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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI04

Prevailing Rate Systems; Abolishment of the Orlando, Florida, Appropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing an interim rule to remove the requirement that a full-scale wage survey be conducted in the Orlando, Florida, Federal Wage System appropriated fund wage area in September 1997.

DATES: This interim rule is effective on September 30, 1997. Comments must be received on or before November 3, 1997.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415, or FAX: (202) 606–0824.

FOR FURTHER INFORMATION CONTACT: Mark A. Allen, (202) 606–2848.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management is issuing the first of two interim rules to abolish the Orlando, Florida, appropriated fund wage area. The Orlando wage area is currently composed of Orange, Osceola, Seminole, and Volusia Counties in Florida. Because of the pending closure of the Orlando Naval Training Station, the Department of Defense, the lead agency for the Orlando wage area, is unable to conduct the wage survey that is scheduled to begin in the Orlando wage area in September 1997. This interim rule removes the requirement that a full-scale wage survey be conducted in the Orlando wage area in September 1997. The appropriate disposition of the four counties of the Orlando wage area is currently under consideration by the Federal Prevailing Rate Advisory Committee. Once the Committee has completed its discussions, an additional interim rule will be published to move those four counties to another wage area.

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

Waiver of Notice of Proposed Rulemaking and Delayed Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists for making this rule effective in less than 30 days. The notice is being waived and the regulation is being made effective in less than 30 days so that advance preparations otherwise required for the 1997 Orlando wage area survey may be canceled.

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 532

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

Office of Personnel Management.

Janice R. Lachance,

Acting Director.

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

PART 532—PREVAILING RATE SYSTEMS

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

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

Appendix A to Subpart B of Part 532—[Amended]

2. Appendix A to subpart B is amended by removing the entry for Orlando in the listing for the State of Florida.

[FR Doc. 97–26217 Filed 10–2–97; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

7 CFR Part 0

Employee Responsibilities and Conduct

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is repealing its internal standards of conduct regulations as part of the National Performance Review (NPR) program to eliminate unnecessary regulations.

EFFECTIVE DATE: These regulations are effective October 3, 1997.

FOR FURTHER INFORMATION CONTACT: David L. Spradlin, Program Manager for Employee Relations, Office of Human Resources Management, U.S. Department of Agriculture, Room 18–W—Stop 9601, 1400 Independence Avenue, SW., Washington, D.C. 20250–9601, telephone (202) 720–3327.

SUPPLEMENTARY INFORMATION:

I. Background

Removal of 7 CFR Part 0 promotes the goal of the NPR to reduce the number of Federal regulations. Also, the Department employee responsibilities and conduct regulations largely have been superseded by the Office of Government Ethics (OGE) executive branch financial disclosure regulations at 5 CFR Part 2634, ''Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture,'' and by the executive branch-wide standards at 5 CFR Part 2635, ''Standards of Ethical Conduct for Employees of the Executive Branch.'' Therefore, the Department is repealing all of existing 7 CFR Part 0.

II. Matters of Regulatory Procedure

Administrative Procedure Act

The Department has found that good cause exists under 5 U.S.C. 553 for waiving, as unnecessary and contrary to public interest, the general notice of proposed rulemaking and the 30-day delay in effectiveness as to this final rule. This rulemaking is related to Department personnel.

Congressional Review

The Department has found that this rulemaking is not a rule as defined in 5 U.S.C. 804 and does not require review by Congress. This rulemaking is related to Department personnel.

Executive Order 12866

Since this rule relates to Personnel, it is exempt from the provision of Executive Order 12866.

Regulatory Flexibility Act

The Department has determined under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only Department employees.

Paperwork Reduction Act

The Department has determined that the Paperwork Reduction Act (44 U.S.C. Chapter 35) does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

Environmental Impact

This decision will not have a significant impact upon the quality of the human environment or the conservation of energy resources.

Dated: September 24, 1997.

Dan Glickman,

Secretary of Agriculture.

For the reasons set forth in the preamble, the Department is amending Title 7, Subtitle A, of the Code of Federal Regulations as follows:

TITLE 7—[AMENDED]

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 0—[REMOVED]

Part 0 of 7 CFR Subtitle A is removed.

[FR Doc. 97–26216 Filed 10–2–97; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1422

RIN 0560–AF04

Standards for Approval of Cold Storage Warehouses for Peanuts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule removes obsolete regulations pertaining to approval of cold storage warehouses for peanuts under the peanut price support program. The Commodity Credit Corporation (CCC) no longer uses cold storage warehouses for peanuts owned by CCC or held by CCC as security for price support loans.

EFFECTIVE DATE: October 3, 1997.

FOR FURTHER INFORMATION CONTACT: David Kincannon, Farm Service Agency, United States Department of Agriculture, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250–0514; or telephone (202) 720–7914.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

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

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of the final rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The amendments to 7 CFR part 1422 set forth in this final rule do not contain information collections that require clearance by the OMB under the provisions of 44 U.S.C. 35.

Background

This final rule removes 7 CFR part 1422 pertaining to the peanut price support program. CCC no longer stores peanut stocks it owns or controls in cold storage warehouses. Therefore, the regulations are obsolete. If cold storage becomes needed, such storage can be controlled by contract. Because this action involves the removal of obsolete regulations and does not affect the interests of any member of the public, this rule is being made effective immediately. Delaying the rule for comment is unnecessary and would be contrary to the public interest.

List of Subjects in 7 CFR Part 1422

Peanuts, Price support and purchase programs, Warehouses.

Accordingly, under the authority of 7 U.S.C. 2202 and 7 CFR 2.65(a)(14), 7 CFR Part 1422 is removed.

Signed at Washington, DC, on September 26, 1997.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 97–26301 Filed 10–2–97; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Executive Office for Immigration Review

8 CFR Part 240

[EOIR No. 118I; AG Order No. 2118–97]

RIN: 1125–AA19

Suspension of Deportation and Cancellation of Removal

AGENCY: Immigration and Naturalization Service, Justice, and Executive Office for Immigration Review, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the regulations of the Executive Office for Immigration Review (EOIR) and Immigration and Naturalization Service (Service) by establishing a procedure for processing suspension of deportation and cancellation of removal and adjustment of status cases. This rule is a partial and transitional measure to implement provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) relating to suspension of deportation and cancellation of removal. This transitional policy will be reevaluated after the Department determines how

best to implement sections (304(a)(3) and 309(c)(7) of IIRIRA.

DATES: *Effective date:* This interim rule is effective October 1, 1997.

Comment date: Written comments must be submitted on or before December 1, 1997.

ADDRESSES: Please submit written comments, in triplicate, to Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041.

FOR FURTHER INFORMATION CONTACT: For matters relating to the Executive Office for Immigration Review—Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 527–0470. For matters relating to the Immigration and Naturalization Service—Marguerite N. Przybylski, Associate General Counsel, Immigration and Naturalization Service, 425 I Street NW, Washington, D.C. 20536, telephone (202) 514–2895.

SUPPLEMENTARY INFORMATION: This interim rule with request for comments amends 8 CFR part 240 by creating new § 240.21.

Background

On September 30, 1996 Congress enacted IIRIRA. Under section 304(a)(3) of IIRIRA, the Attorney General may not cancel the removal and adjust the status under section 240A(b) of the Immigration and Nationality Act (Act), nor suspend the deportation and adjust the status under section 244(a) of the Act (as in effect before April 1, 1997) of a total of more than 4,000 aliens in any fiscal year. Section 309(c)(7) of IIRIRA provides that this numerical limitation applies regardless of when an alien has applied for the relief. The limitation is effective beginning with fiscal year 1997.

Because no implementing regulations were in place upon IIRIRA's enactment on September 30, 1996, suspension cases granted in the first five months of fiscal year 1997 were granted without condition and the statutory cap was nearly reached by mid-February. On February 13, 1997, EOIR issued directives to the immigration judges and the Board of Immigration Appeals (Board) to reserve grants of suspension until further notice. These directives provided a temporary mechanism to ensure that EOIR did not exceed the statutory cap in the remainder of fiscal year 1997 while the Department determined how to implement the cap. Over 3,000 decisions have been reserved since the issuance of these directives. In order to prevent this backlog of cases from continuing to increase, it is necessary to provide a procedure that will allow for the entry of a substantive determination regarding the merits of these cases, while allowing the Department an opportunity to further investigate methods to implement the cap. Therefore, immediate direction is required for the processing of these cases in light of sections 304(a)(3) and 309(c)(7) of IIRIRA.

This regulation provides the necessary procedures for the processing of suspension of deportation and cancellation of removal cases while it is determined how the numerical limitation will be implemented. The rule provides that applications for suspension or cancellation that meet the statutory requirements and warrant a favorable exercise of discretion will be conditionally granted. This rule is a transitional measure in that conditional grants of suspension of deportation and cancellation of removal will be revisited after the Department determines how best to implement sections 304(a)(3) and 309(c)(7) of IIRIRA. This rule provides a partial solution to the statutory cap in that it will provide a mechanism to eliminate the backlog of reserved cases. The Department intends to implement the statutory cap in a separate regulation within approximately six months.

The Interim Rule

This interim rule provides that neither the immigration judges nor the Board shall make an unconditional grant of any application for suspension of deportation pursuant to section 244(a) of the Act (as it existed prior to April 1, 1997) or cancellation of removal and adjustment of status pursuant to section 240A(b) of the Act. If the immigration judge or the Board finds that an alien is statutorily eligible for suspension of deportation or cancellation of removal and adjustment of status and that the case warrants a favorable exercise of discretion, the immigration judge or the Board shall enter a conditional grant of suspension or cancellation. The Board shall enter a conditional grant of suspension or cancellation even if the immigration judge granted that application without condition. A conditional grant of suspension or cancellation may be appealed to the Board pursuant to the rules and time frames specified in 8 CFR part 3.

The conditional grant of suspension of deportation or cancellation of removal and adjustment of status shall specify which paragraph of section 244(a) of the Act (as in effect before April 1, 1997) or section 240A(b) of the Act applies, and shall include an alternate order of deportation, removal or voluntary departure. Thus the alien is conditionally granted suspension or cancellation and that conditional grant will be revised after the Department determines how best to implement sections 304(a)(3) and 309(c)(7) of IIRIRA.

The Department's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based upon the exception for rules of agency organization, procedure or practice in 5 U.S.C. 553(b)(3)(A) and upon the ''good cause'' exception found at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). Immediate implementation is necessary because EOIR has directed that suspension of deportation grants be reserved until further notice and over 3,000 decisions have been so reserved over the last few months. These cases must be resolved on the merits while the Department determines how to implement the statutory cap on suspension and cancellation. The Department has provided a public comment period on this interim rule of 60 days.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certified that this rule will not have a significant economic impact on a substantial number of small entities because it affects individual aliens, not small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-

based companies in domestic and export markets.

Executive Order 12866

The Attorney General has determined that this rule is a significant regulatory action under Executive Order 12866, and accordingly this rule has been reviewed by the Office of Management and Budget.

Executive Order 12612

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

Executive Order 12988 Civil Justice Reform

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

List of Subjects in 8 CFR Part 140

Administrative practice and procedure, Aliens, Immigration.

Accordingly, part 240 of chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS IN THE UNITED STATES

1. The authority citation for part 240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1224, 1225, 1226, 1227, 1251, 1252 note, 1252a, 1252b, 1362; 8 CFR part 2.

