.

An eligible individual who has a completed IWRP, but who has not begun to receive services under that

IWRP, would not be covered by this requirement. This means that the continuity of services requirement does not apply to any services provided in developing an eligible individual's IWRP. This requirement takes effect at the point in the rehabilitation process when services leading to an employment outcome have been initiated under an IWRP. Finally, the continuity of services requirement is DSU-specific and does not entitle an individual who is receiving services under one DSU's order of selection to receive services under another DSU's order of selection if the individual is not included among the individuals being served under the second DSU's order of selection.

Changes: The Secretary has revised § 361.36(d)(4) of the proposed regulations to ensure that a DSU continues to provide all services needed by any eligible individual who has begun to receive services ''under an IWRP'' prior to the effective date of the order of selection, irrespective of the severity of the individual's disability. This change is necessary to clarify that it is the receipt of services under an IWRP that triggers the continuity of services requirement. This provision has been relocated to § 361.36(d)(3) of the final regulations.

—Third-party funding arrangements

Comments: One commenter recommended that the Secretary permit third-party funding arrangements that conflict with a DSU's order of selection if these arrangements reflect priorities in national or State policy. Another commenter feared that requiring DSUs to renegotiate third-party arrangements will result in a considerable reduction in resources to serve individuals with disabilities.

One commenter recommended that the Secretary provide a further explanation of how a DSU can ensure that its third-party arrangements are ''consistent'' with its order of selection for services. This commenter also requested that the Secretary take into consideration the practical difficulties for a provider of renegotiating a contract midstream. Another commenter inquired whether cooperative arrangements, like third-party arrangements, must be consistent with a DSU's order of selection.

One commenter questioned whether a DSU may select a category of individuals for priority under its order of selection because that category is funded by targeted funds from another agency.

Discussion: The Secretary believes that a DSU's funding arrangements for providing services, such as third-party arrangements and cooperative arrangements, cannot override its order of selection if those funds are used under the State plan. For example, a DSU that receives third-party funding to serve individuals with mental illness may not serve individuals with mental illness who fall outside of the priority categories being served under the order of selection. This is necessary to ensure that an order of selection is applied fairly and evenly to all individuals regardless of whether funding arrangements are in place to serve individuals from particular disability groups. If a funding arrangement is inconsistent with a DSU's order of selection, a DSU must renegotiate these arrangements so that individuals are served in a manner consistent with the DSU's order of selection.

Changes: The phrase ''under the State plan'' has been added to § 361.36(d)(4) to clarify that any funding arrangements that are used by a DSU to provide services under the State plan must be consistent with a DSU's order of selection.

—Other requirements

Comments: Several commenters were concerned that there is an inadequate number of counselors qualified to properly evaluate severity of disability. These commenters suggested that the Secretary ensure that qualified counselors are available to evaluate individuals to determine whether they will receive services under an order of selection.

Discussion: Section 101(a)(7) of the Act requires a DSU to develop a comprehensive system of personnel development to ensure that an adequate supply of qualified State rehabilitation professional and paraprofessionals is available in the State. The Secretary believes that this provision mandates that staff in sufficient numbers be qualified to properly evaluate functional limitations for purposes of determining severity of disability. The Secretary believes that all DSUs operating under an order of selection must provide staff with appropriate training to be able to make these determinations.

Changes: None.

Section 361.36(e)—State Rehabilitation Advisory Council

Comments: One commenter recommended that the Secretary highlight the responsibility of the DSU to seek and seriously consider the advice of the Council on DSU criteria for determining which individuals are individuals with the most severe disabilities.

Several commenters suggested that a DSU that has implemented an order of selection be required to consult other advisory boards, service providers, advocacy organizations, consumers, family members, and rehabilitation vendors, in addition to the Council, regarding the content of the order of selection. One of these commenters stated that this consultation is necessary because the composition of the Council may not ensure sufficient or equal representation by persons of different disabilities, such as persons with mental illness.

Several commenters recommended that the Secretary add a new § 361.36(f) stating that the client assistance program and other parties must be consulted, under section 101(a)(23)(C) of the Act, before revisions are made to a DSU's order of selection.

Discussion: The Secretary does not believe that it is necessary to further highlight the responsibility of a DSU to seek and seriously consider the advice of the Council when developing the criteria for determining which individuals are the most severely disabled. The Secretary believes that § 361.36(e)(3) sufficiently highlights this responsibility.

The Secretary agrees with the commenters who suggest that advisory boards, other than the Council, service providers, advocacy organizations, consumers, family members, rehabilitation vendors, and the director of the client assistance program (CAP) are valuable sources of information and should be consulted by a DSU in determining the content of its order of selection. The Secretary believes that consultation with these and other groups as to the content of the DSU's order of selection is sufficiently addressed under sections 101(a)(18), 101(a)(23), and 105(b)(1) of the Act. These statutory provisions provide for broad public participation in the development of the State plan and of policies governing the provision of vocational rehabilitation services under the plan.

Changes: None.

Additional comment

—Development of IWRP

Comments: Several commenters requested that a DSU not be required to develop an IWRP for all individuals eligible for vocational rehabilitation services under the Act if the DSU cannot serve all eligible individuals and is providing services under an order of selection. These commenters stated that requiring a DSU that has implemented an order of selection to develop IWRPs for all eligible individuals, regardless of

whether the individual could currently be served, would result in unnecessary work for vocational rehabilitation counselors and would give false hope to individuals who fall outside of the categories being served.

Discussion: The Secretary understands the concern expressed by these commenters and is addressing this issue in other vocational rehabilitation program regulations. The proposed regulations concerning development of an IWRP for this program published in the Federal Register on December 15, 1995 (60 FR 64476, proposed § 361.45(a)) would require a DSU that has implemented an order of selection to develop an IWRP only for each eligible individual that it is able to serve.

Changes: None.

Executive Order 12866

Assessment of Costs and Benefits

These final regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of these regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Benefits Relative to Potential Costs of the Regulatory Provisions Discussed Previously in This Preamble

The Secretary believes that the final regulations represent the least burdensome way to implement the statutory requirement that a DSU explain the methods by which it will serve all eligible individuals for VR services or, in the alternative, establish and justify the order of selection it shall follow in serving first those individuals with the most severe disabilities. In addition, the Secretary believes that the regulations present the most effective means of ensuring that DSUs do not improperly avoid establishing an order of selection (i.e., failing to establish an order of selection even though the DSU cannot serve all eligible individuals). Reduction of burden on DSUs and other benefits resulting from the final regulations are discussed in the following paragraphs of this section and throughout the analysis of comments and changes section of the preamble.

Reduction of Paperwork Burden on Grantees

As stated previously in this preamble, review of the final regulations in accordance with the Department's principles for regulating resulted in two major, burden-reducing changes from the proposed regulations. First, under the final regulations, DSUs that have successfully served all eligible individuals in the past are not required to include detailed projections (e.g., projected number of eligible individuals, projected program costs and revenues) as part of their explanation of how they will continue to serve everyone and meet all other program requirements in the next year. As long as a DSU can provide the assurances required in the regulations to confirm its past ability to serve all eligible individuals, the DSU's explanation under § 361.36(a)(1) is not subject to minimum content requirements. Second, the regulations reduce the number of data projections and related demonstrations that must be included as part of the explanation for DSUs that have been unable to serve all eligible individuals in the past. The remaining projections are needed to indicate whether a DSU that has been unable to serve all eligible individuals previously can serve everyone in the next year.

Evaluation of Need to Establish an Order of Selection

Once a DSU decides, prior to the beginning of the fiscal year, that it does not need to establish an order of selection, the final regulations require the DSU to reevaluate this decision whenever changed circumstances indicate that it may no longer be able to serve all eligible individuals. DSUs, therefore, are responsible for determining whether they need to implement an order of selection after the start of the year. The Secretary prefers this flexible approach rather than imposing in the regulations a specific time when all DSUs must reevaluate the need to establish an order of selection, as some commenters on the proposed regulations suggested.

Instructions for Establishing an Order of Selection

Section 361.36(c) provides, for DSUs unable to serve all eligible individuals, clear directives on how to establish an order of selection for providing services. In addition, this section includes specific factors that cannot be used in developing an order of selection. Many commenters on the proposed regulations had requested clarification as to whether these factors could be considered in formulating specific priority categories under an order of selection.

Additional Benefits

The final regulations include provisions intended to enhance the protection of individuals with disabilities by DSUs operating under an order of selection. For example, the regulations require DSUs to notify all eligible individuals of the priority categories in the State's order of selection, as well as their assignment to a particular category. Additionally, the regulations require DSUs to continue to serve any eligible individual who has begun to receive services under an IWRP prior to the effective date of the order of selection, irrespective of the severity of the individual's disability.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number assigned to the collection of information in these final regulations is displayed at the end of the affected section of the regulations.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Secretary's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed regulations and on its own review, the Department has determined that the

regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 361

Administrative practice and procedures, Grant programs—education, Grant programs—social programs, Reporting and recordkeeping requirements, Vocational rehabilitation.

(Catalog of Federal Domestic Assistance Number 84.126—The State Vocational Rehabilitation Services Program)

Dated: March 4, 1996.

Richard W. Riley,

Secretary of Education.

The Secretary amends Part 361 of Title 34 of the Code of Federal Regulations as follows:

PART 361—THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

1. The authority citation for Part 361 continues to read as follows:

Authority: 29 U.S.C. 711(c), unless otherwise noted.

2. Section 361.36 is revised to read as follows:

§ 361.36 Ability to serve all eligible individuals; order of selection for services.

(a) *General provisions.*

(1) The State plan must contain—

(i) An assurance that the designated State unit is able to provide the full range of services listed in section 103(a) of the Act, as appropriate, to all eligible individuals. The assurance must be supported by an explanation that satisfies the requirements of paragraph (a)(2) or (a)(3) of this section and describes how, on the basis of the designated State unit's projected fiscal and personnel resources and its assessment of the rehabilitation needs of individuals with severe disabilities within the State, it will—

(A) Continue to provide services to all individuals currently receiving services;

(B) Provide assessment services to all individuals expected to apply for services in the next fiscal year;

(C) Provide services to all individuals who are expected to be determined eligible in the next fiscal year; and

(D) Meet all program requirements; or

(ii) The order to be followed in selecting eligible individuals to be provided services, a justification of that order of selection, and a description of the outcome and service goals and service costs to be achieved for individuals with disabilities in each category within the order and the time within which these goals may be achieved.

(2) For those designated State units that provided assurances in their State plans for the current fiscal year and the preceding fiscal year that they are able to provide the full range of services, as appropriate, to all eligible individuals, the explanation required by paragraph (a)(1)(i) of this section must include a statement that, during the current fiscal year and the preceding fiscal year, the DSU has in fact—

(i) Provided assessment services to all applicants and the full range of services, as appropriate, to all eligible individuals;

(ii) Made referral forms widely available throughout the State;

(iii) Conducted outreach efforts to identify and serve individuals with disabilities who have been unserved or underserved by the vocational rehabilitation system; and

(iv) Not delayed, through waiting lists or other means, determinations of eligibility, the development of individualized written rehabilitation programs (IWRPs) for individuals determined eligible, or the provision of services for eligible individuals for whom IWRPs have been developed.

(3) For those designated State units unable to provide the full range of services to all eligible individuals during the current or preceding fiscal year, or unable to provide the statement required in paragraph (a)(2) of this section, the explanation required by paragraph (a)(1)(i) of this section must include—

(i) A description of the circumstances that have changed that will allow the DSU to meet the requirements of paragraph (a)(1)(i) of this section in the next fiscal year, including a description of—

(A) The estimated number of and projected costs of serving, in the next fiscal year, individuals with existing IWRPs;

(B) The projected number of individuals with disabilities who will apply for services and will be determined eligible in the next fiscal year and the projected costs of serving those individuals;

(C) The projected costs of administering the program in the next fiscal year, including, but not limited to, costs of staff salaries and benefits, outreach activities, and required statewide studies; and

(D) The projected revenues and projected number of qualified personnel for the program in the next fiscal year;

(ii) Comparable data, as relevant, for the current or preceding fiscal year, or for both years, of the costs listed in paragraphs (a)(3)(i) (A) through (C) of this section and the resources identified in paragraph (a)(3)(i)(D) of this section and an explanation of any projected increases or decreases in these costs and resources; and

(iii) A demonstration that the projected revenues and the projected number of qualified personnel for the program in the next fiscal year are adequate to cover the costs identified in paragraphs (a)(3)(i) (A) through (C) of this section so as to ensure the provision of the full range of services, as appropriate, to all eligible individuals.

(b) *Time for determining need for an order of selection.*

(1) The designated State unit shall determine, prior to the beginning of each fiscal year, whether to establish and implement an order of selection.

(2) If the designated State unit determines that it does not need to establish an order of selection, it shall reevaluate this determination whenever changed circumstances during the course of a fiscal year, such as a decrease in its fiscal or personnel resources or an increase in its program costs, indicate that it may no longer be able to provide the full range of services, as appropriate, to all eligible individuals.

(c) *Establishing an order of selection.*

(1) *Basis for order of selection.* An order of selection must be based on a refinement of the three criteria in the definition of ''individual with a severe disability'' in section 7(15)(A) of the Act.

(2) *Factors that cannot be used in determining order of selection of eligible individuals.* An order of selection may not be based on any other factors, including—

(i) Any duration of residency requirement, provided the individual is present in the State;

(ii) Type of disability;

(iii) Age, gender, race, color, creed, or national origin;

(iv) Source of referral;

(v) Type of expected employment outcome;

(vi) The need for specific services or anticipated cost of services required by an individual; or

(vii) The income level of an individual or an individual's family.

(3) *Priority for individuals with the most severe disabilities.* The State plan must assure that those individuals with the most severe disabilities are selected for service before other individuals with disabilities. The designated State unit shall establish criteria for determining which individuals are individuals with the most severe disabilities. The criteria must be consistent with the definition of

''individual with a severe disability'' in section 7(15)(A) of the Act and the requirements in paragraphs (c)(1) and (2) of this section.

(d) *Administrative requirements.* In administering the order of selection, the designated State unit shall—

(1) Implement the order of selection on a statewide basis;

(2) Notify all eligible individuals of the priority categories in a State's order of selection, their assignment to a particular category, and their right to appeal their category assignment;

(3) Continue to provide all needed services to any eligible individual who has begun to receive services under an IWRP prior to the effective date of the order of selection, irrespective of the severity of the individual's disability;

(4) Ensure that its funding arrangements for providing services under the State plan, including third-party arrangements and awards under the establishment authority, are consistent with the order of selection. If any funding arrangements are inconsistent with the order of selection, the designated State unit shall renegotiate these funding arrangements so that they are consistent with the order of selection.

(e) *State Rehabilitation Advisory Council.* The designated State unit shall consult with and seriously consider the advice of the State Rehabilitation Advisory Council regarding the—

(1) Need to establish an order of selection, including any reevaluation of the need under paragraph (b)(2) of this section;

(2) Priority categories of the particular order of selection;

(3) Criteria for determining individuals with the most severe disabilities; and

(4) Administration of the order of selection.