2. Section 240.21 is added to read as follows:

§ 240.21 Suspension of deportation and adjustment under section 244(a) of the Act (as in effect before April 1, 1997) and cancellation of removal and adjustment under section 240A(b) of the Act for certain nonpermanent residents.

(a) Applications for suspension of deportation under section 244(a) of the Act (as in effect before April 1, 1997) or cancellation of removal and adjustment of status under section 240A(b) of the Act that meet the statutory requirements and warrant a favorable exercise of discretion may be granted only on a conditional basis. The order conditionally granting relief shall state which paragraph of section 244(a) of the Act (as in effect before April 1, 1997) or section 240A(b) of the Act applies. No application for suspension or cancellation shall receive a favorable exercise of discretion where the applicant has been granted asylum or adjustment of status while the suspension or cancellation application is pending. A decision to deny as a matter of discretion an application for suspension or cancellation on this basis shall be reconsidered where an appeal of a decision granting asylum or adjustment is sustained by the Board of Immigration Appeals.

(b) An alternate order of voluntary departure, deportation, or removal must be entered when there is a conditional grant of suspension or cancellation. The alternate order shall take effect if the condition is not ultimately removed.

(c) An order conditionally granting an application for suspension or cancellation is appealable to the Board pursuant to the procedures set forth in this chapter, and the time for appeal by the Service of the conditional grant or for appeal by the alien of the finding of deportability or of any denial of other relief by the immigration judge shall run from the date of such order.

(d) If, on appeal, the Board determines that an application for suspension of deportation or cancellation of removal meets the statutory requirements and warrants a favorable exercise of discretion, such application shall be granted on a conditional basis, even if an immigration judge granted the application without condition.

Dated: October 1, 1997.

Janet Reno,

Attorney General.

[FR Doc. 97–26385 Filed 10–1–97; 11:36 am]

BILLING CODE 4410–10–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC–22835; File No. S7–24–96]

RIN 3235–AG72

Rule Amendments Relating to Multiple Class and Series Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting amendments to the rule under the Investment Company Act of 1940 that permits open-end management investment companies (''funds'') to issue multiple classes of shares representing interests in the same portfolio. The amendments expand and clarify the methods by which a multiple class fund may allocate among its classes income, gains and losses, and expenses not allocated to a particular class, and clarify the shareholder voting provisions of the rule. The Commission also is adopting a technical amendment that clarifies the application to series funds of the rule under the Investment Company Act that governs the use of fund assets to pay for the distribution of fund shares.

EFFECTIVE DATE: November 10, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas M. J. Kerwin, Senior Counsel, Office of Regulatory Policy, at (202) 942–0690, or, regarding accounting issues, John S. Capone, Assistant Chief Accountant, Office of the Chief Accountant, at (202) 942–0590, in the Division of Investment Management, Mail Stop 10–2, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Requests for formal interpretive advice should be directed to the Office of Chief Counsel at (202) 942–0659, Division of Investment Management, Mail Stop 10–6, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to rules 18f–3 [17 CFR 270.18f–3] and 12b–1 [17 CFR 270.12b–1] under the Investment Company Act of 1940 [15 U.S.C. 80a] (the ''Investment Company Act'').

Executive Summary

The Commission is adopting amendments to rule 18f–3 under the Investment Company Act, the rule that permits a fund to issue multiple classes of shares representing interests in the same investment portfolio. The amendments expand the specified methods a multiple class fund may use to allocate among its classes income, gains and losses (including unrealized appreciation or depreciation), and expenses not allocated to a particular class. The amendments also permit a fund to use any other allocation method that the fund's board of directors determines is fair to the shareholders of each class. In addition, the amendments clarify the shareholder voting rights provision of the rule.

The Commission also is adopting a technical amendment to rule 12b–1 under the Investment Company Act, the rule that governs the use of fund assets to pay for the distribution of fund shares in accordance with a ''rule 12b–1 plan.'' The amendment codifies existing interpretations of how various provisions of the rule apply to a ''series''

fund (*i.e.*, a fund that offers investors an opportunity to invest in one or more portfolios, each of which has a specific investment objective).

I. Discussion

A. Rule 18f–3

Rule 18f–3 under the Investment Company Act establishes a framework for a fund's issuance of multiple classes of shares representing interests in the same portfolio. A fund generally establishes a multiple class arrangement to offer investors a choice of methods for paying distribution costs or to allow the fund to use alternative distribution channels more efficiently. Rule 18f–3 addresses issues that may create conflicts among multiple classes, including how a fund must allocate to each class its share of income, gains and losses, and expenses that are not allocated to a particular class (''fundwide expenses'').[1]

Rule 18f–3(c) permits a fund generally to allocate income, gains and losses, and fundwide expenses based on the ratio of class net assets to fund net assets (''relative net assets'').[2] The rule also permits a fund that declares dividends daily (a ''daily dividend fund''), such as a money market fund, to select either of two alternative allocation methods.[3] A daily dividend fund that maintains the same net asset value (''NAV'') per share in each class may allocate income, gains and losses, and fundwide expenses to each share without regard to class.[4] A daily dividend fund that maintains the same NAV per share in each class may also make these allocations to each class based on relative net assets after subtracting the value of subscriptions for non-settled shares (*i.e.*, shares for which payment in federal funds has not been received) (the ''settled shares method'').[5]

In September 1996 the Commission proposed amendments to rule 18f–3 to give daily dividend funds greater flexibility in using the settled shares method, to permit funds to use a new allocation method (the ''simultaneous equations method''), and to clarify certain other aspects of the rule.[6] The Commission received letters from two commenters in response to the proposal, both generally favoring the proposed amendments.[7] The Commission is adopting the proposed amendments with certain revisions, as described below.

1. Expanded Allocation Methods

a. Settled Shares Method. Some daily dividend funds use the settled shares method in reliance upon exemptive orders that predate the adoption of rule 18f–3.[8] These funds have been unable to rely on rule 18f–3 because they do not maintain the same NAV per share in each class, a condition for use of the settled shares method under the rule. Because the settled shares method produces appropriate allocations even if NAV per share differs among classes, the Commission proposed to amend rule 18f–3 to permit a daily dividend fund to use the settled shares method without maintaining the same NAV per share in each class. Commenters supported the amendment, which the Commission is adopting as proposed.[9]

The Commission is also amending rule 18f–3 to clarify that a daily dividend fund may simultaneously use the settled shares method to allocate income and fundwide expenses and use the relative net assets method to allocate gains and losses.[10] This combination of methods is consistent with fund policies that commonly permit the participation of non-settled shares in any increase or decrease in NAV that results from appreciation or depreciation of portfolio securities, while excluding non-settled shares from participation in daily dividends.[11]

b. Simultaneous Equations Method. The Commission is adopting, as proposed, an amendment to rule 18f–3 to permit any fund to allocate income, gains and losses, and fundwide expenses based on an additional method, the ''simultaneous equations method.'' [12] Under this method, allocations are based on simultaneous equations designed to produce an annualized rate of return of each class that generally differs from that of the other classes only by the expense differentials among the classes.[13] A fund

[1] In this release, ''gains and losses'' include both realized gains and losses and unrealized appreciation and depreciation. ''Fundwide expenses'' may include expenses that are attributable to more than one class but fewer than all classes, such as the costs of adding new classes to an existing multiple class structure. See Exemption for Open-End Management Investment Companies Issuing Multiple Classes of Shares; Disclosure by Multiple Class and Master-Feeder Funds; Class Voting on Distribution Plans, Investment Company Act Release No. 20915 at nn.26–27 and accompanying text (Feb. 23, 1995) [60 FR 11876 (Mar. 2, 1995)] [hereinafter 1995 Release].

[2] Rule 18f–3(c)(1) [17 CFR 270.18f–3(c)(1)]; see amended rule 18f–3(c)(1)(i) [17 CFR 270.18f–3(c)(1)(i)].

[3] Rule 18f–3(c)(2) [17 CFR 270.18f–3(c)(2)]; see amended rule 18f–3(c)(2)(i) [17 CFR 270.18f–3(c)(2)(i)] (defining a daily dividend fund as ''any company that has a policy of declaring distributions of net investment income daily, including any money market fund that determines net asset value using the amortized cost method permitted by section 270.2a–7 [rule 2a–7]'').

[4] Rule 18f–3(c)(2)(i) [17 CFR 270.18f–3(c)(2)(i)]; see amended rule 18f–3(c)(1)(iv) [17 CFR 270.18f–3(c)(1)(iv)]. Use of this method in those circumstances is equivalent to allocation based on relative net assets. The rule also requires funds using this method to obtain the agreement of their service providers that, to the extent necessary to assure that all classes maintain the same NAV per share, providers will waive or reimburse class expenses. Rule 18f–3(c)(2)(i). The amended rule clarifies that amounts waived or reimbursed by service providers under these agreements may not be carried forward or recouped later. Amended rule 18f–3(c)(1)(iv).

[5] Rule 18f–3(c)(2)(ii) [17 CFR 270.18f–3(c)(2)(ii)]; see amended rule 18f–3(c)(1)(iii), (c)(2)(iii) [17 CFR 270.18f–3(c)(1)(iii), (c)(2)(iii)]. The settled shares method is consistent with the policy of many daily dividend funds to withhold dividends from non-settled shares. Payment of dividends on non-settled shares would dilute dividends paid on settled shares, since fund income is attributable only to settled shares. See Rule Amendments Relating to Multiple Class and Series Investment Companies, Investment Company Act Release No. 22203 at n.7 (Sept. 9, 1996) [61 FR 49022 (Sept. 17, 1996)] [hereinafter Proposing Release] (investor's payment in federal funds may not be collected until three days after share purchase; at time of purchase fund may buy portfolio securities to be paid for in three days, but fund does not earn interest on securities until it makes payment; buying other portfolio securities that settle daily against federal funds is not feasible until investor's payment has been collected).

[6] See Proposing Release, *supra* note .

[7] See Letter from Subcommittee on Investment Companies and Investment Advisers, Committee on Federal Regulation of Securities, Section of Business Law, American Bar Association (''ABA''), to Jonathan G. Katz, Secretary, SEC (Nov. 19, 1996) (hereinafter ''ABA Letter''); Letter from Gregory M. Smith, Director-Operations, Investment Company Institute (''ICI''), to Jonathan G. Katz, Secretary, SEC (Nov. 18, 1996) (hereinafter ''ICI Letter'').

[8] Such orders may require compliance with conditions, such as disclosure of differences among multiple classes, that do not apply to multiple class funds that rely on rule 18f–3 and related requirements of Form N–1A [17 CFR 239.15A, 274.11A].

[9] See amended rule 18f–3(c)(1)(iii).

[10] Amended rule 18f–3(c)(1)(iii). The staff of the Commission previously approved use of this combination of methods. See Letter from the Division of Investment Management to Investment Company Chief Financial Officers at 5 (Nov. 2, 1995).

[11] *See* ICI Letter, *supra* note 7, at 2 (daily dividend funds generally process purchase orders when received, before the collection of payment in federal funds, to enable the purchaser of non-settled shares to participate in changes in NAV per share from appreciation or depreciation of portfolio securities during collection period; most funds nevertheless pay dividends only on settled shares). Combining these methods may be essential if a fund maintains the same NAV per share for all classes, since allocating gains and losses (which affect NAV) based only on settled shares could cause a divergence in NAV among classes. See Proposing Release, *supra* note , at n.11 (use of settled shares method requires reduction of net assets of fund and each class by unpaid subscriptions; percentage reduction of each class's net assets would vary for each class because of differing amounts of non-settled shares; resulting different allocations of gains and losses to each class would affect NAV differently).

[12] Amended rule 18f–3(c)(1)(ii), (c)(2)(iv) [17 CFR 270.18f–3(c)(1)(ii), (c)(2)(iv)].

[13] Amended rule 18f–3(c)(2)(iv). For example, if fundwide expenses amounted to .75% of net assets for each class on average, and Class A were assessed a class expense ratio of .30% of net assets annually

Continued

using this method would allocate each day's income, gains and losses, and fundwide expenses to each class, and simultaneously reallocate cumulative undistributed income and undistributed or unrealized capital items among the classes.[14] Commenters agreed that the results derived from this method are consistent with the purpose of the rule's allocation provisions.

The amended rule does not specify particular equations to be used in implementing this method.[15] Appropriate equations may vary depending on the number of classes offered and other factors such as whether expense differentials among classes are fixed or variable. Commenters also confirmed the Commission's understanding that equations may be further refined as funds gain more experience in using this method [16]

c. Other Allocation Methods. The Commission is also amending rule 18f–3 to permit a fund to use any appropriate allocation method not specified in the rule if the fund's directors, including a majority of directors who are not interested persons of the fund, determine that the method is fair to each class of shareholders.[17] The amendment also would require directors to determine that under the new method, the annualized rate of return of each class will generally differ from that of the other classes only by the expense differentials among the classes.[18] This amendment will provide funds with flexibility and avoid the possible need for further administrative relief to permit new allocation methods that may be developed. The Commission believes it is appropriate to require a specific board determination concerning the fairness of an alternative allocation method to assure that the selection of such a method is fair to each class.[19] In making this determination, the fund board may reasonably rely on the opinions of experts such as accounting firms.[20] A fund would be expected to apply on a consistent basis any allocation method selected under this or any other provision of the rule.[21]

2. Voting Rights

Rule 18f–3 contains certain conditions that are applicable to arrangements involving a class of shares with one type of distribution charge (the ''purchase class'') that automatically convert into another class (the ''target class'') after a specified period of time.[22] The rule requires a fund having such an arrangement to obtain the approval of the shareholders of the purchase class whenever the fund materially increases expenses for the target class.[23] The amended rule, as proposed, clarifies that this provision applies only if the expense increase is submitted for a separate vote of target class shareholders.[24]

B. Rule 12b–1

The Commission also is adopting as proposed a technical amendment to rule 12b–1 that clarifies the rule's application to separate series or portfolios of a fund.[25] Rule 12b–1 permits the use of fund assets to finance the distribution of fund shares pursuant to a written plan that describes the distribution financing arrangement and contains certain conditions.[26] Among other conditions, the rule 12b–1 plan must allow fund shareholders to vote on certain matters including approval, amendment, or termination of the plan.[27] Rule 12b–1 provides that a plan may cover more than one class of shares if the plan's provisions are severable for each class and if votes by shareholders and other required actions are taken separately for each class.[28] The amendment codifies prior interpretations that a rule 12b–1 plan also may cover more than one series or portfolio under the same conditions applicable when a plan covers more than one class.[29]

II. Cost/Benefit Analysis and Effects On Competition, Efficiency, And Capital Formation

In the proposing release, the Commission provided a Cost-Benefit Analysis on the amendments and requested comments. No comments were received on the analysis. The Commission is sensitive to the costs and benefits imposed by its rules. The amendments to rule 18f–3 provide greater flexibility to multiple class funds in allocating to each class its proportionate share of income, gains and losses, and fundwide expenses. The amended rule gives every fund a selection of one or more new specified methods without limiting the use of previously authorized methods. The amended rule also authorizes the use of an unspecified method selected by the fund subject to appropriate safeguards. A fund's selection of any method permitted by the amendments should not substantially increase the fund's costs in making allocations. The amended rule also reduces costs by allowing more funds to rely on the rule instead of obtaining and complying with exemptive orders, and by eliminating

and Class B were assessed .80% for class expenses, use of the simultaneous equations method during a full year that produced gross returns of 10.75% should result in an annualized rate of return of approximately 9.70% for Class A and 9.20% for Class B.

[14] The equations should allocate the day's income, realized gains (or losses), unrealized appreciation (or depreciation), and fundwide expenses and reallocate each class's undistributed net investment income, undistributed realized gains (or losses), and unrealized appreciation (or depreciation).

[15] An example of equations for a fund having two classes of shares appeared in an appendix to the Proposing Release, and is attached to this release as Appendix A.

[16] See ICI Letter, *supra* note 7, at 2 (recommending that Commission not specify particular equations). Any equations selected generally should be applied on a consistent basis. See *infra* note 21 and accompanying text.

[17] Amended rule 18f–3(c)(1)(v) [17 CFR 270.18f–3(c)(1)(v)]; see section 2(a)(19) of the Investment Company Act [15 U.S.C. 80a–2(a)(19)] (defining ''interested person'' of a fund).

[18] See *supra* note 13 and accompanying text.

[19] The allocation methods specified in the rule provide standards for determining whether a new allocation method is fair to shareholders.

[20] The amended rule should not impose significant additional burdens on fund boards, which remain free to permit only the use of one of the allocation methods specified in the rule.

[21] Amended rule 18f–3(c)(1) [17 CFR 270.18f–3(c)(1)]; see also 1995 Release, *supra* note 1, at text accompanying nn. 24–25. Because the selected allocation method should be consistently applied from period to period, changes in the method are expected to be rare. See also rule 18f–3(d) [17 CFR 270.18f–3(d)] (before any material amendment of a plan governing a multiple class arrangement, the fund's directors must determine that the plan as proposed to be amended, including the expense allocation, is in the best interests of each class individually and the fund as a whole).

[22] The purchase class typically pays an asset-based distribution fee and a contingent deferred sales charge. The conversion feature is intended to permit long-term shareholders to receive the benefit of a lower distribution fee (or no fee) charged to the target class. See Proposing Release, *supra* note 5, at n.16 and accompanying text.

[23] In the alternative, the fund could establish a new target class for purchase class shareholders on the same terms that applied to the target class before the increase.

[24] Amended rule 18f–3(e)(2)(iii) [17 CFR 270.18f–3(e)(2)(iii)]. An increase that implicates this provision would include, for example, a proposal to increase distribution fees materially for the target class under a rule 12b–1 plan or certain shareholder services plans.

[25] Amended rule 12b–1(g) [17 CFR 270.12b–1(g)].

[26] Rule 12b–1(b) [17 CFR 270.12b–1(b)].

[27] See rule 12b–1(b)(1), (b)(3)(iii) to (iv)(A), (b)(4), (g) [17 CFR 270.12b–1(b)(1), (b)(3)(iii) to (iv)(A), (b)(4), (g)].

[28] Rule 12b–1(g).

[29] Amended rule 12b–1(g); see Distribution of Shares by Registered Open-End Management Investment Company, Investment Company Act Release No. 22201 at n.7 and accompanying text (Sept. 9, 1996) [61 FR 49010 (Sept. 17, 1996)] (rule 12b–1 has been interpreted to treat each series of a fund as a separate fund; a series or class not publicly offered should be treated in same way as a fund not publicly offered). The amended rule also deletes current rule 12b–1(g)'s description of certain voting rights of purchase class shareholders under rule 18f–3, which is a matter addressed by rule 18f–3 itself. The amended rule substitutes a reference to amended rule 18f–3(e)(2)(iii). Amended rule 12b–1(g).

unnecessary requirements to solicit votes of purchase class shareholders. The amendment to rule 12b–1 does not impose a burden because it codifies an existing interpretation of the rule.

Section 2(c) of the Investment Company Act provides that whenever the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission must consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.[30] The Commission has considered the amendments to rule 18f–3 and rule 12b–1 in light of these standards. The Commission believes the amendments to rule 18f–3 are consistent with the public interest and may promote efficiency and competition because they broaden the scope and flexibility of an exemptive rule, may reduce costs and other burdens for funds, and may thereby encourage more funds to offer multiple classes of shares. The Commission believes that the amendments will have no adverse effect on capital formation. The amendment to rule 12b–1, as a codification of an existing interpretation of the rule, will not have significant effects on efficiency, competition, or capital formation.

III. Summary of Final Regulatory Flexibility Analysis

The Initial Regulatory Flexibility Analysis (''IRFA''), which was prepared in accordance with 5 U.S.C. 603, was published in Investment Company Act Release No. 22203. No comments were received on the IRFA. The Commission has prepared a Final Regulatory Flexibility Analysis (''FRFA'') in accordance with 5 U.S.C. 604. The FRFA indicates that the amendments to rule 18f–3 enable multiple class funds, including small entities, to rely on the rule instead of exemptive orders and to benefit from more flexible compliance requirements by expanding specified allocation methods and permitting the use of an unspecified method if directors determine that it is fair. In addition, the FRFA states that the amendments clarify compliance requirements by eliminating unnecessary voting provisions consistent with the Commission's original intent. The FRFA explains that the amendment to rule 12b–1 codifies existing interpretations treating multiple series of a series fund like multiple classes of a portfolio.

The FRFA notes that in response to comments from the public, the Commission modified the amendments to permit the selection of unspecified methods. The FRFA also discusses the amendments' effect on small entities that are registered open-end management investment companies. For purposes of the amendments, small entities are those having net assets of $50 million or less as of the end of their most recent fiscal year. The Commission estimates that there are 500 small entities out of 3000 active open-end management investment companies, and that 43 of those 500 offer multiple classes of shares. The FRFA states that the rules do not impose any new reporting, recordkeeping, or other compliance requirements.

The FRFA also discusses the Commission's efforts to minimize significant economic impact on small entities, noting that the amendments' effect is generally positive for all affected funds including small entities. The FRFA notes that the Commission considered several alternatives that might minimize any effect on small entities, including (a) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (b) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the rules or any part of the rules for small entities. The FRFA states that the amendments generally increase flexibility, simplify or clarify existing compliance requirements, and introduce performance standards by permitting the use of an unspecified allocation method determined to be fair. In light of these considerations, the FRFA states that it would be inconsistent with the purposes of the Act to exempt small entities from the amendments or to specify different requirements for small entities. Different compliance or reporting requirements for small entities are not necessary because the rules do not establish any new reporting, recordkeeping, or compliance requirements. The Commission has determined that it is not feasible to further clarify, consolidate, or simplify the rules for small entities consistently with the protection of investors.

Cost-benefit information in the ''Cost/Benefit Analysis'' section of this Release is reflected in the Analysis. A copy of the Final Regulatory Flexibility Analysis may be obtained by contacting Thomas M. J. Kerwin, Mail Stop 10–2, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

IV. Statutory Authority

The Commission is amending rule 12b–1 pursuant to the authority set forth in sections 12(b) and 38(a) of the Investment Company Act [15 U.S.C. 80a–12(b), –37(a)], and is amending rule 18f–3 under sections 6(c), 18(i), and 38(a) of the Investment Company Act [15 U.S.C. 80a–6(c), –18(i), –37(a)].

List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text Of Rule Amendments

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

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority citation for Part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39 unless otherwise noted;

* * * * *

2. Section 270.12b–1 is amended by revising paragraph (g) to read as follows:

§ 270.12b–1 Distribution of shares by registered open-end management investment company.

* * * * *

(g) If a plan covers more than one series or class of shares, the provisions of the plan must be severable for each series or class, and whenever this section provides for any action to be taken with respect to a plan, that action must be taken separately for each series or class affected by the matter. Nothing in this paragraph (g) shall affect the rights of any purchase class under § 270.18f–3(e)(2)(iii).