(Approved by the Office of Management and Budget under control number 1820–0500.)

(Authority: Secs. 7(15)(A); 12(d); 17; 101(a)(4); 101(a)(5)(A); 101(a)(7); 101(a)(11)(A); 101(a)(15)(D); 101(a)(24); 101(a)(30); 101(a)(36)(A)(ii); 107(a)(4)(B); and 504(a) of the Act; 29 U.S.C. 706(15)(A), 711(d), 716, 721(a)(4), 721(a)(5)(A), 721(a)(7), 721(a)(11)(A), 721(a)(15)(D), 721(a)(24), 721(a)(30), 721(a)(36)(A)(ii), 727(a)(4)(B), and 794(a))

[FR Doc. 96–11808 Filed 5–13–96; 8:45 am]

BILLING CODE 4000–01–P

federal register

Tuesday
May 14, 1996

Part IV

Department of Education

Grants and Cooperative Agreements; Availability, etc.; Library Services to Indian Tribes and Hawaiian Natives Program; Notices

DEPARTMENT OF EDUCATION

[CFDA No. 84.163B]

Office of Educational Research and Improvement—Library Services to Indian Tribes and Hawaiian Natives Program—Special Projects Grants (Library Services and Construction Act, Title IV); Notice Inviting Applications for New Awards for Fiscal Year 1996

Purpose of Program: Makes competitive awards to eligible Indian tribes to establish or improve public library services. All available funds for library services to Hawaiian natives are awarded through the Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants (CFDA No. 84.163A).

Eligible Applicants: Indian Tribes and Alaska Native villages or regional or village corporations that have met eligibility requirements for the Library Services to Indian Tribes Program—Basic Grants (CFDA No. 84.163A) and received such Basic Grants in the same fiscal year as the year of application.

Deadline for Transmittal of Applications: 7/15/96.

Applications Available: 6/3/96.

Estimated Available Funds: $950,000.

Estimated Range of Awards: $38,000–106,000.

Estimated Average Size of Awards: $68,000.

Estimated Number of Awards: 14.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

Applicable Regulations: (a) The regulations for this program in 34 CFR Part 772; and (b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 75, 77, 80, 81, and 85.

Priorities: Under 34 CFR 75.105(c)(1), the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets an invitational priority does not receive competitive or absolute preference over other applications.

Invitational Priority 1: To assess and plan for tribal library needs.

Invitational Priority 2: To train or retrain Indians as library personnel.

Invitational Priority 3: To utilize new information technologies to expand services to Indians in geographically isolated areas.

Invitational Priority 4: To conduct special library programs for Indians such as summer reading programs for children, outreach programs for elders, literacy tutoring, and training in computer use.

For Applications or Information Contact: Kathy Price, U.S. Department of Education, 555 New Jersey Avenue NW., Room 300, Washington, D.C. 20208–5571. Telephone (202) 219–1670.

For Users of TDD or FIRS: 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.

For Electronic Access to Information: Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases) or the WWW server at http://www.ed.gov/ (under Money Matters, Funding Opportunities). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 351c(c)(2), 361(d), 364.

Dated: May 7, 1996.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 96–11830 Filed 5–13–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.163A]

Office of Educational Research and Improvement—Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants (Library Services and Construction Act, Title IV); Notice Inviting Applications for New Awards for Fiscal Year 1996

Purpose of Program: Provides noncompetitive basic grants to eligible Indian tribes and to eligible Hawaiian native organizations to establish or improve public library services for Indian tribes and Hawaiian natives.

Eligible Applicants: (a) Indian tribes recognized by the Secretary of the Interior to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians; (b) Alaska Native villages or regional or village corporations as defined in or established under the Alaska Native Claims Settlement Act; however, two or more Alaska Native villages, regional corporations, or village corporations may not receive basic grant allocations to serve the same population; and (c) Organizations primarily serving and representing Hawaiian natives and recognized by the Governor of Hawaii.

Deadline for Transmittal of Applications: 7/15/96.

Applications Available: 6/3/96.

Estimated Available Funds: $950,000.

Estimated Average Size of Awards: $4,524.

Estimated Number of Awards: 210.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

Applicable Regulations: (a) The regulations for this program in 34 CFR Part 771; and (b) the Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74 and 82 (for grants to Hawaiian native organizations); 80 (for grants to Indian tribes); 75, 77, 81 and 85 (for grants to both Hawaiian natives and Indian tribes).

For Applications or Information Contact: Kathy Price, U.S. Department of Education, 555 New Jersey Ave. N.W., Room 300, Washington, DC 20208–5571. Telephone: (202) 219–1670.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases) or on the WWW server at http://www.ed.gov/ (under Money Matters, Funding Opportunities). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 351c(c)(2), 361(d), 364.

Dated: May 7, 1996.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 96–11829 Filed 5–13–96; 8:45 am]

BILLING CODE 4000–01–P

federal register

Tuesday
May 14, 1996

Part V

Department of Housing and Urban Development

Notice of Funding Availability for Lead-Based Paint Hazard Control in Housing, Fiscal Year 1996 and Proposed Collection of Information; Comment Request; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. FR–4049–N–01]

Office of Lead-Based Paint Abatement and Poisoning Prevention; NOFA for Lead-Based Paint Hazard Control in Housing, Fiscal Year 1996 and Proposed Collection of Information; Comment Request

AGENCY: Office of the Secretary—Office of Lead-Based Paint Abatement and Poisoning Prevention, HUD.

ACTION: Notice of funding availability and request for comments on information collection requirements.

SUMMARY: This notice announces the competition for two categories of grant funding: Category A for approximately $50 million for a grant program for State and local governments to undertake lead-based paint hazard control in eligible housing units; and Category B for approximately $4 million for grants to State and local governments for assistance in undertaking lead-based paint hazard control in eligible housing units on Superfund sites. The NOFA includes statutory changes made to the grant program, including in the definition of the housing for which the Secretary is authorized to provide grants, by the Omnibus Consolidated Rescissions and Appropriations Act of 1996.

Approximately 10–12 grants of $1 million-$6 million each will be awarded under Category A and a maximum of 8 grants of $500,000 to $2 million each will be awarded under Category B. The grant sum requested by applicants under either category must constitute the total request for the maximum thirty six (36) months for the expected duration of the proposed project. Proposals can be submitted by jurisdictions for both categories of assistance. As part of HUD's reinvention initiative, this Notice of Funding Availability (NOFA) includes changes that HUD believes will make the application for lead-based paint hazard control grant funds simpler and less time-consuming than in past competitions. This NOFA limits a Category A applicant's response to the Rating Factors to a maximum of 25 pages, has specific format instructions, and reduces the number of budget forms required. (There are no page limitations for Category B applicant's responses to the Rating Factors.) The application kit developed for this NOFA provide additional details to further guide and assist those eligible to apply.

This document includes information concerning the following:

(1) The purpose of the NOFA, eligibility, available amounts, and selection criteria;

(2) Application processing, including how to apply and how selections will be made; and

(3) A checklist of steps and exhibits involved in the application process.

Appendices to the NOFA identify relevant regulations and guidelines referenced throughout the NOFA, define ''administrative costs'', list HUD housing programs eligible to receive assistance under the program, and provide a relevant statutory provision.

DATES: An original and two copies of the completed application must be received by HUD no later than 3:00 p.m. (Eastern Time) on July 30, 1996. The application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after its deadline. Applicants should take this factor into account and make early submission of their materials to avoid loss of eligibility brought about by unanticipated delays or other delivery-related problems. Sections 5 and 7 of this NOFA provide further information on what constitutes proper submission of an application for Category A and B respectively.

The deadline for comments on the information collection requirements is July 15, 1996.

ADDRESSES: Application kits may be obtained from the Office of Lead-Based Paint Abatement and Poisoning Prevention, Department of Housing and Urban Development, Room B–133, 451 Seventh Street, S.W., Washington, D.C. 20410, or by calling Ms. Phyllis Horace at (202) 755–1785, extension 120 (this is not a toll-free number), or by making an e-mail request to: phyllis__d.__horace@hud.gov (use underscore characters). The Department is also planning to make the NOFA and application kit accessible via the Internet World Wide Web. Completed applications should be submitted to the mailing address, and may not be faxed or electronically transmitted.

Comments on the proposed information collection requirements must refer to the NOFA for Lead-Based Paint Hazard Control in Priority Housing, Fiscal Year 1996 (FR–4049), and must be sent to: Reports Liaison Officer, Office of Lead-Based Paint Abatement and Poisoning Prevention, Department of Housing & Urban Development, 451 7th Street, SW, Room B–133, Washington, DC 20410

FOR FURTHER INFORMATION CONTACT: For Category A applicants: Ellis G. Goldman, Director, Program Management Division, Office of Lead-Based Paint Abatement and Poisoning Prevention, Room B–133, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 755–1822, extension 112 (this is not a toll-free number). For Category B applicants: Melissa F. Shapiro, telephone (202) 755–1785, extension 153 (this is not a toll-free number). For hearing- and speech-impaired persons, the telephone number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

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Section 1. Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget (OMB) for a temporary extension of the control number, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and 5 CFR 1320.13. A notice requesting public comment on this extension was published in the Federal Register on April 23, 1996 (61 FR 17906). When assigned, the OMB control number will be published by a separate notice in the Federal Register. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

In addition, in today's notice the Department is soliciting comments, as required under 5 CFR 1320.8(d), before submitting the information collection requirements contained in this NOFA to OMB for regular review in accordance with 5 CFR 1320.10. The Department is seeking comments from members of the public and affected agencies concerning the proposed collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must be received within 60 days from the date of this proposal. Comments must refer to the proposal by name and docket number (FR–4049) and must be sent to: Reports Liaison Officer, Office of Lead-Based Paint Abatement and Poisoning Prevention, Department of Housing & Urban Development, 451 7th Street SW, Room 4244, Washington, DC 20410.

This Notice also lists the following information:

Title of Proposal: NOFA for Lead-Based Paint Hazard Control in Priority Housing, Fiscal Year 1996 (FR–4049)

Description of the Need for the Information and Proposed Use: This information collection is required in connection with the issuance of this NOFA, announcing the availability of $50 million for grants for lead-based paint hazard reduction in private priority housing.

Form Number: None

Members of Affected Public: State and local governments.

Estimation of the Total Number of Hours Needed to Prepare the Information Collection including Number of Respondents, Frequency of Response, and Hours of Response:

	Number of respondents	Frequency of responses	Hours per response	Burden hours
Application Development	75	1	120	9,000
Total Estimated Burden Hours: 9,000.				

Status of the Proposed Information Collection: Emergency processing request pending.

Section 2. Definitions

The following definitions apply to this grant program:

Abatement—Any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards. For the purposes of this definition, permanent means at least 20 years effective life. Abatement includes:

(a) The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil; and

(b) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

Accredited Laboratory—A laboratory that is accredited by an EPA-approved lead laboratory accrediting organization and recognized by the National Lead Laboratory Accreditation Program (NLLAP), as being capable of performing lead analyses of samples of paint, dust wipes, and/or soil. (A list of recognized laboratories and EPA-approved lead laboratory accrediting organizations is available from the National Lead Information Center at (800–424–LEAD [5323]).

Administrative Costs—(See Appendix B of this NOFA for a detailed definition.)

Applicant—A State or a unit of general local government with a currently approved Comprehensive Housing Affordability Strategy (CHAS) or Consolidated Plan that applies for funding under this NOFA.

Certified Contractor—A contractor, inspector, risk assessor, supervisor or others required to have successfully completed a training program approved by the appropriate Federal agency and who has met any other requirements for certification or licensure established by such agency or who has been certified by any State through a program which has been found by such Federal agency to be at least as rigorous as the training and certification standards and requirements found in Appendix E of this NOFA. All lead-hazard identification or control work shall be performed by workers and supervisors who have passed a Federal training program or a State training program found by such Federal agency to be at least as rigorous as the Federal program.

Certified Inspector and Certified Risk Assessor—Included in the definition of ''certified contractor,'' above.

Clearance Testing and Examination—A HUD-required visual examination and collection of environmental samples by a certified inspector or certified risk assessor, and laboratory analysis by an accredited laboratory upon completion of lead-hazard control work. The unit must undergo wipe testing showing that it has lead dust levels below HUD's interim standards. Current standards are: for bare and carpeted floors (100 μg/ft^2 [micrograms/square foot]); interior window sills (500 μg/ft^2); and window troughs (wells), exterior concrete or other rough surfaces (800 μg/ft^2). (These interim standards may be revised subject to EPA's issuance of regulations.)

Eligible Housing—Target housing that qualifies as eligible housing under section 1011(a) of the Residential Lead-

Based Paint Hazard Reduction Act of 1992, as amended by section 217 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134; 110 Stat. 1321, approved April 26, 1996) (See Appendix C of this NOFA for criteria for eligible housing units and Appendix D for a list of HUD's programs and their eligibility or ineligibility for receiving assistance under this grant program.) The term does not include any public housing (whether Federal or locally supported), any federally owned housing, or any federally assisted housing.

Encapsulation—The application of any covering or coating that acts as a barrier between the lead-based paint and the environment and that relies, for its durability, on adhesion between the encapsulant and the painted surface, and on the integrity of the existing bonds between paint layers, and between the paint and the substrate.

Enclosure—The use of rigid, durable construction materials that are mechanically fastened to the substrate to act as a barrier between the lead-based paint and the environment.

Federally Assisted Housing—Residential dwellings receiving project-based assistance under programs including:

(1) Section 221(d)(3) or section 236 of the National Housing Act;

(2) Section 1 of the Housing and Urban Development Act of 1965;

(3) Section 8 of the United States Housing Act of 1937; or

(4) Sections 502(a), 504, 514, 515, 516, and 533 of the Housing Act of 1949.

''Federally Assisted Housing'' *is not eligible* for assistance under the HUD Lead-Based Paint Hazard Control Grant Program. (See Appendix D of this NOFA.)

Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995)—HUD's manual of lead hazard control practices (commonly referred to as the *Guidelines*) which provide detailed, comprehensive, technical information on how to identify lead-based paint hazards in housing and how to control such hazards safely and efficiently. (The *Guidelines* replace the HUD ''Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing.'')

Hazardous Waste—As defined in EPA regulations (40 CFR 261.3). Solid waste, or a combination of solid wastes, that because of its quantity; concentration; or physical, chemical, or infectious characteristics may:

(1) Cause, or significantly contribute to increases in mortality, serious and irreversible, or incapacitating but reversible illness; or

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed.

HEPA Vacuum—(High Efficiency Particulate Air)—A vacuum cleaner fitted with a filter capable of removing particles of 0.3 microns or larger at 99.97 percent or greater efficiency from the exhaust air stream.

Interim Controls—A set of measures designed to temporarily reduce human exposure or possible exposure to lead-based paint hazards. Such measures include specialized cleaning, repairs, maintenance, painting, temporary containment, and management and resident education programs. Interim controls include dust removal; paint film stabilization; treatment of friction and impact surfaces; installation of soil coverings, such as grass or sod; and land-use controls.