3. Section 270.18f–3 is amended by revising paragraphs (c) and (e)(2)(iii) to read as follows:

§ 270.18f–3 Multiple class companies.

* * * * *

(c) (1) Income, realized gains and losses, unrealized appreciation and depreciation, and Fundwide Expenses shall be allocated based on one of the following methods (which method shall be applied on a consistent basis):

(i) To each class based on the net assets of that class in relation to the net assets of the company (''relative net assets'');

(ii) To each class based on the Simultaneous Equations Method;

(iii) To each class based on the Settled Shares Method, *provided that* the

[30] 15 U.S.C. 80a–2(c).

company is a Daily Dividend Fund (such a company may allocate income and Fundwide Expenses based on the Settled Shares Method and realized gains and losses and unrealized appreciation and depreciation based on relative net assets);

(iv) To each share without regard to class, *provided that* the company is a Daily Dividend Fund that maintains the same net asset value per share in each class; that the company has received undertakings from its adviser, underwriter, or any other provider of services to the company, agreeing to waive or reimburse the company for payments to such service provider by one or more classes, as allocated under paragraph (a)(1) of this section, to the extent necessary to assure that all classes of the company maintain the same net asset value per share; and that payments waived or reimbursed under such an undertaking may not be carried forward or recouped at a future date; or

(v) To each class based on any other appropriate method, *provided that* a majority of the directors of the company, and a majority of the directors who are not interested persons of the company, determine that the method is fair to the shareholders of each class and that the annualized rate of return of each class will generally differ from that of the other classes only by the expense differentials among the classes.

(2) For purposes of this section:

(i) *Daily Dividend Fund* means any company that has a policy of declaring distributions of net investment income daily, including any money market fund that determines net asset value using the amortized cost method permitted by § 270.2a–7;

(ii) *Fundwide Expenses* means expenses of the company not allocated to a particular class under paragraph (a)(1) of this section;

(iii) The *Settled Shares Method* means allocating to each class based on relative net assets, excluding the value of subscriptions receivable; and

(iv) The *Simultaneous Equations Method* means the simultaneous allocation to each class of each day's income, realized gains and losses, unrealized appreciation and depreciation, and Fundwide Expenses and reallocation to each class of undistributed net investment income, undistributed realized gains or losses, and unrealized appreciation or depreciation, based on the operating results of the company, changes in ownership interests of each class, and expense differentials between the classes, so that the annualized rate of return of each class generally differs from that of the other classes only by the expense differentials among the classes.

* * * * *

(e) * * *

(2) * * *

(iii) If the shareholders of the target class approve any increase in expenses allocated to the target class under paragraphs (a)(1)(i) and (a)(1)(ii) of this section, and the purchase class shareholders do not approve the increase, the company will establish a new target class for the purchase class on the same terms as applied to the target class before that increase.

* * * * *

Dated: September 26, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

Note: Appendix A to the preamble will not appear in the Code of Federal Regulations.

Appendix A—Simultaneous Equations Method

The equations set forth below are examples of a set of simultaneous equations that could be used as an allocation method in a multiple class fund with two classes at the end of day t. The inception date of class B shares is assumed to be on or after the inception date of class A shares.

Equation 1: $A_t + B_t = G_t + C_t$

Equation 2: $A_t/S_{at} - B_t/S_{bt} = dx(NAV_0)$

where:

A_t: the total net assets to be allocated to class A at the end of day t

B_t: the total net assets to be allocated to class B at the end of day t

G_t: the cumulative undistributed net change in assets from operations for the fund at the end of day t

C_t: the cumulative capital for the fund at the end of day t

S_{at}: the number of shares in class A at the end of day t

S_{bt}: the number of shares in class B at the end of day t

d: the time adjustment factor, calculated as the number of days since the inception of class B or the ex-dividend date of the last income distribution, whichever is more recent, divided by 365

x: the differential in expense ratios between the two classes

NAV_0: the NAV per share for class A and class B on day 0, where day 0 is either the day class B commences trading or the ex-dividend date of the last income distribution, whichever is more recent.

[FR Doc. 97–26145 Filed 10–2–97; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 10, 11, 12, 18, 24, 103, 112, 122, 127, 133, 141, 143, 148, 151, 152, 159, 171, 177 and 191

[T.D. 97–82]

Technical Amendments to the Customs Regulations

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document makes various minor technical changes and corrections to the Customs Regulations, in accordance with the Customs policy of periodically reviewing its regulations to ensure that they are current.

EFFECTIVE DATE: October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Harold Singer, Regulations Branch, Office of Regulations and Rulings (202–927–2268).

SUPPLEMENTARY INFORMATION:

Background

The technical amendments set forth in this document involve Parts 4, 10, 11, 12, 18, 24, 103, 112, 122, 127, 133, 141, 143, 148, 151, 152, 159, 171, 177 and 191 of the Customs Regulations (19 CFR Parts 4, 10, 11, 12, 18, 24, 103, 112, 122, 127, 133, 141, 143, 148, 151, 152, 159, 171, 177 and 191) and are summarized below.

Discussion of Changes

Part 4

1. In the table set forth under § 4.20(c), in the column headed ''Light money'', the second figure (''.05'') is corrected to read ''.50''.

2. At the end of § 4.80(a)(3), the reference to ''46 CFR subpart 67.03'' is corrected to read ''46 CFR 67.3''.

Part 10

1. In the third sentence of § 10.1(i), the reference to ''§ 142.11(b)'' is corrected to read ''§ 141.11(b)''.

2. In the last sentence of § 10.7(d), the reference to ''§ 10.6(c)'' is corrected to reflect that present § 10.6 (which corresponds in substance to former § 10.6(c)) is not subdivided.

3. In the second sentence of § 10.11(b), the reference to ''item 807.00'' is replaced by the appropriate Harmonized Tariff Schedule of the United States (HTSUS) reference which appears correctly in the first sentence.

4. In § 10.41b, the number ''12'' appearing in the first sentence of the introductory text of paragraph (b) and

the number ''16'' appearing in the text of paragraph (b)(7) are removed, because these numbers have no relevance in these texts. Also in § 10.41b, the reference in the introductory text of paragraph (d)(1) to ''paragraph (c)(2)'' is corrected to read ''paragraph (d)(2)''.

5. In § 10.46, the words ''upon compliance with §§ 10.43–10.45, or'' are removed, because §§ 10.44 and 10.45 do not exist and § 10.43 is not relevant in this context.

6. In the second sentence of § 10.63, the cross-reference to § 23.4 is removed, because no such section exists.

7. In § 10.67(c), the words ''and the merchandise was identified, registered, and exported in accordance with the regulations set forth in § 10.8 (e), (g), (h), and (i) governing the exportation of articles sent abroad for repairs'' are removed. This change is necessary because § 10.8 was revised (among other things, to do away with the pre-exportation registration procedure) and, as so revised, no longer contains paragraphs (e), (g), (h), and (i)—see T.D. 94–47, published in the **Federal Register** on May 17, 1994 (59 FR 25563).

8. In § 10.75, the word ''That'' at the beginning of the last sentence is corrected to read ''The'', for purely grammatical reasons.

9. In § 10.90(a), the reference to ''subheading 8524.90.20'' is corrected to read ''subheading 8524.99.20''.

10. In the first sentence of § 10.100, the reference to ''§ 141.83(c)(8)'' is corrected to read ''141.83(d)(8)''.

11. In the first sentence of § 10.151, the reference ''§ 101.1(o)'' is changed to read ''§ 101.1'' and the word ''or'' is inserted after ''declaration''. The first change is necessary because the definition paragraphs in § 101.1 no longer have letter designations, and the second change is for purely grammatical reasons.

12. In the first and fifth sentences of § 10.180(a), the references to HTSUS subheadings ''0201.20.20, 0201.30.20, 0202.20.20, 0202.30.20'' are changed to reflect the current HTSUS subheading numbers that pertain to the products at issue.

Part 11

In the first sentence of § 11.9(b), the words ''manufacturer or purchaser of'' are corrected to read ''manufacturer or purchaser or'', to properly reflect the intent and context of the immediately following words in the regulatory text (''a duly registered trade name'', which under the regulation may be used in place of the actual name of the manufacturer or purchaser).

Part 12

1. In the first sentence of § 12.29(d), the reference to ''Chapter 4, Additional U.S. Note 2'' is corrected to read ''Chapter 4, Additional U.S. Note 26''.

2. In § 12.33(e), ''Department of Health, Education, and Welfare'' is corrected to read ''Department of Health and Human Services''.

Part 18

In the first sentence of § 18.6(d), the reference to ''§ 114.22(c)(3)'' is corrected to read ''§ 114.22(d)''.

Part 24

Section 612(a) of the Uruguay Round Agreements Act (the URAA, Public Law 103–465, 108 Stat. 4809) amended the merchandise processing fee provisions of the Customs user fee statute (codified at 19 U.S.C. 58c), *inter alia*, by (1) increasing the basic ad valorem rate for formal entries and releases to ''0.21'' percent, (2) increasing to ''$6'' the fee for each informal entry or release that is manual and not prepared by Customs personnel, (3) increasing to ''$9'' the fee for each informal entry or release (whether automated or manual) that is prepared by Customs personnel, and (4) increasing the formal entry or release maximum and minimum fees to ''$485'' and ''$25'' respectively. Accordingly, § 24.23(b)(1)(i) (A) and (B) and (b)(2)(i) (B) and (C) are modified to reflect the current statutory fee provisions which Customs has been following since January 1, 1995, when the changes made by section 612(a) of the URAA took effect.

Part 103

In § 103.11(b)(2)(xii), the reference to ''§ 114.22(a) and (b)'' is changed to read ''§ 114.22(a)'', because paragraph (b) is in reserved status and thus contains no regulatory text.

Part 112

In § 112.26, the reference to ''§ 113.26'' is corrected to read ''§ 113.27''.

Part 122

In § 122.152, the last sentence is removed because the ''subpart P'' referred to therein is reserved and thus contains no regulatory text.

Part 127

In the second sentence of § 127.33, the reference to ''Subchapter XV'' is corrected to read ''Subchapter IV''.

Part 133

1. At the end of § 133.21(d), the reference within the parentheses to ''§ 133.24'' is corrected to read ''§ 133.23a''.

2. In § 133.23(b)(3), the reference within parentheses to ''§ 133.24'' is corrected to read ''§ 133.23a''.

Part 141

1. In the authority citations for Part 141, the specific authority citation for subpart B is removed, because the statutory provision referenced therein was repealed in 1983 by section 201(c) of Public Law 97–446.

2. At the end of § 141.1(f), the reference within the parentheses to ''part 20'' is corrected to read ''part 27''.

3. In § 141.4, in the introductory text of paragraph (c), the reference to ''General Note 13(e)'' is corrected to read ''General Note 16(e)''.

4. In the first sentence of § 141.11(b), the reference to ''subpart B of this chapter'' is corrected to read ''subpart B of part 142 of this chapter''.

5. In § 141.61, in paragraph (a)(1), the parenthetical reference at the end of the second sentence to ''§ 101.1(k)'' is corrected to read ''§ 101.1 of this chapter'', because the definition paragraphs in § 101.1 no longer have letter designations. Also in § 141.61, in paragraph (e)(3), the reference to ''General Statistical Note 1(b)(V)'' is corrected to read ''General Statistical Note 1(b)(ii)''.

6. At the end of § 141.69(a), the reference to ''§ 141.68(f)'' is corrected to read ''§ 141.68(g)''.

7. In § 141.83, paragraph (d)(1) is removed, because it relates to the special Customs invoice which, along with the text of paragraph (a), has been eliminated.

8. In § 141.89(a), in the product listings for machine tools, the reference in item (4) to subheading ''8457.10.0010 through 8457.10.0050'' is corrected to read ''8457.10.00''.

9. In § 141.112(f), the reference to ''§ 158.10'' is corrected to read ''158.44''.

Part 143

In § 143.1(b), the reference to ''§ 101.1(l)'' is corrected to read ''§ 101.1'', because the definition paragraphs in § 101.1 no longer have letter designations.

Part 148

In § 148.41, the reference to subheading ''9804.00.20'' is corrected to read ''9804.00.40''.

Part 151

In § 151.4, paragraph (b)(2) (which refers to sampling of benzenoid chemicals) is removed, because there are no longer any special sampling procedures applicable to benzenoid

chemicals. Subpart D of part 152 of the Customs Regulations (which included the § 152.35 referred to in this paragraph (b)(2)) was removed by T.D. 87–89 (52 FR 24444) which made a number of changes to the Customs Regulations to reflect the replacement of the old value law by the new value law under the Trade Agreements Act of 1979.

Part 152

1. In the authority citations for part 152, the specific authority citation for subpart D is removed and the specific authority citation for §§ 152.13 and 152.24 is corrected to refer only to § 152.13, because subpart D and § 152.24 are in reserved status and thus contain no regulatory text.

2. In § 152.102, the reference in paragraph (j)(2) to ''§ 152.103(j)(2)(iv)'' is corrected to read ''§ 152.103(j)(2)(ii)''. Also in § 152.102, the reference in paragraph (k) to ''§ 151.105(c)(3)'' is corrected to read ''§ 152.105(c)(3)''.

Part 159

1. In the first sentence of § 159.33, the reference to ''31 U.S.C. 372(a)'' is corrected to read ''31 U.S.C. 5151(b)''.

2. In the first sentence of § 159.35, the reference to ''31 U.S.C. 372(c)(2)'' is corrected to read ''31 U.S.C. 5151(e)''.

3. At the beginning of the first sentence of § 159.43, the word ''Additional'' is removed because it does not appear in the title of the referenced U.S. Note.

Part 171

In appendix C to part 171, the reference to ''19 CFR 141.133'' at the end of paragraph E.2. of section II is corrected to read ''19 CFR 141.33''.

Part 177

In § 177.2(b)(2)(iii), the reference in the first sentence to ''subparts C and D of part 152'' is corrected to read ''subpart C of part 152'', because subpart D of part 152 is reserved and thus contains no regulatory text.

Part 191

1. At the end of § 191.91, the reference within the parentheses to ''§ 191.4(a)(10)'' is corrected to read ''§ 191.4(a)(12)''.

2. At the end of § 191.131(a), the reference within the parentheses to ''§ 191.4(a)(11)'' is corrected to read ''§ 191.4(a)(13)''.

3. In § 191.161, the words ''fourth provision'' are corrected to read ''fourth proviso'' and at the end the reference within the parentheses to ''§ 191.4(a)(12)'' is corrected to read ''§ 191.4(a)(14)''.

Inapplicability of Public Notice and Comment and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Because the amendments only involve technical corrections to conform the affected texts to existing law or other regulatory provisions, notice and public procedure in this case are inapplicable and unnecessary pursuant to 5 U.S.C. 553(b)(B), and, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required. Since this document is not subject to the aforesaid requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Furthermore, these amendments do not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Drafting Information: The principal author of this document was Francis W. Foote, Regulations Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 4

Arrival, Bonds, Cargo vessels, Coastal zone, Coastwise trade, Common carriers, Customs duties and inspection, Declarations, Entry, Exports, Fees, Fishing vessels, Foreign commerce and trade statistics, Freight, Harbors, Imports, Inspection, Landing, Maritime carriers, Merchandise, Passenger Vessels, Repairs, Reporting and recordkeeping requirements, Seamen, Shipping, Vessels, Yachts.

19 CFR Part 10

Aircraft, Alterations, American goods, Animals, Art, Assembly, Automotive products, Bonds, Customs duties and inspection, Exports, Imports, International traffic, Packaging and containers, Preference programs, Repairs, Reporting and recordkeeping requirements, Shipments, Trade agreements, Value content, Vessels, Vehicles.

19 CFR Part 11

Customs duties and inspection, Furs, Labeling, Liquor, Marking, Packaging and containers, Precious metals, Prohibited merchandise, Reporting and recordkeeping requirements, Textiles and textile products, Tobacco products, Wool.

19 CFR Part 12

Agriculture and agricultural products, Animals, Bonds, Chemicals, Cultural property, Customs duties and inspection, Dairy products, Entry of merchandise, Imports, Labeling, Licensing, Marking, Prohibited merchandise, Restricted merchandise, Reporting and recordkeeping requirements, Seizure and forfeiture, Trade agreements, Vehicles, Vessels.

19 CFR Part 18

Bonds, Bonded transportation, Common carriers, Customs duties and inspection, Exports, Foreign trade statistics, Imports, Prohibited merchandise, Restricted merchandise, Reporting and recordkeeping requirements, Transportation, Vehicles, Vessels.

19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Fees, Financial and accounting procedures, Foreign trade statistics, Reporting and recordkeeping requirements, Taxes, Trade agreements, User fees, Wages.

19 CFR Part 103

Administrative practice and procedure, Confidential business information, Courts, Freedom of Information, Imports, Law enforcement, Privacy, Reporting and recordkeeping requirements.

19 CFR Part 112

Administrative practice and procedure, Bonds, Common carriers, Customs duties and inspection, Exports, Freight forwarders, Imports, Licensing, Motor carriers, Reporting and recordkeeping requirements.

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Airports, Air transportation, Baggage, Bonds, Cuba, Customs duties and inspection, Foreign commerce and trade statistics, Freight, Imports, Penalties, Reporting and recordkeeping requirements, Security measures.

19 CFR Part 127

Customs duties and inspection, Exports, Reporting and recordkeeping requirements.

19 CFR Part 133

Copyrights, Customs duties and inspection, Fees assessment, Imports, Penalties, Prohibited merchandise, Reporting and recordkeeping requirements, Restricted merchandise (counterfeit goods), Seizures and forfeitures, Trademarks, Trade names, Unfair competition.

19 CFR Part 141

Bonds, Customs duties and inspection, Entry of merchandise,

Foreign trade statistics, Invoices, Packaging, Powers of attorney, Release of merchandise, Reporting and recordkeeping requirements, Trademarks, Trade names.

19 CFR Part 143

Automated Broker Interface (ABI), Computer technology, Customs duties and inspection, Electronic entry filing, Entry of merchandise, Invoice requirements, Reporting and recordkeeping requirements.

19 CFR Part 148

Airmen, Aliens, Baggage, Crewmembers, Customs duties and inspection, Declarations, Foreign officials, Government employees, International organizations, Privileges and Immunities, Reporting and recordkeeping requirements, Seamen, Taxes.

19 CFR Part 151

Customs duties and inspection, Examination, Fees assessment, Imports, Laboratories, Licensing, Penalties, Reporting and recordkeeping requirements, Sampling and testing.

19 CFR Part 152

Appraisement, Classification, Customs duties and inspection, Valuation.

19 CFR Part 159

Antidumping, Computer technology, Countervailing duties, Customs duties and inspection, Discriminating duties, Entry procedures, Imports, Liquidation of entries for merchandise, Suspension of liquidation pending disposition of American manufacturer's cause of action, Value content.

19 CFR Part 171

Administrative practice and procedure, Customs duties and inspection, Law enforcement, Penalties, Seizures and forfeitures.

19 CFR Part 177

Administrative practice and procedure, Courts, Customs duties and inspection, Government procurement, Judicial proceedings, Reporting and recordkeeping requirements, Rulings.

19 CFR Part 191

Bonds, Canada, Commerce, Customs duties and inspection, Drawback, Exports, Mexico, Reporting and recordkeeping requirements.

Amendments to the Regulations

Parts 4, 10, 11, 12, 18, 24, 103, 112, 122, 127, 133, 141, 143, 148, 151, 152, 159, 171, 177 and 191, Customs Regulations (19 CFR parts 4, 10, 11, 12, 18, 24, 103, 112, 122, 127, 133, 141, 143, 148, 151, 152, 159, 171, 177 and 191), are amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority citation for part 4 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91;

* * * * *

Section 4.20 also issued under 46 U.S.C. 2107(b), 8103, 14306, 14502, 14511, 14512, 14513, 14701, 14702, 46 U.S.C. App. 121, 128;

* * * * *

Section 4.80 also issued under 46 U.S.C. 12106, 46 U.S.C. App. 251, 289, 319, 802, 808, 883, 883–1;

* * * * *

§ 4.20 [Amended]

2. In § 4.20, in the table under paragraph (c), in the column headed ''Light money'', the figure ''.05'' is revised to read ''.50''.

§ 4.80 [Amended]

3. In § 4.80, at the end of the second sentence of paragraph (a)(3), the reference ''46 CFR subpart 67.03'' is revised to read ''46 CFR 67.3''.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10 and the specific authority citation for § 10.41b are revised, and the specific authority citation for § 10.63 continues to read, as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

Section 10.41b also issued under 19 U.S.C. 1202 (Chapter 98, Subchapter III, U.S. Note 3, HTSUS);

* * * * *

Sections 10.61, 10.62, 10.63, 10.64, 10.64a also issued under 19 U.S.C. 1309;

* * * * *

§ 10.1 [Amended]

2. In § 10.1, in the third sentence of paragraph (i), the reference ''§ 142.11(b)'' is revised to read ''§ 141.11(b)''.

§ 10.7 [Amended]

3. In § 10.7, in the second sentence of paragraph (d), the reference ''§ 10.6(c)'' is revised to read ''§ 10.6''.

§ 10.11 [Amended]

4. In § 10.11, the second sentence of paragraph (b) is amended by removing the reference ''item 807.00'' and adding, in its place, the reference ''subheading 9802.00.80, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202)''.

§ 10.41b [Amended]

5. In § 10.41b:

a. In the introductory text of paragraph (b), in the first sentence, the number ''12'' is removed;

b. In paragraph (b)(7), the number ''16'' is removed; and

c. In the introductory text of paragraph (d)(1), the reference ''paragraph (c)(2)'' is revised to read ''paragraph (d)(2)''.

§ 10.46 [Amended]

6. In § 10.46, the words ''upon compliance with §§ 10.43–10.45, or'' are removed.

§ 10.63 [Amended]

7. In § 10.63, the second sentence is amended by removing the reference ''§§ 4.39 and 23.4'' and adding, in its place, the reference ''§ 4.39''.

§ 10.67 [Amended]

8. In § 10.67, in paragraph (c), the words ''and the merchandise was identified, registered, and exported in accordance with the regulations set forth in § 10.8(e), (g), (h), and (i) governing the exportation of articles sent abroad for repairs'' are removed.