Laboratory Analysis—As used for paint, dust-wipes or soil, analysis for lead by an accredited laboratory in accordance with the requirements and limitations of its accreditation.

Lead-Based Paint—Any paint, varnish, shellac, or other coating that contains lead equal to or greater than 1.0 mg/cm^2 as measured by XRF or laboratory analysis, or 0.5 percent by weight (5,000 µg/g, 5,000 ppm, or 5,000 mg/kg) as measured by laboratory analysis. (Local definitions may vary.)

Lead-Based Paint Hazard—A condition in which exposure to lead from lead-contaminated dust, lead-contaminated soil, or deteriorated lead-based paint would have an adverse effect on human health (as established by the EPA Administrator under Title IV of the Toxic Substances Control Act). Lead-based paint hazards include for example, deteriorated lead-based paint, dust levels above applicable standards, and bare leaded soil above applicable standards.

Lead-Based Paint Hazard Control—Activities to control and eliminate lead-based hazards, including interim controls, abatement and complete abatement.

Lead-Contaminated Dust—Surface dust in residences that contains an area or mass concentration of lead in excess of the standard established by the EPA Administrator, pursuant to Title IV of the Toxic Substances Control Act. Until the EPA standards are established, the HUD-recommended clearance and risk assessment standards for leaded dust are 100 $\mu g/ft^2$ on floors, 500 $\mu g/ft^2$ on interior window sills, and 800 $\mu g/ft^2$ on window troughs (wells), exterior concrete or other rough surfaces; criteria for work under this grant shall be at least as stringent as these standards.

Lead-Contaminated Soil—Bare soil on residential property that contains lead in excess of the standard established by the EPA Administrator, pursuant to Title IV of the Toxic Substances Control Act. The HUD-recommended standard and interim EPA guidance is 400 µg/g for high-contact play areas and 2,000 µg/g in other bare areas of the yard; criteria for work under this grant shall be at least as stringent as these standards. Soil contaminated with lead at levels greater than or equal to 5,000 µg/g should be abated by removal or paving.

mg—milligram; 1/1,000 of a gram; equal to about 35/1,000,000 (35 millionths) of an ounce (an ounce is equal to about 28,400 mg).

Potentially Responsible Party (PRP)—Any individual or entity including owners, operators, transporters, or generators who may be liable under CERCLA section 107(a).

Replacement—A strategy of abatement that entails the removal of building components coated with lead-based paint (such as windows, doors, and trim) and the installation of new components free of lead-based paint.

Residential Dwelling—This term means either:

(1) A single-family dwelling, including attached structures, such as porches and stoops; or

(2) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit and in which each unit is, or is intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

Risk Assessment—An on-site investigation of a residential dwelling to discover any lead-based paint hazards. Risk assessments include an investigation of the age, history, management, maintenance of the dwelling, and the number of children under age 6 and women of child-bearing age who are residents; a visual assessment; limited environmental sampling (i.e., collection of dust wipe samples, soil samples, and deteriorated paint samples); and preparation of a report identifying acceptable abatement and interim control strategies based on specific conditions.

State Certification Program—(see Appendix E of this NOFA—Elements of a State Certification Program)

Substrate—A surface on which paint, varnish, or other coating has been applied or may be applied. Examples of substrates include wood, plaster, metal, and drywall.

Target Housing—Any residential unit constructed before 1978, except dwellings for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.

Testing—The measurement of lead in painted surfaces by Federal- or State-certified personnel using a portable X-ray fluorescence analyzer (XRF) operated in accordance with its manufacturer's operating instructions and its Performance Characteristics Sheet (PCS), laboratory analysis by an accredited laboratory of paint samples, or other method(s) approved by HUD.

Title X—The Residential Lead-Based Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992, Pub. L. 102–550, approved October 28, 1992).

Trained Worker—For lead hazard control work, a worker who has successfully met all the requirements of a Federal or State-accredited lead-based paint training course in a particular discipline which meets, at a minimum, the requirements found in Appendix E of this NOFA.

μg (or ug)—Micrograms. The prefix micro means 1/1,000,000 (or one-millionth); a microgram is 1/1,000,000 of a gram and 1/1,000 of a milligram; equal to about 35/1,000,000,000 (35 billionths) of an ounce (an ounce is equal to 28,400,000 μg).

Wipe Sampling for Settled Lead-Contaminated Dust—The collection of settled dust samples from surfaces to measure for the presence of lead. Samples must be analyzed by an accredited laboratory. For clearance purposes, settled dust sampling shall be performed in accordance with the HUD *Guidelines.* Surfaces sampled must meet the current HUD standards for clearance. All surfaces shall have no more than the maximum allowable standards. (See ''Clearance Testing and Examination''.)

XRF Analyzer—An instrument that determines lead area concentration in painted surfaces in units of milligrams per square centimeter (mg/cm^2) using the principle of x-ray fluorescence (XRF). For purposes of the grant program, and as used in the *Guidelines*, the term XRF analyzer only refers to portable instruments manufactured to analyze paint, and does not refer to laboratory-grade units or portable instruments designed to analyze soil or dust. XRF analyzers are to be operated in accordance with their manufacturer's operating instructions and their Performance Characteristics Sheet (PCS).

Section 3. Purpose and Description

Section 3.1 Purpose and Authority

Hazard-control grants are to assist State and local governments in undertaking programs for the identification and control of lead-based paint hazards in eligible housing units for rental occupants and owner occupants. (Appendix D of this NOFA lists HUD-associated housing programs that may have dwellings that meet the definition of eligible housing.) Approximately fifty million dollars ($50 million) is being made available to fund approximately 10–12 Category A grants of $1 million to $6 million each to assist State and local governments in undertaking lead-based paint hazard control in eligible housing. A maximum of 20 percent of the funds under Category A of this NOFA shall be available to previous Lead-Based Paint Hazard Control grantees. This limitation is imposed to build capacity in those areas where no previous grant supported work has been done, but still retain the Department's ability to target some funds to areas of greatest need. Approximately four million dollars ($4 million) will be available to fund a maximum of eight (8) Category B grants of $500,000 to $2 million each. Funds available under Category B are intended to promote coordination between Superfund and the HUD Lead-Based Paint Hazard Control Grant Program, to maximize the benefits provided under each program, and to involve the private sector. These funds are to be used to control lead-based paint hazards at Superfund sites where Superfund dollars will be spent to control lead-contaminated soil, and probably housing exteriors, and HUD grant dollars will be used to control lead-based paint hazards in eligible housing units.

Proposals may be submitted under both categories of assistance. The amounts constitute the total request for the duration of the project. Grants are authorized under section 1011 (a)–(f) of Title X.

The purposes of this program include:

(a) Implementation of a national strategy, as defined in Title X, to build the infrastructure necessary to eliminate lead-based paint hazards in all housing, as widely and expeditiously as possible;

(b) Encouragement of effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard identification and control;

(c) Mobilization of public and private resources, involving cooperation among all levels of government and the private sector, to develop the most promising, cost-effective methods for identifying and controlling lead-based paint hazards; and

(d) To the greatest extent feasible, promoting job training, employment, and other economic lift opportunities for low-income residents and businesses which are owned by and/or employ low-income residents as defined in 24 CFR 135.5 (See 59 FR 33881, June 30, 1994).

Section 3.2 Background

Lead is a powerful toxicant that attacks the central nervous system and is particularly damaging to the neurological development of young children. Pregnant women can transfer lead through the placenta to the fetus. Lead-based paint (LBP) is one of the major sources of lead in the environment. In addition to paint, lead may be found in dust, soil, drinking water, food, emissions from leaded gasoline combustion, and industrial emissions. Human exposure to lead is found by measuring blood samples for the presence of lead.

Based upon additional analysis in 1995 of the data generated from the national housing survey conducted for HUD (*Report on the National Survey of Lead-Based Paint in Housing*, June 1995.), of all occupied housing units built before Congress banned the use of lead-based paint in 1978, approximately 83 percent or 64.4 million housing units are estimated to have lead-based paint somewhere on the exterior or interior of the building. Approximately 90 percent of the dwellings built prior to 1960 have lead-based paint. Older dwellings are more likely to have higher concentrations of lead on painted surfaces and greater surface area coverage. Although intact lead-based paint poses little immediate risk to occupants, non-intact paint which is chipping, peeling, or otherwise deteriorating may present an immediate risk to occupants. Therefore, of particular concern are the 14.4 million housing units that contain deteriorated lead-based paint and/or lead-contaminated dust and the 3.3 million units that are occupied by young children. Approximately half of these units are occupied by families with incomes lower than the national median.

HUD has been actively engaged in a number of activities relating to lead-based paint as a result of the Lead-Based Paint Poisoning Prevention Act (LBPPPA), 1971, as amended, 42 U.S.C. 4801–4846. Title X provides major initiatives and more detailed requirements for this NOFA. (Appendix A of this NOFA identifies relevant

Federal regulations and guidelines referred to in this NOFA.)

In June 1995, HUD published *Guidelines for the Evaluation and Control of Lead-Based Paint in Housing* (*Guidelines*) (See Appendix A of this NOFA). These *Guidelines* provide detailed, comprehensive, technical information on how to identify lead-based paint hazards in housing and how to control such hazards safely and efficiently. These *Guidelines* replace the Interim Guidelines developed in 1990.

In July 1995, the Task Force on Lead-Based Paint Hazard Reduction and Financing, which was established pursuant to Section 1015 of Title X, presented its final report to HUD and the Environmental Protection Agency (EPA). The Task Force Report, entitled *Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing,* (See Appendix A of this NOFA) recommended a number of actions which are needed to develop comprehensive, health-protective, cost-effective, and feasible approaches to solving the most significant environmental health hazard facing America's children. In dealing with the estimated 64.4 million housing units with lead-based paint, the Task Force, using the Title X framework for redefining the problem, moved beyond the mere presence of lead-based paint and focused on the conditions that can expose a child to lead hazards—deteriorating lead-based paint, lead-contaminated dust and bare lead-contaminated soil. The Task Force recommendations therefore focus on addressing lead hazards in the approximately 15 million housing units estimated to contain lead hazards, and preventing new lead hazards in the balance of the housing stock. This NOFA incorporates many of the recommendations outlined in the Task Force Report.

The Environmental Protection Agency (EPA), with assistance from HUD and the Centers for Disease Control and Prevention (CDC), operates the National Lead Information Center which includes an automated consumer information Hotline 1–800–LEADFYI (1–800–532–3394) and a Clearinghouse for lead-based paint resources and assistance 1–800–424–LEAD (1–800–424–5323).

In the Federal Register of September 2, 1994, the EPA published the proposed rule pursuant to sections 402 and 404 of the Toxic Substances Control Act (TSCA), as amended by Title X (see 40 CFR Part 745 *Lead; Requirements for Lead-Based Paint Activities*) for training and certification requirements for lead-based paint contractors, inspectors, risk assessors, designers and workers; and its requirements for a model state program. Until the proposed rule is final, and State Lead-Based Paint Contractor Certification and Accreditation Programs are authorized by EPA, State programs should be at least as protective as outlined in Appendix E of this NOFA. State Lead-Based Paint Contractor Certification and Accreditation Programs meeting the requirements under Appendix E of this NOFA are considered acceptable to HUD and EPA for purposes of the grant programs announced in this NOFA.

Section 3.2.1 Previous Lead-Based Paint Hazard Control Grant Awards

This NOFA is for a fourth round of grants. In Fiscal Years 1992, 1993, and 1994, HUD conducted competitions and approved a total of 64 Lead-Based Paint Hazard Control grants to 56 grantees for approximately $279 million dollars. There was no competition in FY 1995.

Section 3.3 Allocation Amounts

(a) *Amounts.* Approximately $50 million will be made available for the Category A grant program from the appropriations made for the lead-based paint hazard reduction program in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134, 110 Stat. 1321, approved April 26, 1996).

(b) *Residual Funds.* In the selection process, once available funds have been allocated to meet the full requested and/or negotiated amounts of the top eligible applicants, HUD reserves the right, in successive order, to offer any residual amount as partial funding to the next eligible applicant. Such applicant(s) shall have not more than 7 calendar days to accept, or to decline and reapply in a future round, provided HUD, in its sole judgment, is satisfied that the residual amount is sufficient to support a viable, though reduced effort, by such applicant(s).

(c) *Goals.* Because lead-based paint is a national problem, these funds are awarded in a manner that:

- Maximizes the number of housing units in which lead-hazard control occurs;
- Stimulates cost-effective State and local approaches that can be replicated in as many settings as possible;
- Disperses the grants as widely as possible across the nation; and
- Builds local capacity.

HUD expects to award approximately 10–12 Category A grants of $1 million to $6 million each on a cost-reimbursable basis.

Section 3.4 Eligibility

Title X specifies the following eligibility requirements for grants to identify and control lead-based paint hazards in housing:

(a) *Eligible Applicants.* A State or unit of local government that has a currently approved Comprehensive Housing Affordability Strategy (CHAS) under section 105 (42 U.S.C. 12705) of the Cranston-Gonzalez National Affordable Housing Act (NAHA) or a currently approved Consolidated Plan is eligible to apply for a grant. However, applicants are advised that in selecting grantees under this NOFA, the Secretary or his designee is unlikely to select applicants that were previously funded under the FY 1994 NOFA (Round Three), issued April 21, 1994 (59 FR 19080). A maximum of 20 percent of the funds under Category A of this NOFA shall be available to previous Lead-Based Paint Hazard Control grantees. This selection decision will be pursuant to the Secretary's authority to ensure geographic distribution and to ensure that available funds are used effectively to promote the purposes of Title X. (See Section 4.3, *Rating Factors*, for additional discussion of this consideration for selection.)

(b) *Certified Performers.* Funds shall be available only for projects conducted by contractors, risk assessors, inspectors, workers and others engaged in lead-based paint activities who meet the requirements of a State Lead-Based Paint Contractor Certification and Accreditation Program that is at least as protective as the Federal certification program standards outlined in Appendix E to this NOFA or which meets the requirements of a State program authorized by EPA under the requirements of Section 404 of the Toxic Substances Control Act (TSCA).

(c) *Eligible Activities.* The following direct and support activities are eligible under this grant program:

(1) *Direct Project Elements* (whether activities of the grantee or sub-grantees or other sub-recipients):

- Performing risk assessments, inspections and testing of eligible housing constructed prior to 1978 to determine the presence of lead-based paint, lead dust, or leaded soil through the use of acceptable testing procedures.
- Conducting Lead Hazard Control which may include any combination of the following:
- Interim control of lead-based paint hazards in housing;
- Hazard abatement for programs that apply a differentiated set of resources to each unit, dependent upon conditions of the unit and the extent of hazards; and

• Complete abatement of lead-based paint and lead-based paint hazards, including soil and dust, by means of removal, enclosure, encapsulation, or replacement methods.

(HUD encourages local innovation in performing work under this grant.)

• Carrying out temporary relocation of families and individuals during the period in which hazard control is conducted and until the time the affected unit receives clearance for reoccupancy.

• Conducting pre-hazard control blood lead testing of children under the age of six residing in units undergoing risk assessment, inspection or hazard control.

• Performing blood lead testing and air sampling to protect the health of the hazard-control workers, supervisors, and contractors.

• Undertaking other housing rehabilitation activities under this program that are specifically required to carry out effective hazard control, and without which, the hazard control could not be effected. Grant funds from this program may also be used for the lead-based paint hazard-control component in conjunction with other housing rehabilitation programs.

• Conducting pre- and post-hazard control dust-wipe testing and analysis.

• Carrying out engineering and architectural costs that are necessary to, and in direct support of, lead hazard control.

• Conducting general or targeted community awareness or education programs on lead hazard control and lead poisoning prevention.

• Securing liability insurance for lead-hazard control activities.

• Supporting data collection, analysis, and evaluation of grant program activities. This direct project activity includes compiling and delivering such data as may be required by HUD. For estimating purposes, an applicant should consider devoting 3 percent of the total grant sum for this purpose (This 3 percent does not include the blood lead and environmental testing costs.) Note that this activity is *not* included in administrative costs, for which there is a separate 10 percent limit.

• Preparing a final report at the conclusion of grant activities.

(2) *Support Elements:*

• Administrative costs of the grantee (maximum of 10 percent; (see Appendix B of this NOFA for definition).

• Program planning and management costs of sub-grantees and other sub-recipients.

(d) *Ineligible Activities.* Grant funds shall not be used:

(1) To purchase real property.

(2) To purchase capital equipment having a per unit cost in excess of $5,000, except for XRF analyzers. If purchased, capital equipment and the XRF analyzers shall remain the property of the grantee at the conclusion of the project. Funds may be used, however, to lease equipment specifically for the Lead-Based Paint Hazard Control Grant Program. If leased equipment, other than XRF analyzers, becomes the property of the grantee as the result of a lease arrangement, the leased equipment becomes the property of the grantee at the end of the grant period; and

(3) For chelation or other medical treatment costs related to children with elevated blood lead levels. Non-Federal funds used to cover these costs may be counted as part of the required matching contribution.

Section 3.5 Limitations on the use of Assistance.

(a) Pursuant to the Coastal Barrier Resources Act (16 U.S.C. 3501), grant funds may not be used for properties located in the Coastal Barrier Resources System.

(b) Under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), grant funds may not be used for construction, reconstruction, repair or improvement or lead-based paint hazard control of a building or mobile home which is located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless:

(1) The community in which the area is situated is participating in the National Flood Insurance Program in accordance with the applicable regulations (44 CFR parts 59–79), or less than a year has passed since FEMA notification regarding these hazards; and

(2) Flood insurance on the property is obtained in accordance with section 102(a) of the Flood Disaster Protection Act (42 U.S.C. 4012a(a)). Applicants are responsible for assuring that flood insurance is obtained and maintained for the appropriate amount and term.

(c) The National Historic Preservation Act of 1966 (16 U.S.C. 470) (NHPA) and the regulations at 36 CFR part 800 apply to the lead-based paint hazard control activities that are undertaken pursuant to this NOFA. HUD and the Advisory Council for Historic Preservation have developed an optional Model Agreement for use by grantees and State Historic Preservation Officers in carrying out activities under this NOFA. (See Section 3.6, *Environmental Review* and Section 8, *Other Matters*, in this NOFA.)

(d) The applicant shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4201–4655). These policies are described in HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition. No displacement (a permanent, involuntary move) is anticipated. However, to preclude avoidable claims for relocation assistance, all occupants (owner and tenants) shall, as soon as feasible, be notified in writing that they will not be displaced by the lead-based paint hazard-control program. In most cases, tenants and owner-occupants will be required to relocate *temporarily* to permit lead-based paint hazard-control activities to be carried out. All conditions of the temporary relocation must be reasonable. The policy regarding temporary relocation costs for owner-occupants who elect to participate in hazard-control is a matter of grantee discretion. With respect to tenants who will be required to relocate temporarily, at a minimum the tenant shall be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs at that housing; and

(2) Appropriate advisory services, including reasonable advance written notice of the date and approximate duration of the temporary relocation; the address of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period; the reimbursement provisions of paragraph (e) of this section; and information on a resident's rights under the Fair Housing Act.

(e) Abatement waste disposal will be handled according to the requirements of the appropriate State or Federal regulatory agency. (See HUD *Guidelines* for the disposal of hazard control waste that contains lead-based paint but is not classified as hazardous.)

(f) The applicant shall observe the procedures for worker protection established in the HUD *Guidelines*, as well as the requirements of the Occupational Safety and Health Administration (OSHA) (29 CFR 1926.62—*Lead Exposure in Construction*) (See Appendix A of this NOFA). If other OSHA requirements published prior to the start of actual abatement included as part of lead hazard control work at any individual project site are more stringent than the

Guidelines, those more stringent OSHA standards shall govern.

(g) Lead hazard control methods that will not be allowed are: open-flame burning, dry scraping (except immediately around electrical circuits and plumbing fixtures), uncontrolled abrasive blasting, machine sanding without HEPA attachments or use of chemicals containing methylene chloride. The applicant is cautioned that methods that generate high levels of lead dust, such as abrasive sanding, shall be undertaken only with requisite worker protection, containment of dust and debris, suitable clean-up, and clearance.

Section 3.6 Environmental Review

In accordance with the Multifamily Housing Property Disposition Reform Act of 1994, HUD regulations in 24 CFR Part 58 provide that recipients of lead-based paint hazard control grants will assume Federal environmental review responsibilities. Recipients of a grant under this NOFA will be given guidance in carrying out these responsibilities.

Section 3.7 Objectives and Requirements

(a) *Generally*. Grantees will be afforded considerable latitude in designing and implementing the methods of lead-based paint hazard control to be employed in their jurisdictions. HUD is interested in promoting lead hazard control approaches that result in the reduction of this health threat for the maximum number of low-income residents, and that demonstrate replicable techniques that are cost-effective and efficient. Flexibility will be allowed within the parameters established below. *It is critical that written policies and procedures for all phases of lead hazard control, including risk assessment, inspection, pre-hazard control blood lead testing, financing, relocation and clearance testing be clearly established in writing and adhered to by all applicants, subcontractors, sub-grantees, sub-recipients, and their contractors.* The Department has found that the establishment of written procedures clearly assigning duties to participating agencies and individuals helps to protect children, families, and workers during lead hazard control work.

Proposed methods requiring a variance from the standards or procedures cited below will be considered on their merits in a separate HUD review and approval process after the grant award is made and a specific justification has been presented. If a grant application is dependent on a variation from the procedures cited below, but otherwise is of award quality, it will be made as a conditional grant, subject to approval of the request for variation. When such a request is made, either in the application or during the planning phase, HUD intends to consult with experts from both the public and private sector as part of its final determinations and will document its findings in an environmental impact assessment. Approval of any proposed modifications will not involve a lowering of standards that would have a potential to adversely affect the health of residents, contractors or workers.

(b) *Data collection*. Grantees will be required to collect the data necessary to document the various lead hazard control methods employed in order to determine the relative cost and effectiveness of these methods in reducing or eliminating lead-based paint hazards. Pre- and post-lead hazard control environmental dust-wipe sampling is a requirement.

(c) *Lead Hazard Control Testing—Schedule.* In developing the application cost proposal, applicants shall include costs for the pre- and post-hazard control testing for each dwelling that will undergo either a lead-based paint risk assessment and/or inspection and hazard control according to HUD *Guidelines*, as follows:

(1) *XRF on-site (or supplementary laboratory) testing:* Conducted according to HUD Guidelines. Pretest every room or area in each dwelling unit planned for hazard control, using each XRF analyzer in accordance with its manufacturer's operating instructions and its Performance Characteristics Sheet (PCS);

(2) *Blood lead testing:* Before lead hazard control work begins, the testing of each occupant who is a child under six years old according to the recommendations contained in *Preventing Lead Poisoning in Young Children, 1991* Centers for Disease Control and Prevention (CDC). (See Appendix A of this NOFA.)

(3) *Dust testing:* Conducted according to the HUD *Guidelines.*

(A) Pretest before lead hazard control work begins;

(B) Clearance testing before reoccupying a unit or area; and

(C) Test at 12-months after the unit is reoccupied.

(d) *Testing—guidance.* (1) *Generally.* All testing and sampling shall conform to the HUD *Guidelines.* Note that it is particularly important to provide this full cycle of testing for hazard control, including interim controls, even though the testing itself may become a substantial part of the cost per unit.

(2) *Required Thresholds for Hazard control.* While the Department's *Guidelines* (see Appendix A of this NOFA) employ two hazard-control thresholds, one milligram per square centimeter (1.0 mg/cm^2) or 0.5 percent by weight, applicants may utilize other thresholds, provided that the alternative threshold is justified adequately and is accepted by HUD. The justification must state why the applicant believes the proposed threshold will provide satisfactory health protection for occupants, and must discuss cost savings and benefits expected to result from using the proposed approach.

(3) *Surfaces which require lead hazard control.* HUD's *Guidelines* identify hazards considered to be of greatest immediate concern to young children and which require hazard control to be undertaken. Children are most frequently exposed to the following hazards: Lead-contaminated dust, deteriorated lead-based paint; and bare, accessible lead contaminated soil. Friction, chewable, and impact surfaces with intact lead-based paint are also of concern, but do not necessarily need to be treated, depending on dust testing results. Friction surfaces are subject to abrasion and may generate lead-contaminated dust in the dwelling; chewable surfaces are protruding surfaces that are easily chewed on by young children; and impact surfaces may become deteriorated through forceful contact. The applicant may choose to treat fewer surfaces or apply other hazard control techniques, provided that an adequate rationale, including periodic monitoring, is presented to and accepted by HUD. The rationale must state why the applicant believes the proposed approach will provide satisfactory health protection for occupants and at the same time, provide cost savings or other benefits.

(4) Grantees shall be required to meet the post-hazard control wipe-test clearance thresholds contained in the HUD *Guidelines* (See Appendix A of this NOFA). Wipe tests shall be conducted by a certified inspector who is independent of the lead hazard control contractor. Dust-wipe samples must be analyzed by an accredited laboratory (see Definitions). Units shall not be reoccupied until clearance levels are achieved.

Section 4. Grant Application Process for Category A

Section 4.1 Submitting Applications for Grants

To be considered for Category A funding, an original and two copies of the application must be physically

received in the Office of Lead-Based Paint Abatement and Poisoning Prevention (OLBPAPP), Department of Housing and Urban Development, Room B–133, 451 Seventh Street SW., Washington, D.C. 20410, no later than 3:00 P.M. (Eastern Time) on July 30, 1996. Electronic (FAX or equivalent) transmittal of the application is *not* an acceptable transmittal mode.

Separate proposals may be submitted by a jurisdiction for each category of assistance.

For Category A, the application must have clearly numbered pages, a complete table of contents and appendices. The applicant narrative response to the Rating Factors is limited to a maximum of 25 pages. Responses must be typewritten on one (1) side only on 8½″ x 11″ paper using a 12-point font.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this factor into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, equipment breakdown, or delivery-related problems.

HUD will review each application to determine whether it meets all of the threshold criteria established for Category A under Section 4.2 of this NOFA. Nonresponsive applications will be declared ineligible for further consideration. Applications that meet all of the threshold criteria will be eligible to be scored and ranked, based on the total number of points allocated for each of the rating factors for Category A in Section 4.3 of this NOFA.

HUD intends to fund the highest ranked applications within the limits of funding availability, but reserves the right to advance other eligible applicants in funding rank, if necessary, to assure geographic diversity, to promote the purposes of Title X, to broaden the range of hazard control alternatives to be tested, or to enhance data reliability.

Section 4.2 Threshold Requirements for Category A Grants

(a) *Purpose.* The application must be for funds to identify and control lead hazards in eligible housing (see Appendix D of this NOFA for program-by-program listing of eligible HUD-associated housing programs).

(b) *Eligible Applicants.* An applicant must be a State or unit of local government that has a currently approved Comprehensive Housing Affordability Strategy (CHAS) or a currently approved Consolidated Plan. Applicants under this NOFA are permitted to submit documentation that HUD approved their current program year CHAS or Consolidated Plan. Applicants are to submit, as an appendix, a copy of the lead-based paint element included in the approved CHAS or Consolidated Plan. Applicants that do not have a currently approved CHAS or Consolidated Plan, but are otherwise eligible for this grant program, must include their abbreviated Consolidated Plan which includes a lead-based paint hazard control strategy developed and submitted in accordance with 24 CFR 91.235.

(c) *Matching Contribution.* Each applicant shall provide a matching contribution of at least 10 percent of the requested grant sum. This may be in the form of a cash or in-kind contribution or a combination of both.

(d) *Contractor Certification Program Requirement.* Each applicant must carry out its hazard control program under an operational State program that is at least as protective as the training and certification program requirements cited in Appendix E of this NOFA. Applicants should indicate which of the following situations, (1) or (2) applies with respect to contractor certification.

(1) A State applicant shall furnish copies of the existing statutes, regulations or other appropriate documentation regarding the State's Lead-Based Paint Contractor Certification and Accreditation Program which meet the standards set forth in (d) above.

(2) Other applicants may be approved for a conditional grant with funding subject to the following provisions:

(A) A State applicant which has existing legislation acceptable to HUD, but which has not implemented an acceptable lead-based paint contractor certification program, shall furnish at the time of the application, written assurances from the Governor that an acceptable certification program will be implemented within 1 year from the date of the application deadline date and that the designated agency implementing the certification program shall offer training sessions leading to certification within six (6) months of the effective date of implementing regulations. If legislative approval of proposed regulations is also required, a similar written assurance must be provided by the chairs of committees having jurisdiction.

With the exception of costs incurred for planning purposes, HUD will not release any funds for the lead hazard control phase of the grant program until the State has implemented an acceptable lead-based paint contractor certification and accreditation program and has submitted and secured HUD approval of the grantee Request for Release of Funds (HUD Form 7015.15) which certifies that the grantee has fulfilled the environmental review requirements of the grant.

(B) Local government applicants in States which have not implemented an acceptable contractor certification program must provide assurances that only certified contractors and trained workers from other State certification programs acceptable to HUD will be used in conducting lead hazard control work.

Applicants are advised that if the commitment to implement a certification/training program or use certified contractors is not fulfilled within the stated time, the conditional grant agreement may be immediately terminated.

(e) *Continued Availability of Lead Safe Housing to Low-Income Families.* Units in which lead hazards have been controlled under this program shall be occupied by and/or continue to be available to low-income residents as required by the statute (see Appendix C of this NOFA). Grantees are encouraged to maintain a listing of units in which lead hazards have been controlled for distribution and marketing to agencies and families as suitable housing for children under six.