§ 10.75 [Amended]

9. In § 10.75, at the beginning of the second sentence, the word ''That'' is revised to read ''The''.

§ 10.90 [Amended]

10. In § 10.90, in paragraph (a), the reference ''subheading 8524.90.20'' is revised to read ''subheading 8524.99.20''.

§ 10.100 [Amended]

11. In § 10.100, in the first sentence, the reference ''141.83(c)(8)'' is revised to read ''141.83(d)(8)''.

§ 10.151 [Amended]

12. In § 10.151, in the first sentence, the reference ''§ 101.1(o)'' is revised to read ''§ 101.1'' and the word ''or'' is added after ''declaration''.

§ 10.180 [Amended]

13. In § 10.180, in the first and fifth sentences of paragraph (a), the reference ''subheadings 0201.20.20, 0201.30.20, 0202.20.20, 0202.30.20'' is revised to read ''subheadings 0201.20.10, 0201.30.02, 0202.20.02, 0202.20.10''.

PART 11—PACKING AND STAMPING; MARKING

1. The authority citation for part 11 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Notes 20 and 21, Harmonized Tariff Schedule of the United States), 1624.

§ 11.9 [Amended]

2. In § 11.9, the first sentence of paragraph (b) is amended by removing the words ''manufacturer or producer of'' and adding, in their place, the words ''manufacturer or producer or''.

PART 12—SPECIAL CLASSES OF MERCHANDISE

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

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

§ 12.29 [Amended]

2. In § 12.29, in the first sentence of paragraph (d), the reference ''Chapter 4, Additional U.S. Note 2'' is revised to read ''Chapter 4, Additional U.S. Note 26''.

§ 12.33 [Amended]

3. In § 12.33, paragraph (e) is amended by removing the words ''Department of Health, Education, and Welfare'' and adding, in their place, the words ''Department of Health and Human Services''.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. The authority citation for part 18 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1624.

* * * * *

§ 18.6 [Amended]

2. In § 18.6, in the first sentence of paragraph (d), the reference ''§ 114.22(c)(3)'' is revised to read ''§ 114.22(d)''.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for part 24 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1450, 1624; 31 U.S.C. 9701.

* * * * *

§ 24.23 [Amended]

2. In § 24.23:

a. In paragraph (b)(1)(i)(A), in the first sentence, the figure ''0.19 percent'' is revised to read ''0.21 percent'';

b. In paragraph (b)(1)(i)(B), the figure ''$400'' is revised to read ''$485'' and the figure ''$21'' is revised to read ''$25'';

c. In paragraph (b)(2)(i)(B), the figure ''$5'' is revised to read ''$6''; and

d. In paragraph (b)(2)(i)(C), the figure ''$8'' is revised to read ''$9''.

PART 103—AVAILABILITY OF INFORMATION

1. The authority citation for part 103 continues to read in part as follows:

Authority: 5 U.S.C. 301, 552, 552a; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

* * * * *

§ 103.11 [Amended]

2. In § 103.11, in paragraph (b)(2)(xii), the reference ''§ 114.22 (a) and (b)'' is revised to read ''§ 114.22(a)''.

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

1. The authority citation for part 112 continues to read as follows:

Authority: 19 U.S.C. 66, 1551, 1565, 1623, 1624.

§ 112.26 [Amended]

2. In § 112.26, the reference ''§ 113.26'' is revised to read ''§ 113.27''.

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

§ 122.152 [Amended]

2. In § 122.152, the last sentence is removed.

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

1. The authority citation for part 127 continues to read as follows:

Authority: 19 U.S.C. 66, 1311, 1312, 1484, 1485, 1490, 1491, 1492, 1506, 1559, 1563, 1623, 1624, 1646a; 26 U.S.C. 7553.

§ 127.33 [Amended]

2. In § 127.33, in the second sentence, the reference ''Subchapter XV'' is revised to read ''Subchapter IV''.

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

1. The authority citation for part 133 continues to read in part as follows:

Authority: 17 U.S.C. 101, 601, 602, 603; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

* * * * *

Section 133.21 also issued under 15 U.S.C. 1124, 19 U.S.C. 1526;

* * * * *

§ 133.21 [Amended]

2. In § 133.21, at the end of paragraph (d), the reference ''§ 133.24'' within the parentheses is revised to read ''§ 133.23a''.

§ 133.23 [Amended]

3. In § 133.23, in paragraph (b)(3), the reference ''§ 133.24'' within the parentheses is revised to read ''§ 133.23a''.

PART 141—ENTRY OF MERCHANDISE

1. The authority citation for part 141 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

* * * * *

Subpart F also issued under 19 U.S.C. 1481;

* * * * *

Section 141.1 also issued under 11 U.S.C. 507(a)(7)(F), 31 U.S.C. 191, 192;

* * * * *

Section 141.4 also issued under 19 U.S.C. 1202 (General Note 13; Chapter 86, Additional U.S. Note 1; Chapter 89, Additional U.S. Note 1; Chapter 98, Subchapter III, U.S. Note 4; Chapter 99, Subchapter V, U.S. Note 9, Harmonized Tariff Schedule of the United States (HTSUS)), 1498;

* * * * *

Section 141.69 also issued under 19 U.S.C. 1315;

* * * * *

Section 141.112 also issued under 19 U.S.C. 1564;

* * * * *

2. The specific authority citation for subpart B is removed.

§ 141.41 [Amended]

3. In § 141.1, at the end of paragraph (f), the reference ''part 20'' within the parentheses is revised to read ''part 27''.

§ 141.4 [Amended]

4. In § 141.4, in the introductory text of paragraph (c), the reference ''General Note 13(e)'' is revised to read ''General Note 16(e)''.

§ 141.11 [Amended]

5. In § 141.11, in the first sentence of paragraph (b), the reference ''subpart B of this chapter'' is revised to read ''subpart B of part 142 of this chapter''.

§ 141.61 [Amended]

6. In § 141.61:

a. In paragraph (a)(1), at the end of the second sentence, the reference ''§ 101.1(k)'' within the parentheses is revised to read ''§ 101.1 of this chapter''; and

b. In paragraph (e)(3), the reference ''General Statistical Note 1(b)(V)'' is revised to read ''General Statistical Note 1(b)(ii)''.

§ 141.69 [Amended]

7. In § 141.69, at the end of paragraph (a), the reference ''§ 141.68(f)'' is revised to read ''§ 141.68(g)''.

§ 141.83 [Amended]

8. In § 141.83, paragraph (d)(1) is removed and reserved.

§ 141.89 [Amended]

9. In § 141.89, under paragraph (a), in the product listings for machine tools, the reference in item (4) to ''Subheading 8457.10.0010 through 8457.10.0050'' is revised to read ''Subheading 8457.10.00''.

§ 141.112 [Amended]

10. In § 141.112, in paragraph (f), the reference ''158.10'' is revised to read ''158.44''.

PART 143—SPECIAL ENTRY PROCEDURES

1. The authority citation for part 143 continues to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1498, 1624.

§ 143.1 [Amended]

2. In § 143.1, in paragraph (b), the reference ''§ 101.1(l)'' is revised to read ''§ 101.1''.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The authority citation for part 148 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 20, Harmonized Tariff Schedule of the United States).

* * * * *

§ 148.41 [Amended]

2. In § 148.41, the reference ''subheading 9804.00.20'' is revised to read ''subheading 9804.00.40''.

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. The authority citation for part 151 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Notes 20 and 21, Harmonized Tariff Schedule of the United States (HTSUS)), 1624. Subpart A also issued under 19 U.S.C. 1499.

* * * * *

§ 151.4 [Amended]

2. In § 151.4, paragraph (b)(2) is removed and reserved.

PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE

1. The authority citation for part 152 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1401a, 1500, 1502, 1624.

* * * * *

2. The specific authority citation for Subpart D is removed.

3. The specific authority citation for §§ 152.13 and 152.24 is amended by removing the words ''Sections 152.13 and 152.24'' and adding, in their place, the words ''Section 152.13''.

§ 152.102 [Amended]

4. In § 152.102:

a. In paragraph (j)(2), the reference ''§ 152.103(j)(2)(iv)'' is revised to read ''§ 152.103(j)(2)(ii)''; and

b. In paragraph (k), the reference ''§ 151.105(c)(3)'' is revised to read ''§ 152.105(c)(3)''.

PART 159—LIQUIDATION OF DUTIES

1. The authority citation for part 159 is revised to read as follows:

Authority: 19 U.S.C. 66, 1500, 1504, 1624. Subpart C also issued under 31 U.S.C. 5151.

§ 159.33 [Amended]

2. In § 159.33, in the first sentence, the reference ''31 U.S.C. 372(a)'' is revised to read ''31 U.S.C. 5151(b)''.

§ 159.35 [Amended]

3. In § 159.35, in the first sentence, the reference ''31 U.S.C. 372(c)(2)'' is revised to read ''31 U.S.C. 5151(e)''.

§ 159.43 [Amended]

4. In § 159.43, at the beginning of the first sentence, the word ''Additional'' is removed.

PART 171—FINES, PENALTIES, AND FORFEITURES

1. The authority citation for part 171 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1592, 1618, 1624.

* * * * *

Appendix C to Part 171 [Amended]

2. In Appendix C to Part 171, in section II, at the end of paragraph E.2., the reference ''19 CFR 141.133'' is revised to read ''19 CFR 141.33''.

PART 177—ADMINISTRATIVE RULINGS

1. The general authority citation for part 177 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1624.

* * * * *

§ 177.2 [Amended]

2. In § 177.2, the first sentence of paragraph (b)(2)(iii) is amended by removing the words ''subparts C and D of part 152'' and adding, in their place, the words ''subpart C of part 152''.

PART 191—DRAWBACK

1. The authority citation for part 191 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1313, 1624.

* * * * *

Sections 191.131(a), 191.133, 191.137, 191.139 also issued under 19 U.S.C. 1557;

* * * * *

§ 191.91 [Amended]

2. In § 191.91, the reference ''§ 191.4(a)(10)'' at the end within the parentheses is revised to read ''§ 191.4(a)(12)''.

§ 191.131 [Amended]

3. In § 191.131, at the end of paragraph (a), the reference ''§ 191.4(a)(11)'' within the parentheses is revised to read ''§ 191.4(a)(13)''.

§ 191.161 [Amended]

4. In § 191.161:

a. The words ''fourth provision'' are removed and the words ''fourth proviso'' are added in their place; and

b. The reference ''§ 191.4(a)(12)'' at the end within the parentheses is revised to read ''§ 191.4(a)(14)''.

George J. Weise,

Commissioner of Customs.

Approved: August 20, 1997.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 97–26220 Filed 10–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PART 12

[T.D. 97–81]

RIN 1515–AC24

Import Restrictions Imposed on Archaeological Artifacts From Guatemala

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the imposition of import restrictions on pre-Columbian culturally significant

archaeological artifacts of Maya material from the Peten Lowlands, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala. These restrictions are being imposed pursuant to an agreement between the United States and Guatemala that has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The document also contains the Designated List of Archaeological Material that describes the articles to which the restrictions apply. These import restrictions imposed pursuant to the bilateral agreement between the United States and Guatemala continue the import restrictions that were imposed on an emergency basis in 1991. Accordingly, this document amends the Customs Regulations by removing Guatemala from the listing of countries for which emergency actions imposed the import restrictions and adding Guatemala to the list of countries for which an agreement has been entered into for imposing import restrictions.

EFFECTIVE DATE: October 3, 1997.

FOR FURTHER INFORMATION CONTACT: (Legal Aspects) Donnette Rimmer, Intellectual Property Rights Branch (202) 482–6960; (Operational Aspects) Joan E. Sebanaler, Trade Operations (202) 927–0402.