(f) *Cooperation With Related Research and Evaluation.* Applicants shall cooperate fully with any research or evaluation sponsored by HUD and associated with this grant program, including preservation of the data and records of the project and compiling requested information in formats provided by the researchers, evaluators or HUD. This cooperation may also include the compiling of certain relevant local demographic, dwelling unit, and participant data not contemplated in the applicant's original proposal. Participant data shall be subject to Privacy Act protection. For estimating purposes, an applicant shall devote three percent of the total grant sum for data collection and evaluation purposes, as discussed in Section 3.4, *Eligibility,* of this NOFA.

Section 4.3 Rating Factors

HUD will use the following technical and financial criteria to rate and rank applications received in response to Category A of this NOFA. The Request for Grant Applications (RFGA) will provide guidance in responding to all the Rating Factors. The technical quality

of an application will be rated, and then the strength, quality, and completeness of the financial and resources plan will be used to assess the likelihood that the technical plan can be carried out using the available resources. The maximum score possible under the rating factors is 100 points.

Applicants are advised, however, that in selecting grantees under this NOFA, the Secretary or his designee is unlikely to select applicants who were previously funded under the FY 1994 NOFA (Round Three), issued April 21, 1994 (59 FR 19080). A maximum of 20 percent of the funds under Category A of this NOFA shall be available to previous Lead-Based Paint Hazard Control grantees. This selection prerogative will be exercised under the Secretary's authority to ensure that available funds are used effectively and to promote the purposes of Title X. See section 1011(d)(5) of Title X (42 U.S.C. 4852(d)(5)).

(a) *Need. (10 Points)*— The scope and magnitude of the applicant's current lead-based paint problem for which grant program funds can be expected to have an impact. The applicant should document its unmet need for assistance. Examples should be the number and proportion of children with elevated blood lead levels; the number and proportion of housing units with deteriorating interior or exterior lead-based paint, lead-contaminated dust or bare lead-contaminated soil. The applicant should include:

(1) A description of the applicant's current level of effort to deal with lead hazards in housing and lead-related health problems; and

(2) Provide and/or summarize any available data from these previous efforts.

It is desirable to include:

(1) The age and condition of housing;

(2) The number and percentage of low income families whose incomes do not exceed 80 percent of the median income for the area as determined by HUD, with adjustments for smaller and larger families;

(3) The number and proportion of children at risk of lead poisoning; and

(4) Other socioeconomic or environmental factors that document a need to establish or continue lead hazard control work in the applicant's jurisdiction.

(These data may be available in the applicant jurisdiction's currently approved CHAS or Consolidated Plan, or derived from 1990 Census Data)

(b) *Work Plan and Budget (50 points)*—The quality and cost-effectiveness of the applicant's proposed lead-based paint hazard control program. The work plan and budget should include the following elements:

(1) *Program Management (10 points)*—A description of the way in which the project will be carried out during the period of performance (up to 36 months), including the participation of sub-grantees, contractors, sub-recipients, and others assisting in implementing the project. Specific, time phased and measurable objectives should be identified and described for carrying out the program plan.

(2) *Lead Hazard Control Strategy (35 Points)*—

- The total number of owner occupied and rental units in which lead hazard control interventions will be undertaken.
- The degree to which the work plan focuses on eligible housing units with children under the age of 6 years. Description of the planned approach to control lead hazards before children are poisoned and/or to control lead hazards in units where children have already been identified with an elevated blood lead level, including the referral of children with elevated blood lead levels for medical case management.
- The degree to which lead hazard control work will be done in conjunction with other housing rehabilitation, weatherization, code violation or other work.
- The process for the selection, prioritization, risk assessment and/or inspection, and enrollment of units of eligible housing in which lead hazard control will be undertaken. (Housing having a risk assessment or inspection performed in accordance with the HUD *Guidelines* within 12 months of a grant award and identified with lead-based paint may be included in the already inspected inventory.)
- The testing methods, schedule, and costs for performing blood lead testing, risk assessments and/or inspections. (Identify the lead-based paint threshold for undertaking lead hazard control—e.g. 0.5 percent, 1.0 mg/cm^2 or other threshold established by statute, regulation or local ordinance.)
- The lead hazard control methods to be undertaken and the number of units for each method (Interim Controls, hazard abatement, and complete abatement). Provide an estimate of the per unit costs for lead hazard control and the time frames to initiate and complete lead hazard control work in units selected. Efforts to incorporate cost-effective recommendations of the HUD Task Force Report: *Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing* (see Appendix A of this NOFA) should be included.
- A description of the financing mechanism to be employed in carrying out lead hazard control activities and the way in which these funds will be administered (e.g. use of grants, deferred loans, forgivable loans, other resources, private sector financing, etc.).
- The applicant's plan for *temporary* relocation of occupants of units selected for lead hazard control work. (Use of safe houses and other housing arrangements, storage of household goods, stipends, incentives, etc.)
- Proposed community awareness, education and outreach programs in support of the applicant's work plan and objectives. General and/or targeted efforts undertaken to assist the program in reducing lead poisoning. To the extent possible, programs should be culturally sensitive, developmentally appropriate, and linguistically specific.

(3) *Program Evaluation and Data Collection (5 points)*—The applicant must identify the specific methods to be used to measure progress and evaluate the program's effectiveness. The applicant should describe how the information will be obtained, documented and reported.

(4) *Budget (Not Scored)*—The applicant's proposed budget (for the maximum 36-month period of performance) will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of grant funds. HUD is not required to approve or fund all proposed activities. Applicants may devote up to 24 months for the planning and completion of lead hazard control activities and up to an additional 12 months for post-hazard control testing.

- All budget categories and costs (Part B of Standard Form 424A) and major tasks should be thoroughly documented and justified. Describe in detail the budgeted costs for each program element included in the overall plan (administrative costs, program management, lead hazard control strategy, community awareness, education and outreach, and program evaluation and data collection).

(c) *Community and Private Sector Participation (20 points)*—The extent to which the applicant has enlisted the broad participation of neighborhood, community, governmental and nongovernmental organizations and the private sector in the hazard control program through specific commitments of time, effort, and resources. In implementing a lead-based paint hazard control program, substantial efforts must be made to collaborate and coordinate activities with other housing, health and environmental agencies and organizations in the applicant's

jurisdiction. Efforts to promote the formation of broad-based lead task forces, to expand public and private cooperation and coordination in the provision of lead hazard control program services, and to address environmental justice issues should be described. (10 points)

To the greatest extent feasible, the applicant should promote job training, employment, and other economic lift opportunities for target area low-income residents and businesses in the hazard control program. (10 points)

Evidence of commitments should include organization names, their proposed levels of effort, resources and responsibilities of these participants, including clearly proposed plans for the employment of low-income residents. The absence of commitments, memoranda of understanding or agreements, and letters of participation or discussion of levels of effort and responsibility will result in a reduced rating under this factor.

(d) *Applicant Capacity and Commitment to Hazard Control (15 points)*—The capacity of the applicant to initiate and carry out the lead-based paint testing and hazard-control program successfully within the period of performance established.

- Describe the applicant's administrative organization, including staff who will be responsible for carrying out the responsibilities of the program. (As an appendix, the applicant should include a clearly identified organizational chart, as well as resumes, position descriptions, and vacancy announcements, including salaries of key personnel identified to carry out the requirements of this grant program.) Indicate for key personnel, the percentage of time to be devoted to the project and any portion of salary to be paid by the grant. A full-time day-to-day program manager is recommended. Describe how other principal components of the applicant agency or other organizations will participate in or otherwise support the grant program. (5 points)
- Describe the knowledge and experience of the overall proposed project director and day-to-day program manager in planning and managing large and complex interdisciplinary programs, especially involving housing rehabilitation, public health, or environmental programs. The percentage of time devoted to the project as well as the knowledge and experience of the project director and day-to-day program manager are significant factors to be considered. (5 points)
- The institutional capacity of the applicant, as demonstrated by prior experience in initiating and implementing lead hazard control efforts and/or related environmental, health, or housing projects should be thoroughly described. The applicant should indicate how this prior experience will be used in carrying out its planned comprehensive Lead-Based Paint Hazard Control Grant Program. (2 points)
- At a minimum, the applicant shall provide a matching contribution of at least 10 percent of the requested grant sum. That contribution may be in cash, in-kind or a combination of both. In-kind contributions shall be given a monetary value. Community Development Block Grant funds are the only Federal funds which may be considered part of the 10 percent matching contribution and *only when they are specifically dedicated as an integral part of the project (e.g., CDBG rehabilitation funds used in conjunction with lead hazard control work in units).* Other resources committed to the program that exceed the minimum required 10 percent match will provide points for this rating factor. Each source of contributions, cash or in-kind, both for the required minimum and additional amounts, shall be supported by a letter of commitment from the contributing entity, whether a public or private source, which shall describe the contributed resources that will be used in the program. Staff in-kind contributions should be given a monetary value as discussed above. The absence of letters providing specific details and amount of the actual contributions will result in those contributions not being counted. (3 points)

(e) *Lead-Hazard Control Integration (5 Points)*—A description and/or specific plan of how the applicant will integrate lead hazard control activities with other housing, health, and environmental programs beyond the duration of the grant shall be included in the application. The applicant plans may include:

(1) Adopting cost-effective recommendations contained in the HUD Task Force Report: *Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing*;

(2) Incorporating lead hazard control with other housing rehabilitation, code violation or other work; and

(3) Other efforts designed to address lead hazards in the community, including identifying other local, State, and private sources of support for conducting lead hazard control work.

Section 5. Checklist of Application Submission Requirements—Category A

Section 5.1 Applicant Data

Applicants must complete and submit applications in accordance with the format and instructions contained in the application kit. The following is a checklist of the application contents that will be specified in the application kit:

(a) The name, mailing address, telephone number, and principal contact person of the applicant. If the applicant has consortium associates, subgrantees, partners, major subcontractors, joint venture participants, or others contributing resources to the project, similar information shall also be provided for each of them.

(b) For State applicants, copies of existing statutes, regulations or other appropriate documentation regarding the State's Lead-Based Paint Contractor Certification and Accreditation Program. A State applicant which has existing legislation acceptable to HUD, but which has not implemented an acceptable lead-based paint contractor certification program, shall furnish assurances from the Governor that an acceptable certification program will be implemented within 1 year from the date of the application deadline date and that the designated agency implementing the certification program shall offer training sessions leading to certification within 6 months of the effective date of implementing regulations. If legislative approval of proposed regulations is also required, a similar assurance must be provided by the chairs of committees having jurisdiction. Local government applicants in States which have not implemented an acceptable contractor certification program must provide assurances that only certified contractors and trained workers from State certification programs acceptable to HUD will be used in conducting lead hazard control work. (See Section 4.2(d) of this NOFA regarding this requirement).

(c) Evidence of the applicant's commitment to eliminating or reducing significant lead-based paint hazards in privately-owned eligible housing as detailed in the applicant's work plan for lead-based paint hazard control (See *Rating Factor, Work Plan and Budget*, in Section 4.3 of this NOFA).

(d) A detailed description of the funding mechanism, selection process, and other proposed activities that the applicant plans to use to assist any sub-grantees or sub-recipients under this grant.

(e) A detailed total budget with supporting cost justification for all budget categories of the Federal grant request. There shall be a separate estimate for the overall grant management element, ''Administrative Costs,'' which are more fully defined in Appendix B of this NOFA. The budget shall include not more than 10 percent for administrative costs and not less than 90 percent for direct project elements (See Section 3.4(c) *Eligible Activities* of this NOFA).

(f) Certification assuring that the applicant will conduct lead hazard control activities safely and effectively.

(g) An itemized breakout of the applicant's required matching contribution, including values placed on donated in-kind services; letters or other evidence of commitment from donors; and the amounts and sources of contributed resources.

(h) Memoranda of Understanding or Agreement, letters of commitment or other documentation describing the proposed roles of agencies, local broad-based task forces, participating community or neighborhood-based groups or organizations, local businesses, and others working with the program.

(i) Completed Forms HUD–2880, Applicant/Recipient Disclosure/Update Report, and SF–LLL, Disclosure of Lobbying Activities, where applicable (See Section 10. *Other Matters* in this NOFA).

(j) Standard Forms SF–424, 424A, 424B, and other certifications and assurances listed in section 5.3 of this NOFA.

(k) A copy of the applicant's approval notification for the current program year for its Comprehensive Housing Affordability Strategy (CHAS) or Consolidated Plan. A copy of the applicant's lead hazard control element included in the current program year CHAS or Consolidated Plan.

Section 5.2 Proposed Activities

(a) *Affected housing and population to be served.* The applicant shall describe the size and general characteristics of the target housing within its jurisdiction, including a description of the housing's location, condition, and occupants, and a current estimate of the number of children under the age of six in these units. Other characteristics described in Section 4.3 *Rating Factor* (a)—''*Need*'' should be provided. If specific area(s) (neighborhoods, census tracts, etc.) within an applicant's jurisdiction are specifically targeted for lead hazard control activities, the applicant shall describe these same characteristics for the area. Maps may be included as an appendix. To the extent practical, preference shall be given to occupied eligible housing units with children under the age of 6. Vacant housing that subsequently will be occupied by low-income renters or owners should also be included in this description. In addition, as a measure of its ongoing commitment to lead-based paint programs, the applicant shall provide information on the magnitude and extent of the childhood lead poisoning problem within its jurisdiction and for any area(s) to be included in the lead hazard control program. Current efforts undertaken to provide health care services for children with elevated blood lead levels and efforts to address lead-based paint hazards shall be described.

(b) *Discussion of program activities. (See Section 4.3 Rating Factors)* The applicant shall provide a discussion of the overall proposed hazard control program, including, but not limited to, information on the following:

- Needs Assessment
- Program Work Plan and Budget to include:

—Program Management;
—Lead Hazard Control Strategy:
—Number of eligible housing units, hazard control methods, blood lead and environmental testing methods, costs, financing mechanisms, relocation plans, and community awareness and education;

- Program Evaluation and Data Collection;
- Budget Request;
- Community and Private Sector Participation;
- Ability to Implement the Lead Hazard Control Grant Program; and
- Future Integration and Coordination of Lead Hazard Control Activities With Other Programs.

Section 5.3 Certifications and Assurances

The following certifications and assurances are to be included in all Category A applications:

(a) Compliance with environmental laws and authorities (24 CFR Part 58).

(b) Compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (Implementing Regulations at 49 CFR Part 24; and HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition.)

(c) Compliance with Federal civil rights laws and requirements.

(d) Compliance with the requirements of the Fair Housing Act (42 U.S.C. 3601–19); Executive Order 11063; Title VI of the Civil Rights Act of 1964, pertaining to equal opportunity and nondiscrimination in housing).

(e) Compliance with the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973.

(f) Compliance with Section 3 of the Housing and Urban Development Act of 1968. (Implementing regulations at 24 CFR Part 135.)

(g) Assurance that financial management system meets the standards for fund control and accountability (24 CFR 85.20).

(h) Assurance that pre-hazard control, clearance, and 12 month post-hazard control testing will be conducted by certified performers.

(i) Assurance, to the extent possible, that blood lead testing, blood lead level test results, and medical referral and followup are conducted for children under six years of age occupying affected units according to the recommendations of the Centers for Disease Control and Prevention (CDC). (See Appendix A of this NOFA-*Preventing Lead Poisoning in Young Children*, October, 1991.)

(j) Assurance that Lead-Based Paint Hazard Control Grant Program funds will not replace existing resources dedicated to any ongoing project.

(k) The application shall contain any other assurances that HUD includes in the application kit under this NOFA, including certification of compliance with the Drug-Free Workplace Act of 1988 in accordance with the requirements set forth at 24 CFR part 24, subpart F.

Section 6. Application Process for Category B

Section 6 Purpose and Description

Section 6.1 Purpose and Authority

Category B provides funds for two Federal government agencies to work cooperatively to reduce lead hazards to children. This category provides funds to control lead-based paint hazards at Superfund sites where Superfund dollars will be spent to control lead in soil hazards and HUD dollars will be spent to control lead-based paint hazards in residences.

Approximately 4 million dollars will be available in awards ranging from five-hundred thousand dollars ($500 thousand) to 2 million dollars ($2 million) available to each grantee. The amounts are for the total, multiyear work of a proposed project. Grants are authorized under section 1011(a)–(f) of Title X.

The purposes of this program include:

(a) To demonstrate that Potentially Responsible Parties (PRPs), State and

local governments, and other affected parties such as low-income residents can work together to maximize benefits both from Superfund actions and other lead-based paint hazard control activities. (A Potentially Responsible Party (PRP) is defined by Superfund as any individual or entity including owners, operators, transporters or generators who may be liable under section 107(a) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)).

(b) To the greatest extent feasible, promoting job training, employment, and other economic lift opportunities for low-income residents and businesses as defined in 24 CFR 135.5 (see 59 FR 33881, June 30, 1994, and Category A Section 3.1(d) of this NOFA).

Section 6.2 Background

This category brings together two Federal agencies, HUD and the Environmental Protection Agency (EPA), to address housing and environmental issues. These funds will be targeted to communities that have, within 18 months of the application submission deadline date undergone EPA Superfund cleanup activity. These funds will be used primarily for interior lead-based paint hazard control. Under this Category, HUD funds *may not* be used for soil cleanup.

A multiagency approach is needed to address deteriorating interior paint, exterior paint, and contaminated soil and dust simultaneously. HUD's lead-based paint hazard control grant program has typically been used to control primarily lead-based paint and dust both inside and outside homes. The HUD lead-based paint hazard control grant program may also be used to deal with lead in soil on an optional basis as determined by grantees. EPA Superfund normally cleans up residential soils that are contaminated with hazardous substances from local Superfund sites. EPA Superfund does not generally address the problem of deteriorating interior lead-based paint because exposures from interior paint are generally not within the jurisdiction of the Superfund program. Exterior lead-based paint hazard control may be considered an eligible activity by the Superfund program.

Category B targets communities with Superfund sites that may or may not have participated in previous HUD lead-based paint hazard control grant programs. This Category will create a means for communities with a Superfund site(s) to address both lead-based paint inside and outside houses as well as soil cleanup. HUD is developing a place-based strategy that empowers local communities to combine government programs to remedy specific problems, cutting across traditional program boundaries. This NOFA is an example of how HUD and EPA are working together to enable communities to determine how best to solve specific problems in their local area.

An important product of this grant program will be to demonstrate how to address lead-based paint abatement issues at sites with multiple sources of lead, thereby addressing housing and environmental problems simultaneously. HUD expects that additional experience in this area will reduce abatement costs and offer creative strategies for overall lead risk reduction.

Section 6.3 Allocation Amounts

(a) *Amounts.* Approximately $4 million will be available for the Category B grant program from the appropriations made for the lead-based paint hazard reduction program in the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134, 110 Stat. 1321, approved April 26, 1996).

(b) *Residual Funds.* In the selection process, once available funds have been allocated to meet the full requested amounts of the top eligible applicants, HUD reserves the right to offer any residual amount as partial funding to the next eligible applicant in successive order. Any such applicant shall have not more than 7 calendar days to accept or decline the grant. In addition, HUD reserves the right to award only one grant, should only one applicant be able to support a credible effort. Also, because this is the initial notice of funding availability under this Category, it is possible that no applicant will be able to demonstrate support of a program in which case all funds would revert to Category A.

Section 6.4 Eligibility

Title X specifies the following eligibility requirements for grants to identify and control lead-based paint hazards in housing:

(a) *Eligible Applicants.* A State or unit of local government that has a current year approved Comprehensive Housing Affordability Strategy (CHAS) under Section 105 (42 U.S.C. 12705) of the Cranston-Gonzalez National Affordable Housing Act (NAHA) or a current year approved consolidated plan is eligible to apply for a grant. Applicants that do not have a currently approved CHAS or Consolidated Plan, but are otherwise eligible for this grant program, must include their abbreviated Consolidated Plan which includes a lead-based paint hazard control strategy developed and submitted in accordance with 24 CFR 91.235.

Under Category B, all eligible applicants compete equally, regardless of previous awards under the HUD Lead-Based Paint Hazard Control grant program.

(b) *Certified Performers*—See Category A, Section 3.4(b).

(c) *Eligible Activities*—See Category A, Section 3.4(c).

(d) *Ineligible Activities*—See Category A, Section 3.4(d).

Section 6.5 Limitations on the Use of Assistance

See Category A, Section 3.5.

Section 6.6 Environmental Review

See Category A, Section 3.6.

Section 6.7 Objectives and Requirements

See Category A, Section 3.7.

Section 7 Grant Application Process

Section 7.1 Submitting Applications for Grants

See Category A, Section 4.1.

(There are no page restrictions or format requirements for Category B applications.)

Section 7.2 Threshold Requirements for Category B

(a) *Purpose.* The application must be for funds to identify and control lead hazards in housing at Superfund sites where lead has been identified as a major contaminant. (See Appendix D of this NOFA for program-by-program listing of eligible HUD-associated housing programs.)

See Category A (Section 4.2(b)–(f) for eligible applicants, matching contribution, contractor certification program requirement, and other threshold requirements.

(b) *Status of Superfund remediation.* Jurisdictions are eligible only if remediation activity was completed within 18 months of the application submission deadline date, or the jurisdiction has a Record of Decision with a completion date for the remediation work of no more than three years from the date of application submission deadline date, or the site is undergoing remedial action or will undergo removal action within 18 months after the application submission deadline date.

Section 7.3 Rating Factors

HUD will use the following technical and financial criteria to rate and rank applications received in response to this

NOFA. The Request for Grant Application (RFGA) kit will provide guidance in responding to all the Rating Factors. The technical quality of an application will be rated, and then the strength, quality, and completeness of the financial and resources plan will be used to assess the likelihood that the technical plan can be carried out using the available resources.

While HUD is very interested in applicants who have managed to involve PRPs, HUD explicitly recognizes that there are a number of sites where there is no PRP and it is unlikely one will ever be found. These sites often have environmental justice issues which reflect the cumulative effects from multiple sources of lead exposure. Under this Category, HUD seeks a balance between those sites who have active and willing PRPs and those that have no other means to accomplish lead-based paint hazard control. HUD believes that the best way to achieve this balance is to recognize PRP involvement and provide points for this involvement in one of the factors. PRP involvement is *not* a prerequisite threshold requirement for eligibility or selection of an award.

The maximum score possible under the rating factors is 100 points.

(a) Coordination (35 points).

(1) Describe the history of the working relationship of the applicant, EPA Superfund authorities, the residents, and each Potentially Responsible Party (PRP), if any. Describe Superfund's site-specific community relations plan including public meetings and other outreach activities that present a complete picture of the community's involvement in site cleanup and any likely issues that may be encountered during site remediation. (25 points)

(2) Discuss the financial, technical, and other resources contributed by the PRP. (10 points)

(b) Activities (25 points).

(1) Describe the extent of the remediation work on the soil; provide a comprehensive picture of cleanup activities, both planned and undertaken, including any relevant site information that demonstrates the applicant's need, and describe how coordinated efforts of the applicant, PRPs, residents, and Superfund activities will reduce overall lead risk. (15 points)

(2) Describe which non-HUD funding sources have been secured to abate exterior lead-based paint hazards. (10 points)

(c) Strategy (20 points).

(1) Discuss the quality and cost-effectiveness of the proposed lead-based paint hazard control strategy, especially as it relates to Superfund cleanup activities, HUD lead-based paint hazard control, and how they fit into an overall environmental lead risk reduction scenario. The overall plan must include: the selection of sub-grantees and other sub-recipients to assist in implementing the project; the total number of units to be tested and treated and the rationale for this total; the abatement/hazard control methods and levels of treatment proposed, and number of units by type of treatment; the amount of prior hazard control experience; financing mechanisms for hazard control activities and the process for recruiting property owners; temporary relocation plans, if needed; and the degree to which the strategy focuses on households in eligible housing with children under the age of 6 years; (8 points)

(2) The level of coordination between the applicant, HUD, and the Superfund program; the experience of the applicant with environmental issues; the experience of the applicant with environmental justice issues; the experience of the applicant in dealing with the private sector, especially with PRPs; (7 points)

(3) A program for education and outreach to the people residing on the Superfund site on the hazards of lead in paint, soil, and dust, including blood lead screening of young children and, if necessary, referral for medical treatment. Include roles and responsibilities and approaches undertaken by the groups and organizations involved in both education and outreach, and blood lead testing and medical follow-up. (5 points)

(d) Management and Budget Plan. (20 points)

The Management and Budget Plan shall include:

(1) A narrative describing how the process and tasks of the grant program will be coordinated and managed by the personnel discussed in the strategy rating factor. Provide a brief narrative for each major budget subtask and justification for each functional cost element, explaining its planned use. (8 points)

(2) A budget proposal for each major cost element of the HUD grant, a task by task spreadsheet for the HUD grant and Part B of Standard Form 424A, for the match and other resources contributed by the applicant and the budget for the Superfund part of the project. Describe specifically how Superfund dollars and HUD dollars will be allocated and tracked and whether or not Superfund dollars will be used to control exterior lead-based paint hazards as part of the soil remediation plan. (8 points)

(3) At a minimum, the applicant shall provide a 10 percent matching contribution of the requested grant sum. Points for this factor will be awarded only for the amount of the *net* contributions that *exceed* the 10 percent statutory minimum. Contributions may be cash or in-kind, or a combination of both. In-kind contributions must be given a monetary value. PRPs may contribute cash to meet this 10 percent matching contribution requirement. Community Development Block Grant funds are the only Federal funds which may be considered part of the 10 percent matching contribution, when they are specifically dedicated to this project. Additional resources committed to the program that exceed the minimum required 10 percent match will provide points for this rating factor. Each source of contributions, cash or in-kind, both for the required minimum and additional amounts, shall be made in a letter of commitment from the contributing entity, whether a public or private source, and shall describe the contributed resources that will be used in the program. The absence of letters providing specific details and amount of the actual contributions will result in that contribution not being counted. (4 points)

Section 7.4 Checklist of Application Submission Requirements

7.4.1 Applicant Data

See Category A, Section 5.1(a)–(k).

7.4.2 Proposed Activities

See Category A, Section 5.2(a)–(d).

7.4.3 Certifications and Assurances

See Category A, Section 5.3(a)-(k).

Section 8. Corrections to Deficient Applications

Shortly after the expiration of the NOFA submission deadline date, HUD will notify applicants in writing of any minor deficiencies in the applications that are not of a substantive nature, such as an omitted certification or illegible signature. The applicant shall submit corrections, which must be received at the Office of Lead-Based Paint Abatement and Poisoning Prevention within 21 calendar days from the date of HUD's letter notifying the applicant of any minor deficiencies. Electronic or FAX transmittal is not an acceptable transmittal mode. Corrections to minor deficiencies will be accepted within the 21-day time limit. Applicants that do not make timely response to requests for deficiency corrections shall be removed from further consideration for an award.

Applicants shall only be permitted to correct those deficiencies determined by

HUD to be minor. Deficiencies determined by HUD to be substantive may not be corrected.

Section 9. Administrative Provisions

Section 9.1 Obligation of Funds

(a) *Provision of funds.* Funding shall be provided on a cost-reimbursable basis not to exceed the amount of the grant, except as otherwise provided in Sections 9.2 and 9.3 of this NOFA.

(b) *Availability of funds.* All payments will be made on a cost-reimbursable basis, except that a one (1) percent final payment shall be made upon completion of all tasks and delivery of an acceptable final report.

HUD will release funds for the inspection of units and for conducting the lead hazard control phase (interim controls, hazard abatement, or complete abatement) of the program after the grantee has submitted and secured HUD approval of HUD Form 7015.15 (Request for Release of Funds) which certifies that the grantee has fulfilled the environmental review requirements of the grant.

Section 9.2 Increases of Awards

After executing the grant agreement and initial obligation of funds, HUD will not increase the grant sum or the total amount to be obligated based upon the original scope of work. Amounts awarded may only be increased as provided in Section 9.3, Deobligation, of this NOFA.

Section 9.3 Deobligation

(a) *Reasons for deobligation.* HUD may deobligate amounts for the grant if proposed activities are not initiated or completed within the required time after the award effective date. The grant agreement will set forth in detail other circumstances under which funds may be deobligated and other sanctions imposed.

(b) *Treatment of deobligated funds.* HUD may undertake any combination of the following actions:

(1) Readvertise the availability of funds that have been deobligated under this section in a new NOFA;

(2) Reconsider applications that were submitted in response to the most recently published NOFA, and select additional applications for funding with deobligated funds. These selections will be made in accordance with the selection process described in the applicable NOFA;

(3) Fund supplemental requests from existing grantees for the performance of expanded scopes of work that may be of benefit to the overall program; and

(4) For deobligated funds that total less than a minimum grant amount ($1 million), issue a solicitation to provide technical assistance or other program support services to Lead-Based Paint Hazard Control grantees from previous rounds.

Section 9.4 Reports

The grantee shall submit the following types of reports:

(a) *Progress Reports.* The grantee shall submit quarterly progress reports in accordance with HUD requirements. These progress reports shall include expenditure reports and a narrative describing important events, milestones, work plan progress, and problems encountered during the period covered.

(b) *Final Report.* The grantee shall submit a final report in accordance with the procedures of HUD's Management Reporting System. The report shall summarize the applicant's plans, execution of the plans, achievements noted, and lessons learned. The report need not be lengthy, but should be of a quality and detail to provide a free-standing description to any outside reader of all of the applicant's work and achievements under the grant.

Section 10. Other Matters

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 10276, Washington, D.C. 20410.

Federalism Executive Order

The General Counsel, as the Designated Official under section 8(a) of Executive Order 12612, *Federalism*, has determined that the policies and procedures contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or the distribution of power and responsibilities among the various levels of government. Under this NOFA, grants will be made for the control of lead-based paint and lead-dust hazards in low-income owner-occupied units and privately owned low-income rental units. Although the Department encourages States and local governments to initiate or expand lead-based paint certification, testing, abatement, and financing programs, any action by a State or local government in these areas is voluntary. Because action is not mandatory, the NOFA does not impinge upon the relationships between the Federal government and State and local governments, and the notice is not subject to review under the Order.

Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this document will likely have a beneficial impact on family formation, maintenance and general well-being. This NOFA, insofar as it funds repairs to privately owned housing, will assist in preserving decent housing stock for low-income resident families. Accordingly, since the impact on the family is beneficial, no further review is considered necessary.

Section 102 of the HUD Reform Act—Documentation and Public Access Requirements—Applicant/Recipient Disclosures:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its Federal Register notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR part 12, Subpart C, and the notice published in

the Federal Register on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of Section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. Section 1352 (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995, P.L. 104–65 (December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR Part 87, prohibits applicants for and recipients and sub-recipients of Federal contracts, grants, loans, cooperative agreements, and loan insurance or guarantees from using appropriated funds to attempt to influence Federal Executive or Legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment or modification. In addition, applicants for and recipients and sub-recipients or Federal contracts, grants, loans, cooperative agreements, and loan insurance or guarantees above certain monetary amounts must file either a certification stating that they have not made and will not make any prohibited payments or a statement disclosing any prohibited payments or agreements to make such payments.

The Lobbying Disclosure Act of 1995, Pub. L. 104–65 (approved December 19, 1995), which repealed Section 112 of the HUD Reform Act and resulted in the elimination of the regulations at 24 CFR Part 86, requires all persons and entities who lobby covered Executive or Legislative Branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

Procurement Standards

All grantees are governed by and should consult 24 CFR parts 85.36 and 85.37, which implement OMB Circular A–102 and detail the procedures for subcontracts and sub-grants by States and local governments. Under § 85.36, which pertains to subcontracts, small purchase procedures can be used for contracts up to $100,000, and require price or rate quotations from several sources (three is acceptable); above that threshold, more formal procedures are required (note that § 85.36 treats States differently than local governments). Section 85.37 procedures apply to sub-grants, and are not as restrictive. If States have more restrictive standards for contracts and grants, the State standards can be applied. All grantees should consult and become familiar with §§ 85.36 and 85.37 before issuing subcontracts or sub-grants.

Davis-Bacon Act

The Davis-Bacon Act does not apply to this program. However, if grant funds are used in conjunction with other Federal programs in which Davis-Bacon prevailing wage rates apply, then Davis-Bacon provisions would apply to the extent required under the other Federal programs.

Prohibition Against Advance Information on Funding Decisions—Section 103 of the Reform Act

HUD's regulation implementing Section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) (Reform Act), codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics-related questions should contact the HUD Office of Ethics (202) 708–3815 (this is not a toll-free number). Any HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact the appropriate Field Office Counsel or Headquarters Counsel for the program to which the question pertains.

Authority: 42 U.S.C. 4821–4846; 42 U.S.C. 3535(d).

Dated: April 15, 1996.

Ronald J. Morony

Deputy Director, Office of Lead-Based Paint Abatement and Poisoning Prevention.

Appendix A—Relevant Federal Regulations and Guidelines

To Secure Any Of The Documents Listed, Call The Listed Telephone Number (generally not toll-free).

Regulations

1. Worker Protection: OSHA publication—Telephone: 202–219–4667

OSHA Regulations (available for a charge)—Government Printing Office—Telephone: 202–512–1800

—General Industry Lead Standard, 29 CFR 1910.1025; (Document Number 869022001124)

—Lead Exposure in Construction, 29 CFR 1926.62, and appendices A, B, C, and D; published 58 FR 26590 (May 4, 1993). (Document Number 869022001141)

2. Waste Disposal: 40 CFR parts 260–268 (EPA regulations)—Telephone 1–800–424–9346.

3. Lead; Requirements for Lead-Based Paint Activities; Proposed Rule: 40 CFR Part 745 (EPA) (State Certification and Accreditation Program for those engaged in lead-based paint activities)—Telephone: 202–554–1404 (Toxic Substances Control Act Hotline)

Guidelines

1. Lead-Based Paint: Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing; HUD, June 1995 (available for a charge)—Telephone: 800–245–2691:

Post-Lead Hazard Control Clearance, No More Than:

100 Micrograms/Sq.Ft. (Bare and Carpeted Floors)

500 Micrograms/Sq.Ft. (Window Sills)

800 Micrograms/Sq.Ft. (Window Troughs (Wells), exterior concrete and other rough surfaces)

2. HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition; Telephone: 202–708–0336.

3. Preventing Lead Poisoning In Young Children; Centers for Disease Control, October 1991: Telephone: 770–488–7330.

Reports

1. Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing, HUD, (Summary and Full Report), July 1995, (available for a charge)—Telephone 800–245–2691:

2. Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing: Report to Congress (HUD, December 7, 1990) (available for a charge)—Telephone 800–245–2691.

CDC CLASSES OF BLOOD LEAD LEVELS IN CHILDREN

Class	Concentration (μq/dL)	Comment
I	<9	Child is not considered to be lead-poisoned.
IIA	10–14	Large number or proportion of children with blood lead levels in this range should trigger community-wide childhood lead poisoning prevention activities. Children in this range may need to be rescreened more frequently.
IIB	15–19	Child should receive nutritional and educational interventions and more frequent screening. If the blood lead level persists, environmental investigation and intervention should be done.
III	20–44	Child should receive environmental evaluation and remediation and a medical evaluation; may need pharmacologic treatment of lead poisoning.
IV	45–69	Child will need both medical and environmental interventions, including chelation therapy.
V	>70	Child is a medical emergency. Medical and environmental management must begin immediately.

Appendix B—''Administrative Costs''

I. Purpose

The intent of this HUD grant program is to allow the Grantee to be reimbursed for the reasonable direct and indirect costs, subject to a top limit, for overall management of the grant. In most circumstances the Grantee, whether a state or a local government, is expected to serve principally as a conduit to pass funding to sub-grantees, which are to be responsible for performance of the lead-hazard reduction work. Congress set a top limit of ten (10) percent of the total grant sum for the Grantee to perform the function of overall management of the grant program, including passing on funding to sub-grantees. The cost of that function, for the purpose of this grant, is defined as the ''administrative cost'' of the grant, and is limited to ten (10) percent of the total grant amount. The balance of ninety (90) percent or more of the total grant sum is reserved for the sub-grantee/direct-performers of the lead-hazard reduction work.

II. Administrative Costs: What They Are Not

For the purposes of this HUD grant program for States and local governments to provide support for the evaluation and reduction of lead-hazards in low and moderate-income, private target housing: the term ''administrative costs'' should not be confused with the terms ''general and administrative cost'', ''indirect costs'', ''overhead'', and ''burden rate''. These are accounting terms, usually represented by a government-accepted standard percentage rate. The percentage rate allocates a fair share of an organization's costs that cannot be attributed to a particular project or department (such as the chief executive's salary or the costs of the organization's headquarters building) to all projects and operating departments (such as the Fire Department; the Police Department; the Community Development Department, the Health Department or this program). Such allocated costs are added to those projects' or departments' direct costs to determine their total costs to the organization.

III. Administrative Costs: What They Are

For the purposes of this HUD grant program, ''Administrative Costs'' are the Grantee's allowable direct costs for the overall management of the grant program plus the allocable indirect costs. The allowable limit of such costs that can be reimbursed under this program is ten (10) percent of the total grant sum. Should the Grantee's actual costs for overall management of the grant program exceed ten (10) percent of the total grant sum, those excess costs shall be paid for by the Grantee. However, excess costs paid for by the Grantee may be shown as part of the requirement for cost-sharing funds to support the grant.

IV. Administrative Costs: Definition

A. General

Administrative costs, are the allowable, reasonable, and allocable direct and indirect costs related to the overall management of the HUD grant for lead-hazard reduction activities. Those costs shall be segregated in a separate cost center within the Grantee's accounting system, and they are eligible costs for reimbursement as part of the grant, subject to the ten (10) percent limit. Such administrative costs do not include any of the staff and overhead costs directly arising from specific sub-grantee program activities eligible under FY 1992 NOFA Section II.e.(5) (a) and (b) (ii) through (vi), because those costs are eligible for reimbursement under a separate cost center as a direct part of project activities.

The Grantee may elect to serve solely as a conduit to sub-grantees, who will in turn perform the direct program activities eligible under NOFA Section II.E.(5) (a) and (b) (ii) through (vi), or the grantee may elect to perform all or a part of the direct program activities in other parts of its own organization, which shall have their own segregated, cost centers for those direct program activities. In either case, not more than 10 percent of the total HUD grant sum may be devoted to administrative costs, and not less than 90% of the total grant sum shall be devoted to direct program activities. Grantee shall take care not to mix or attribute administrative costs to the direct project cost centers.

B. Specific

Reasonable costs for the Grantee's overall grant management, coordination, monitoring, and evaluation are eligible administrative costs. Subject to the (10) percent limit, such costs include, but are not limited to, necessary expenditures for the following, goods, activities and services:

(1) Salaries, wages, and related costs of the Grantee's staff, the staff of affiliated public agencies, or other staff engaged in Grantee's overall grant management activities. In charging costs to this category the recipient may either include the entire salary, wages, and related costs allocable to the program for each person *whose primary responsibilities* (more than 65% of their time) with regard to the grant program involve direct overall grant management assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes *any overall grant management assignments.* The Grantee may use only one of these two methods during this program. Overall grant management includes the following types of activities:

(a) Preparing grantee program budgets and schedules, and amendments thereto;

(b) Developing systems for the selection and award of funding to sub-grantees and other sub-recipients;

(c) Developing suitable agreements for use with sub-grantees and other sub-recipients to carry out grant activities;

(d) Developing systems for assuring compliance with program requirements;

(e) Monitoring sub-grantee and sub-recipient activities for progress and compliance with program requirements;

(f) Preparing presentations, reports, and other documents related to the program for submission to HUD;

(g) Evaluating program results against stated objectives; and

(h) Providing local officials and citizens with information about the overall grant program. (However, a more general education program, helping the public understand the nature of lead hazards, lead hazard reduction, blood-lead screening, and the health consequences of lead poisoning is a direct project support activity, under NOFA Section II.E. (5) (b), and should not be attributed to administrative costs, but to its own cost center.)

(i) Coordinating the resolution of overall grant audit and monitoring findings;

(j) Managing or supervising persons whose responsibilities with regard to the program include such assignments as those described in paragraphs (a) through (i).

(2) Travel costs incurred for official business in carrying out the overall grant management;

(3) Administrative services performed under third party contracts or agreements, for services directly allocable to overall grant management such as overall-grant legal services, overall-grant accounting services, and overall-grant audit services;

(4) Other costs for goods and services required for and directly related to the overall management of the grant program, including such goods and services as telephone, postage, rental of equipment, renter's insurance for the program management space, utilities, office supplies, and rental and maintenance (but not purchase) of office space for the program.

(5) The fair and allocable share of Grantee's general costs that are not directly attributable to specific projects or operating departments such as: The Mayor's and City Council's salaries and related costs; the costs of the City's General Council's office, not charged off to particular projects or operating departments; and the costs of the City's Accounting Department not charged back to specific projects or operating departments. (If Grantee has an established burden rate it should be used; if not Grantee shall be assigned a negotiated provisional burden rate, subject to final audit.) To repeat, all of the above activities goods and services: 1.a-j., 2., 3., 4., and 5. are subject to the ten (10) percent limit.

Appendix C

Section 217 of Public Law 104–134 (the Omnibus Consolidated Rescissions and Appropriations Act of 1996, 110 Stat. 1321, approved April 26, 1996) amended Section 1011(a) of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) to read as follows:

Sec. 1011 Grants for Lead-Based Paint Hazard Reduction in Target Housing.

(a) General Authority. The Secretary is authorized to provide grants to eligible applicants to evaluate and reduce lead-based paint hazards in housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section. Grants shall only be made under this section to provide assistance for housing which meets the following criteria—

(1) for grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that building with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level:

(2) for grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting; and

(3) notwithstanding paragraphs (1) and (2), Round II grantees who receive assistance under this section may use such assistance for priority housing.

* * * * *

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ELIGIBILITY OF HUD-ASSOCIATED "ELIGIBLE" HOUSING UNITS TO PARTICIPATE UNDER HUD'S LEAD-HAZARD-CONTROL GRANTS PROGRAM

APPENDIX D

Program	Eligibility	
	Yes	No
Housing Components of Community Planning & Development Programs		
Community Development Block Grants (Entitlement)	X	
Community Development Block Grants (Non-Entitlement) for States and Small Cities	X	
Community Development Block Grants (Section 108 Loan Guarantee)	X	
Special Purpose Grants	X	
The **Home** Program: **HOME** Investment Partnerships	X	
HOPE for Homeownership of Single Family Homes	X	
Shelter Plus Care (by component)		
Sponsor-based Rental Assistance		X
Tenant-based Rental assistance	X	
Project-based Rental Assistance		X
SRO Rental Assistance		X
Single Family Property Disposition Homeless Initiative		X
Emergency Shelter Grants	X	
Housing Opportunities for Persons With Aids (HOPWA)	X	
Surplus Properties (Title V)		X
Supportive Housing Demonstration Program Transitional Housing Component	X	
Supportive Housing Demonstration Program Permanent Housing Component	X	
Supplemental Assistance for Facilities to Assist the Homeless (SAFAH)	X	
Supportive Housing Program	X	
Section 8 SRO Mod Rehab for Homeless Individuals		X
Innovative Demonstration Program	X	
Housing		
Single Family Programs		
One- to Four-Family Home Mortgage Insurance (Section 203(b) and (i))	X	
Rehabilitation Mortgage Insurance (Section 203(k))	X	
Homeownership Assistance for Low- and Moderate-Income Families (Section 221(d)(2))		X
Homes for Service Member (Section 222)	X	
Housing in Declining Neighborhoods (Section 223(e))	X	
Condominium Housing (Section 234)	X	
Housing in Military Impacted Areas (Section 238)	X	
	X	

Program	Eligibility	
	Yes	No
Single Family Home Mortgage Coinsurance (Section 244)	X	
Graduated Payment Mortgages (Section 245)	X	
Adjustable Rate Mortgages (ARMs)(Section 251)	X	
Manufactured Homes (Title I	X	
Housing		
Multifamily Programs		
Rent Supplements (Section 101)		X
Multifamily Rental Housing (Section 207)	X	
Cooperative Housing (Section 213)	X	
Mortgage and Major Home Improvement Loan Insurance for Urban Renewal Areas (Section 220)	X	
Multifamily Rental Housing for Moderate-Income Families		
Section 221(d)(3)		X
Section 221(d)(4)	X	
Existing Multifamily Rental Housing (Section 223(f))	X	
Supplemental Loans for Multifamily Projects (Section 241)	X	
Supportive Housing for Persons with Disabilities (Section 811)		X
HOPE 2: Homeownership of Multifamily Units (Title IV)		X
Low-Income Housing Preservation and Resident Homeownership (Title VI)		X
Emergency Low-Income Housing Preservation (Title II)		X
Flexible Subsidy (Section 201)		X
Public and Indian Housing		
Section 8 Project-Based Certificate Program		X
Section 8 Tenant Based Certificate and Voucher Program	X	
Section 8 Moderate Rehabilitation Program		X
Public Housing Development		X
Public Housing Operating Subsidy		X
Public Housing Modernization (Comprehensive Grant Program)		X
Public Housing Modernization (Comprehensive Improvement Assistance Program)		X

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Appendix E—Elements of a State Certification Program

Congress has assigned Federal responsibility to the Environmental Protection Agency (EPA) for the definition, implementation, and oversight of State Certification Programs for workers, contractors, and inspectors engaged in the detection and reduction of lead-based paint hazards. The Department of Housing and Urban Development (HUD) has a strong interest in the strength and rigor of the EPA program, because HUD must rely on the effectiveness of the EPA program to assure the safe detection and reduction of those lead-based paint hazards.