SUPPLEMENTARY INFORMATION:

Background

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The U.S. shares in the international concern for the need to protect endangered cultural property. The appearance in the U.S. of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the U.S. to join with other countries to control illegal trafficking of such articles in international commerce.

The U.S. joined international efforts and actively participated in deliberations resulting in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the ''Convention on Cultural Property Implementation Act'' (Pub.L. 97–446, 19 U.S.C. 2601 *et seq.*) (''the Act''). This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance not only to the nations whence they originate, but also to greater international understanding of mankind's common heritage. The U.S. is, to date, the only major art importing country to implement the 1970 Convention.

During the past several years, import restrictions have been imposed on an emergency basis on archaeological and ethnological artifacts of a number of signatory nations as a result of requests for protection received from those nations as well as pursuant to bilateral agreements between the United States and other countries.

Guatemala has been one of the countries whose archaeological material has been afforded emergency protection. In T.D. 91–34, § 12.104g(b), Customs Regulations, (19 CFR 12.104g(b)) was amended to reflect that archaeological material from the Peten Archaeological Region of Guatemala received import protection under the emergency protection provisions of the Act.

Import restrictions are now being imposed on archaeological artifacts of Maya material from the Peten Lowlands, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala as the result of a bilateral agreement entered into between the United States and Guatemala. This agreement was entered into on September 29, 1997, pursuant to the provisions of 19 U.S.C. 2602. Protection of the archaeological material of Maya material from the Peten Lowlands, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala previously reflected in § 12.104g(b) will be continued through the bilateral agreement without interruption. Accordingly, § 12.104g(a) of the Customs Regulations is being amended to indicate that restrictions have been imposed pursuant to the agreement between the United States and Guatemala and the emergency import restrictions on certain archaeological material from Guatemala is being removed from § 12.104g(b) as those restrictions are now encompassed in § 12.104g(a).

Material and Sites Encompassed in Import Restrictions

In reaching the decision to recommend that negotiations for an agreement with Guatemala should be undertaken to continue the imposition of import restrictions on certain archaeological material from the Peten Lowlands, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala, the Deputy Director of the United States Information Agency made a determination that the cultural patrimony of Guatemala continues to be in jeopardy from pillage of irreplaceable materials representing Guatemala heritage and that the pillage is endemic and substantially documented with respect to Maya material from sites in the Peten Lowlands of Guatemala, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala. The Deputy Director listed the following archaeological material as those that are in need of protection:

Material: Archaeological material from sites in the Peten Lowlands of Guatemala, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala. This archaeological material includes, but is not limited to: ceramic vessels and forms; jade or green stone, possibly with traces of red pigment; shell; and bone.

These import restrictions are in addition to similar restrictions imposed by the 1972 Pre-Columbian Monumental or Architectural Sculpture or Murals Statute (19 U.S.C 2091–2095), which has denied entry into the United States of segments of pre-Columbian monuments and stelae since May 2, 1973.

Designated List

The bilateral agreement between Guatemala and the United States covers the material set forth in a Designated List of Archaeological Material from sites in the Peten Lowlands of Guatemala, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala, which is set forth below. Importation of articles on this list is restricted unless the articles are accompanied by documentation certifying that the material left Guatemala legally and not in violation of the export laws of Guatemala.

Archaeological Material From Sites in the Peten Lowlands of Guatemala, and Related Pre-Columbian Material From the Highlands and the Southern Coast of Guatemala

The following categories of material are restricted from importation into the U.S. unless accompanied by a verifiable export certificate issued by the Government of Guatemala—archaeological material from sites in the Peten Lowlands of Guatemala, and related pre-Columbian material from the Highlands and the Southern Coast of Guatemala, that includes, but is not limited to, the categories listed below. As this region is further excavated, other types of material may be found and added to an amended list. The following list is representative only. Any dimensions are approximate.

CHRONOLOGICAL TABLE

Stage	Substage	Dates
Preclassic Stage	Early Preclassic	2000/1500 B.C.–600 B.C.
	Preclassic	600 B.C.–400 B.C.
	Late Preclassic	400 B.C.–250 A.D.
Classic Stage	Early Classic	250 A.D.–550 A.D
	Late Classic	550 A.D.–900 A.D.
Postclassic Stage	Early Postclassic	900 A.D.–1250 A.D.
	Late Postclassic	1250 A.D.–1524 A.D.

Designated List Of Materials

I. Ceramic/Terracotta/Fired Clay—A wide variety of decorative techniques are used on all shapes: fluting, gouged or incised lines and designs, modeled carving, and painted polychrome or bichrome designs of human or animal figures, mythological scenes or geometric motifs. Small pieces of clay modeled into knobs, curls, faces, etc., are often applied to the vessels. Bowls and dishes may have lids or tripod feet.

A. Common Vessels.
1. Vases—(10–25 cm ht).
2. Bowls—(8–15 cm ht).
3. Dishes and plates—(27–62 cm diam).
4. Jars—(12.5–50 cm ht).

B. Special Forms.
1. Drums—polychrome painted and plain (35–75 cm ht).
2. Figurines—human and animal form (6–15 cm ht).
3. Whistles—human and animal form (5–10 cm ht).
4. Rattles—human and animal form (5–7 cm ht).
5. Miniature vessels—(5–10 cm ht).
6. Stamps and seals—engraved geometric design, various sizes and shapes.
7. Effigy vessels—in human or animal form (16–30 cm ht).
8. Incense burners—elaborate painted, applied and modeled decoration in form of human figures (25–50 cm ht).

II. Stone (jade, obsidian, flint, alabaster/calcite, limestone, slate, and other).

A. Figurines—human and animal (7–25 cm ht).

B. Masks—incised decoration and inlaid with shell, human and animal faces (20–25 cm length).

C. Jewelry—various shapes and sizes.
1. Pendants.
2. Earplugs.
3. Necklaces.

D. Stelae, Ritual Objects, Architectural Elements—Carved in low relief with scenes of war, ritual or political events, portraits of rulers or nobles, often inscribed with glyphic texts. Sometimes covered with stucco and painted. The size of stelae and architectural elements such as lintels, posts, steps, decorative building blocks range from .5 meters to 2.5 meters in height. Hachas (thin, carved human or animal heads in the shape of an axe), yokes, and other carved ritual objects are under 1 meter in length or height, but vary in size.

E. Tools and Weapons.
1. Arrowheads (3–7 cm length).
2. Axes, adzes, celts (3–16 cm length).
3. Blades (4–15 cm length).
4. Chisels (20–30 cm length).
5. Spearpoints (3–10 cm length).
6. Eccentric shapes (10–15 cm length).
7. Grindingstones (30–50 cm length).

F. Vessels and Containers.
1. Bowls (10–25 cm ht).
2. Plates/Dishes (15–40 cm diam).
3. Vases (6–23 cm ht).

III. Metal (gold, silver, or other)—Cast or beaten into the desired form, decorated with engraving, inlay, punctured design or attachments. Often in human or stylized animal forms.

A. Jewelry—various shapes and sizes.
1. Necklaces.
2. Bracelets.
3. Disks.
4. Earrings or earplugs.
5. Pendants.

B. Figurines—(5–10 cm ht).

C. Masks—(15—25 cm length).

IV. Shell—Decorated with cinnabar and incised lines, sometimes with jade applied.

A. Figurines—human and animal (2–5 cm ht).

B. Jewelry—various shapes and sizes.
1. Necklaces.
2. Bracelets.
3. Disks.
4. Earrings or earplugs.
5. Pendants.

C. Natural Forms—often with incised designs, various shapes and sizes.

V. Animal Bone—Carved or incised with geometric and animal designs and glyphs.

A. Tools—various sizes.
1. Needles.
2. Scrapers.

B. Jewelry—various shapes and sizes.
1. Pendants.
2. Beads.
3. Earplugs.

Inapplicability of Notice and Delayed Effective Date

Because the amendment to the Customs Regulations contained in this document imposing import restrictions on the above-listed Guatemalan cultural property is being made in response to a bilateral agreement entered into in furtherance of the foreign affairs interests of the United States, pursuant to section 553(a)(1) of the Administrative Procedure Act, (5 U.S.C. 553(a)(1)), no notice of proposed rulemaking or public procedure is necessary. For the same reason, a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a ''significant regulatory action'' as described in E.O. 12866.

Drafting Information: The principal author of this document was Keith B. Rudich, Esq., Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs duties and inspections, Imports, Cultural property.

Amendment to the Regulations

Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below:

PART 12—[AMENDED]

1. The general authority and specific authority citation for Part 12, in part, continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104 [Amended]

2. In § 12.104g, paragraph (a) the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended by adding Guatemala in appropriate alphabetical order as follows:

State	Cultural property	T.D. No.
*	*	*
Guatemala	Archaeological Material From Sites In The Peten Lowlands Of Guatemala, And Related Pre-Columbian Material From The Highlands And The Southern Coast of Guatemala.	T.D. 97—81
*	*	*

3. In § 12.104(g), paragraph (b), the list of emergency actions imposing import restrictions on described articles of cultural property of State parties is amended by removing the entry for ''Guatemala'' in its entirety.

Approved: September 29, 1997.

Samuel H. Banks,

Acting Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 97–26219 Filed 10–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

[T.D. 97–45]

RIN 1515–AA57

Update of Ports Subject to the Harbor Maintenance Fee; Corrections

AGENCY: Customs Service, Treasury.

ACTION: Interim regulations; corrections.

SUMMARY: This document corrects an omission that was made in the interim regulations document published in the **Federal Register** on June 4, 1997, which updated the list of ports that process commercial vessels that transport cargo that are subject to the Water Resources Development Act of 1986.

DATES: This correction is effective October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Patricia Barbare, Office of Finance, (202) 927–0034.

SUPPLEMENTARY INFORMATION:

Background

On June 4, 1997, Customs published in the **Federal Register** (62 FR 30448) interim regulations (T.D. 97–45) which amended § 24.24 of the Customs Regulations (19 CFR 24.24) to update the list of ports that process commercial vessels that transport cargo that are subject to the Water Resources Development Act of 1986. A correction document to these interim regulations was published in the **Federal Register** (62 FR 45156) on August 26, 1997. Since then, it has come to Customs' attention that the June 4 document contains another error. The interim rule document failed to list under the Galveston Bay Ports the ports of Galveston and Texas City and their port codes: 5310 and 5306, respectively. Accordingly, this document corrects that omission.

Corrections to Publication

The document (FR Doc. 97–14409) published in the **Federal Register** (62 FR 30448) on June 4, 1997, is corrected as follows:

1. On page 30453, under the heading for ''Texas'', in the fourth line, the listing ''Galveston Bay Ports* '' should read as follows:

Port code, port name and state	Port descriptions and notations
* * *	* *
Texas	
* * *	* *
Galveston Bay Ports* 5310—Galveston ..... 5306—Texas City	Includes Port Bolivar and all points on Galveston Bay in Galveston County. Movements between points within this area are intraport.
* * *	* *

Dated: September 29, 1997.

Harold M. Singer,

Chief, Regulations Branch.

[FR Doc. 97–26218 Filed 10–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[DEA No. 161F]

Schedules of Controlled Substances: Excluded Veterinary Anabolic Steroid Implant Products

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: The interim rule (62 FR 29289, May 30, 1997) which identified eight veterinary anabolic steroid implant products as being excluded

from the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*) is adopted without change.

DATES: *Effective Date:* October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, 202–307–7183.