In October 1992, Congress passed the Residential Lead-Based Paint Hazard Reduction Act (Title X of the Housing and Community Development Act of 1992). This legislation required EPA to promulgate regulations governing the accreditation of training programs, the certification of contractors and the training of workers engaged in lead-based paint activities. In addition, EPA was directed to issue work practice standards. Under the statute, lead-based paint activities are defined as:

(a) In the case of target housing: risk assessment, inspection, and abatement; and

(b) In the case of any public building constructed before 1978, commercial building, bridge, or other structure or superstructure: identification of lead-based paint and materials containing lead-based paint, deleading, removal of lead from bridges, and demolition.

EPA is preparing to promulgate these regulations under the authority of Title IV of the Toxic Substances Control Act (TSCA), Section 402 and Section 404. Section 402(a) of TSCA directs EPA to promulgate regulations governing lead-based paint activities. Section 404(a) of TSCA requires any State that seeks to administer and enforce the requirements established by the Agency under Section 402 of TSCA must submit to the Administrator of EPA, in such form as the Administrator shall require, a request for authorization of such a program.

States will have two years after final promulgation of TSCA Section 402/404 to establish and seek authorization of the State Program. State programs that reflect the minimum training, certification, accreditation, and standards that currently exist in EPA's proposed regulations are likely to be authorized by EPA. States that commit to develop appropriate accreditation and certification programs and to seek authorization by EPA are encouraged to enact broad enabling legislation.

While the regulations establishing an EPA State Authorized Program are not final, EPA can define a minimum set of basic elements that *must* be contained in enabling legislation. These minimum elements are outlined in #1 below. In addition, EPA believes that additional elements should be included in legislation and these are identified in #2 below.

Certification, worker training, and accreditation of training providers are three of the basic elements that must be contained in a State's enabling legislation. It is imperative that these three elements be included in a State's enacted legislation prior to applying for a HUD Lead-Based Paint Hazard Control Grant.

1. The enabling statute, at a minimum, shall contain the following elements:

a. *Agency*. Establish an agency, or agencies, or designate an existing State agency, or agencies, to implement the State program.

b. *Certification*. Authorize and direct the agency, or agencies, to promulgate regulations requiring the certification of contractors that offer to perform lead-hazard detection or lead-hazard reduction services.

c. *Worker Training*. Authorize and direct the agency, or agencies to promulgate regulations setting training requirements for workers, inspectors, and other persons directly and substantially involved in the performance of lead-based paint activities. Such regulations shall establish minimum acceptable levels of training, and periodic refresher training for each class of workers, and require that training shall be provided by accredited training providers.

d. *Accreditation of Training Providers*. Authorize and direct the agency, or agencies, to promulgate regulations to establish the accreditation of training programs. The legislation shall require that the regulation cover the following: (i) minimum requirements for the accreditation of training providers; (ii) minimum training curriculum requirements; (iii) minimum training hour requirements; (iv) minimum hands-on training requirements; (v) minimum trainee competency and proficiency requirements; and (vi) minimum requirements for training program quality control.

e. *Standards*. Authorize and direct the agency, or agencies, to promulgate regulations establishing standards for performing lead-based paint activities, taking into account reliability, effectiveness, and safety.

f. *Compliance*. Authorize and direct the agency, or agencies, to promulgate regulations that will require any activity, involving lead-hazard detection or lead-hazard reduction procedures, to comply with agency regulations and to use certified and accredited personnel.

g. *Enforcement*. Authorize and direct the agency, or agencies, to promulgate regulations that provide for the enforcement of the State Certification Program, and that establish suitable sanctions, for those who fail to comply with program requirements. The regulations shall include provisions for the decertification and deaccreditation of programs and personnel.

h. *Federal Funding Eligibility*. Authorize and direct the agency, or agencies, to revise its regulations and procedures from time to time to assure that State lead-hazard activities continue to be eligible for Federal funding, by meeting the State Certification Program standards and other requirements that may from time to time be promulgated by EPA, HUD, and such other Federal agencies as may have jurisdiction over lead hazards;

i. *Reciprocity*. Authorize the agency, or agencies, to establish liaison with the other States having a State Certification Program to assure the maximum consistency of program requirements, in order to facilitate reciprocity of certification and accreditation among the several States;

2. In addition to the mandatory elements present in #1 above, HUD and EPA strongly recommend that the enabling legislation include:

a. *Staffing*. Authorize and direct the agency, or agencies to dedicate suitable staff and to acquire suitable space, equipment, supplies and other items necessary for the operations of the program.

b. *Fees*. Authorize the agency, or agencies, to collect such fees for certification, accreditation, and other reviews as State policy may determine to be necessary to help support the activities of the agency or agencies.

c. *Laboratory Oversight*. Authorize and direct the agency, or agencies, to cooperate with EPA in any joint oversight procedures EPA may propose for laboratories accredited under the EPA laboratory accreditation program for laboratories that offer to provide lead analysis services.

d. *Data Collection*. Authorize the agency, or agencies, to establish a unit for the collection and analysis of data on lead-hazard detection and lead-hazard reduction activities in the State, and on

the certification, accreditation, and enforcement activities of the agency.

e. *Public Education.* Authorize the agency, or agencies, in cooperation with other relevant agencies of the State, to conduct programs of public education on the nature and consequences of lead hazards and on the need for lead-hazard reduction activities to be conducted under careful supervision and by certified and accredited personnel in order to assure the public safety.

[FR Doc. 96–11949 Filed 5–13–96; 8:45 am]

BILLING CODE 4210–32–P

federal register

Tuesday
May 14, 1996

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 27744; Special Federal Aviation Regulation (SFAR) No. 67]

RIN 2120–AG10

Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; extension of expiration date.

SUMMARY: This action amends Special Federal Aviation Regulation (SFAR) 67 to extend the prohibition on flight operations within the territory and airspace of Afghanistan by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. This action is taken to prevent an undue hazard to persons and aircraft engaged in such flight operations as a result of the ongoing civil war in Afghanistan.

DATES: Effective Date: May 10, 1996. Expiration date: May 10, 1997.

FOR FURTHER INFORMATION CONTACT: Mark W. Bury, International Affairs and Legal Policy Staff, AGC–7, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Telephone: (202) 267–3515.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, Attention: ARM–1, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 267–9677. Communications must identify the number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

Background

The Federal Aviation Administration (FAA) is responsible for the safety of flight in the United States and for the safety of U.S.-registered aircraft and U.S. operators throughout the world. Section 40101(d)(1) of Title 49, United States Code, declares, as a matter of policy, that the regulation of air commerce to promote safety is in the public interest. Section 44701(a) of Title 49, United States Code, provides the FAA with broad authority to carry out this policy by prescribing regulations governing the practices, methods, and procedures necessary to ensure safety in air commerce.

In the exercise of these statutory responsibilities, the FAA issued SFAR 67, prohibiting flight operations within the territory and airspace of Afghanistan by any United States air carrier or commercial operator, any person exercising the privileges of an airman certificate issued by the FAA, or any operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. Notice of SFAR 67 was published at 59 FR 25282 (May 13, 1994). The FAA issued SFAR 67 based upon a determination that the ongoing civil war in Afghanistan justified the imposition of certain measures to ensure the safety of U.S.-registered aircraft and operators that are conducting flight operations in the vicinity of Afghanistan's territory and airspace. SFAR 67 was originally scheduled to expire after one year. Notice of the extension of SFAR 67 for an additional year was published at 60 FR 25980 (May 15, 1995).

Fighting between government and opposition forces continues throughout Afghanistan at a level and intensity similar to that noted when SFAR 67 was originally issued. Opposing forces in this long-running civil war possess a wide range of sophisticated weapons that potentially could be used to attack civil aviation aircraft overflying Afghanistan at cruising altitudes. These weapons include Russian-made fighter and attack aircraft armed with cannons and air-to-air missiles, and surface-to-air missile (SAM) systems. Although aircraft primarily have been used for ground attacks against airfields and other key facilities, air-to-air encounters also have been observed. Press reports also suggest that a number of Afghan military and civilian aircraft have been shot down using SAMs. Large areas of the country continue to be the scene of factional fighting. Fluctuations in the level and intensity of combat create an unsafe environment for transiting civilian aircraft.

Advisories have been issued by the International Civil Aviation Organization (ICAO) urging civil air carriers to avoid Afghan airspace. In a letter dated April 8, 1994, Assad Kotaite, President of the ICAO Council, issued a notice urging air carriers to discontinue flights over Afghanistan. In a subsequent letter of November 14, 1994, President Kotaite warned of the continuing risks associated with flights over Afghanistan, including operations using certain routes developed by the Afghan Government or neighboring countries. On September 18, 1995, in yet another letter addressing flight safety over Afghanistan, Dr. Kotaite advised that ''the safety of international civil flight operations through the Kabul FIR can not be assured.'' These advisories reflect the uncertain nature of the situation and underscore the danger to flights in Afghan airspace.

There also are indications that at least two rebel factions, in Afghanistan intend to deliberately target civil aircraft. In a statement released in September 1995, forces opposed to the Rabbani Government warned all international air carriers that they would force or shoot down any plane that ventured into airspace they controlled without first obtaining proper clearance from them. This follows a similar warning issued in 1994 by the Opposition Council. Air corridors over central and southern Afghanistan have been closed frequently as a result of these threats. Although it seems unlikely that any faction in the civil war would deliberately target a foreign-flagged commercial air carrier, their growing frustration with the airlift of arms, ammunition and other supplies to the Kabul regime creates a potentially hazardous environment whereby an airliner might be misidentified and inadvertently targeted. The FAA has received reports that scheduled passenger flights have been intercepted by opposition fighter aircraft. Other reports indicate that charter flights have been forced to land in Kandahar; one of these aircraft and its crew continue to be held there.

At the very least, central Afghan government control over installations critical to navigation and communication can not be assured. The use of combat aircraft and SAMs by all factions in the conflict calls into question the security/safety of Afghan airspace for civilian aircraft. An environment for long-term stability in this troubled region has yet to emerge.

Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

On the basis of the above information, and in furtherance of my responsibilities to promote the safety of flight of civil aircraft in air commerce, I have determined that continued action by the FAA is required to prevent the injury to or loss of certain U.S.-registered aircraft and U.S. operators conducting flights in the vicinity of

Afghanistan. I find that the current civil war in Afghanistan continues to present an immediate hazard to the operation of civil aircraft in the territory and airspace of Afghanistan. Accordingly, I am ordering the amendment of SFAR 67 to extend for an additional year the prohibition on flight operations (excluding those operations approved by the U.S. Government and certain emergency operations) within the territory and airspace of Afghanistan by any United States air carrier and commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. This action is necessary to prevent an undue hazard to aircraft and to protect persons and property on board those aircraft. Because the circumstances described in this notice warrant immediate action by the FAA to maintain the safety of flight, I also find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, I find that good cause exists for making this rule effective immediately upon issuance. I also find that this action is fully consistent with my obligations under 49 U.S.C. 40105(b)(1)(A) to exercise my duties consistently with the obligations of the United States under international agreements. The Department of State has been advised of, and has no objection to, the action taken herein.

The rule now contains an expiration date of May 10, 1997, but may be terminated sooner or extended through the publication of a corresponding notice if circumstances so warrant.

Regulatory Evaluation

Over the past 10 years, there have been a number of instances worldwide where civilian aircraft were either shot at or shot down. In some instances, the shooting was intentional, while in others the aircraft was misidentified as an enemy aircraft. One such reported incident, described earlier, involved Afghan government forces mistakenly shooting at a civilian aircraft. This incident highlights the risk that one side in the Afghan civil war will misidentify a U.S. civil aircraft overflying Afghanistan as a hostile aircraft. One faction involved in the fighting in Afghanistan has specifically stated that it would target the aircraft of an Afghan air carrier. This stated threat increases the risk of a U.S. aircraft being misidentified and shot down.

Navigating around Afghanistan will result in increased variable operating costs (i.e., maintenance, fuel, and crew) primarily for U.S. operators who conduct flights between Europe and India. The FAA estimates that the weighted-average variable operating cost for a wide-body aircraft is approximately $3,100 per hour. Based on data received from two U.S. carriers, the amount of additional time it takes to navigate around Afghanistan using alternate routes ranges from 10 minutes by flying over Iran to between one and four hours by flying over Saudi Arabia (depending on flight's origin and destination).

Some U.S. operators use the alternate route over Iran, thereby incurring little, if any, additional flying time and operating costs. Two U.S. operators use routes over Saudi Arabia, which result in additional costs of approximately $3,100 to $12,400 per flight.

Based on the potentially small costs of navigating around Afghanistan and the potentially devastating result of a U.S. air carrier being shot down, the FAA has determined that the SFAR is cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed rule would have ''significant economic impact on a substantial number of small entities.'' FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. The FAA has determined that none of the U.S. air carriers affected by the SFAR are ''small entities'' as defined by FAA Order 2100.14A Thus, the SFAR would not impose a ''significant economic impact on a substantial number of small entities.''

International Trade Impact Assessment

The SFAR could have an adverse affect on the international flights of U.S. air carriers and commercial operators primarily because it could increase their operating costs relative to foreign carriers who continue to overfly Afghanistan. However, because of the narrow scope of the SFAR and the small incremental cost of some of the alternate routes available to U.S. operators, the FAA has determined that the SFAR would have little effect on the sale of U.S. aviation products and services in foreign countries.

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3507 et seq.)

Federalism Determination

The SFAR set forth herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41685; October 30, 1987), it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, FAA has determined that this action is not a ''significant regulatory action'' under Executive Order 12866. This action is considered a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because revenue flights to Afghanistan are not currently being conducted by U.S. air carriers or commercial operators, the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 91

Afghanistan, Aircraft, Airmen, Airports, Air traffic control, Aviation safety, Freight.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

2. Section 5 of Special Federal Aviation Regulation (SFAR) No. 67 is revised to read as follows:

5. Expiration. This Special Federal Aviation Regulation expires May 10, 1997.

Issued in Washington, DC, on May 9, 1996.

David R. Hinson,

Administrator.

[FR Doc. 96–12132 Filed 5–9–96; 4:52 pm]

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