SUPPLEMENTARY INFORMATION: The Acting Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), published in the **Federal Register**, an interim rule which identified eight products as being excluded veterinary anabolic steroid implant products (62 FR 29289, May 30, 1997). Comments were requested, none were received.

Therefore, pursuant to the authority delegated to the Administrator of the DEA pursuant to 21 U.S.C. 871(a) and 28 CFR 0.100 and redelegated to the Deputy Assistant Administrator of the Drug Enforcement Administration Office of Diversion Control, pursuant to 28 CFR 0.104, appendix to subpart R, section 7(g), the Deputy Assistant Administrator of the Office of Diversion Control hereby adopts as a final rule, without change, the interim rule amending the products which are described in 21 CFR 1308.26 which was published at 62 FR 29289 on May 30, 1997.

The veterinary anabolic steroid implant products which are described in 21 CFR 1308.26 are excluded from application of the CSA in relation to their production, distribution, and use in animals only. If any person distributes, dispenses or otherwise diverts these products to use in humans, he/she shall be deemed to have distributed a Schedule III controlled substance and may be prosecuted for CSA violations. The veterinary anabolic steroid implants products which are excluded from application of the CSA are as follows:

EXCLUDED VETERINARY ANABOLIC STEROID IMPLANT PRODUCTS

Trade name	Company	NDC or DIN No.	Delivery system	Ingredients	Quantity
Component E–H	Vetlife, Inc., Norcross, GA	021641–002	20 implant belt, 8 pellets/implant.	Testosterone propionate	200 mg/implant (25 mg/pellet)
				Estradiol benzoate	20 mg/implant (2.5 mg/pellet)
Component E–H	Elanco, Scarborough, ON	01968327	20 implant belt, 8 pellets/implant.	Testosterone propionate	200 mg/implant (25 mg/pellet)
				Estradiol benzoate	20 mg/implant (2.5 mg/pellet)
Component TE–S	VetLife, Inc., Norcross, GA.	021641–004	20 implant belt, 6 pellets/implant.	Trenbolone acetate	120 mg/implant (20 mg/pellet)
				Estradiol	24 mg/implant (4 mg/pellet)
Component T–H	VetLife, Inc., Norcross, GA.	021641–006	20 implant belt, 10 pellets/implant.	Trenbolone acetate	200 mg/implant (20 mg/pellet)
Component T–S	VetLife, Inc., Norcross, GA.	021641–005	20 implant belt, 7 pellets/implant.	Trenbolone acetate	140 mg/implant (20 mg/pellet)
F–TO	Animal Health, Upjohn International, Kalamazoo, MI.	00093351	20 implant cartridge belt, 8 pellets/implant.	Testosterone propionate	200 mg/implant (25 mg/pellet)
				Oestradiol benzoate	20 mg/implant (2.5 mg/pellet)
Finaplix-H	Hoechst Roussel Vet, Somerville, NJ.	12799–807–10	10 implant cartridge, 10 pellets/implant.	Trenbolone acetate	200 mg/implant (20 mg/pellet)
Finaplix-S	Hoechst Roussel Vet, Somerville, NJ.	12799–807–07	10 implant cartridge, 7 pellets/implant.	Trenbolone acetate	140 mg/implant (20 mg/pellet)
Heifer-oid	Anchor Division, Boehringer Ingelheim, St. Joseph, MO.		Single & 20 implant cartridge belts, 8 pellets/implant.	Testosterone propionate	200 mg/implant (25 mg/pellet)
				Estradiol benzoate	20 mg/implant (2.5 mg/pellet)
Heifer-oid	Bio-Ceutic Division, Boehringer Ingelheim, St. Joseph, MO.		20 implant cartridge belt, 8 pellets/implant.	Testosterone propionate	200 mg/implant (25 mg/pellet)
				Estradiol benzoate	20 mg/implant (2.5 mg/pellet)
Heifer-oid	Ivy Laboratories, Inc., Overland Park, KS.		Single & 20 implant cartridge belts, 8 pellets/implant.	Testosterone propionate	200 mg/implant (25 mg/pellet)
				Estradiol benzoate	20 mg/implant (2.5 mg/pellet)
Implus-H	The Upjohn Co., Kalamazoo, MI.	0009–0434–01	20 implant cartridge belt, 8 pellets/implant.	Testosterone propionate	200 mg/implant (25 mg/pellet)
				Estradiol benzoate	20 mg/implant (2.5 mg/pellet)
Implus-H	Upjohn Co., Animal Health Div., Orangeville, ON.	06–0434–01 01968327	20 implant cartridge belt, 8 pellets/implant.	Testosterone propionate	200 mg/implant (25 mg/pellet)
				Estradiol benzoate	20 mg/implant (2.5 mg/pellet)
Revalor-G	Hoechst Roussel Vet, Somerville, NJ.	12799–811	10 implant cartridge 2 pellets/implant.	Trenbolone acetate	40 mg/implant (20 mg/pellet)
				Estradiol	4 mg/implant (2 mg/pellet)

EXCLUDED VETERINARY ANABOLIC STEROID IMPLANT PRODUCTS—Continued

Trade name	Company	NDC or DIN No.	Delivery system	Ingredients	Quantity
Revalor-H	Hoechst Roussel Vet, Somerville, NJ.	12799–810	10 implant cartridge, 7 pellets/implant.	Trenbolone acetate	140 mg/implant (20 mg/pellet)
				Estradiol	14 mg/implant (2 mg/pellet)
Revalor-S	Hoechst Roussel Vet, Somerville, NJ.	12799–809	10 implant cartridge, 6 pellets/implant.	Trenbolone acetate	120 mg/implant (20 mg/pellet)
				Estradiol	24 mg/implant 4 mg/pellet)
Synovex H	Fort Dodge Labs, Fort Dodge, IA.	0856–3901	10 implant clip, 8 pellets/ implant.	Testosterone propionate	200 mg/implant (25 mg/pellet)
				Estradiol benzoate	20 mg/implant (2.5 mg/pellet)
Synovex H	Syntex Laboratories, Palo Alto, CA.		10 implant clip, 8 pellets/ implant.	Testosterone propionate	200 mg/implant (25 mg/pellet)
				Estradiol benzoate	20 mg/implant (2.5 mg/pellet)
Synovex Plus	Fort Dodge Labs, Fort Dodge, IA.	0856–3904	10 implant clip, 8 pellets/ implant.	Trenbolone acetate	200 mg/implant (25 mg/pellet)
				Estradiol	28 mg/implant (3.5 mg/pellet)

In accordance with the provisions of 21 U.S.C. 811(a) of the CSA, this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order (E.O.) 12866, section 3(d)(1).

The Deputy Assistant Administrator, Office of Diversion Control, in accordance with the Regulatory Flexibility Act [5 U.S.C. 605(b)], has reviewed this rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small-business entities. The inclusion of a product in 21 CFR 1308.26 relieves persons who handle the product in the course of legitimate business from the requirements imposed by the CSA.

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to complete with foreign-based companies in domestic and export markets.

This rule 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 E.O. 12612, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Dated: September 8, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–25973 Filed 10–2–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[DEA No. 160F]

Schedules of Controlled Substances: Exempt Anabolic Steroid Products

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: The interim rule (62 FR 29288, May 30, 1997) which identified ten anabolic steroid products as being exempt from certain regulatory provisions of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*) is adopted without change.

DATES: *Effective Date:* October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, 202–307–7183.

SUPPLEMENTARY INFORMATION: The Acting Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), published in the **Federal Register,** an interim rule which identified ten products as being exempt anabolic steroid products (62 FR 29288, May 30, 1997). Comments were requested, none were received.

Therefore, pursuant to the authority delegated to the Administrator of the DEA pursuant to 21 U.S.C. 871(a) and 28 CFR 0.100 and redelegated to the Deputy Assistant Administrator of the Drug Enforcement Administration Office of Diversion Control, pursuant to 28 CFR 0.104, appendix to subpart R, section 7(g)9, the Deputy Assistant Administrator of the Office of Diversion Control, hereby adopts as a final rule, without change, the interim rule amending 21 CFR 1308.34 which was published at 62 FR 29288 on May 30, 1997.

The anabolic steroid containing compounds, mixtures, or preparations which are described in 21 CFR 1308.34 are as follows:

EXEMPT ANABOLIC STEROID PRODUCTS

Trade name	Company	NDC No.	Form	Ingredients	Quantity
Andro-Estro 90–4	Rugby Laboratories, Rockville Centre, NY.	0536–1605	Vial	Testosterone enanthate Estradiol valerate	90 mg/ml 4 mg/ml
Androgyn L.A.	Forest Pharmaceuticals, St. Louis, MO.	0456–1005	Vial	Testosterone enanthate Estradiol valerate	90 mg/ml 4 mg/ml
depANDROGYN	Forest Pharmaceuticals, St. Louis, MO.	0456–1020	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
DEPO-T.E.	Quality Research Pharm., Carmel, IN.	52765–257	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
depTESTROGEN	Martica Pharmaceuticals, Phoenix, AZ.	51698–257	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
Duomone	Wintec Pharmaceutical, Pacific, MO.	52047–360	Vial	Testosterone enanthate Estradiol valerate	90 mg/ml 4 mg/ml
DUO-SPAN II	Primedics Laboratories, Gardena, CA.	0684–0102	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
DURATESTRIN	W.E. Hauck, Alpharetta, GA	43797–016	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
Estratest	Solvay Pharmaceuticals, Marietta, GA.	0032–1026	TB	Esterified estrogens Methyltestosterone	1.25 mg 2.5 mg
Estratest HS	Solvay Pharmaceuticals, Marietta, GA.	0032–1023	TB	Esterified estrogens Methyltestosterone	0.625 mg 1.25 mg
Menogen	Sage Pharmaceuticals, Shreveport, LA.	59243–570	TB	Esterified estrogens Methyltestosterone	1.25 mg 2.5 mg
Menogen HS	Sage Pharmaceuticals, Shreveport, LA.	59243–560	TB	Esterified estrogens Mrethyltestosterone	0.625 mg 1.25 mg
PAN ESTRA TEST	Pan American Labs., Covington, LA.	0525–0175	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
Premarin with Methyltestosterone.	Ayerst Labs. Inc., New York, NY.	0046–0879	TB	Conjugated estrogens Methyltestosterone	1.25 mg 10.0 mg
Premarin with Methyltestosterone.	Ayerst Labs. Inc., New York, NY.	0046–0878	TB	Conjugated estrogens Methyltestosterone	0.625 mg 5.0 mg
Synovex H in-process bulk pellets.	Syntex Animal Health, Palo Alto, CA.		Drum	Testosterone propionate Estradiol benzoate	25 mg/ 2.5 mg/pellet
Synovex H in-process granulation.	Syntex Animal Health, Palo Alto, CA.		Drum	Testosterone propionate Estradiol benzoate	10 parts 1 part
Synovex Plus in-process granulation.	Fort Dodge Animal Health, Fort Dodge, IA.		Drum	Trenbolone acetate Estradiol benzoate	25 parts 3.5 parts
Synovex Plus in-process bulk pellets.	Fort Dodge Animal Health, Fort Dodge, IA.		Drum	Trenbolone acetate Estradiol benzoate	25 mg/ 3.50 mg/pellet
Testagen	Clint Pharmaceuticals, Nashville, TN.	55553–257	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
TEST-ESTRO Cypionates	Rugby Laboratories, Rockville Centre, NY.	0536–9470	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
Testoderm 4 mg/d	Alza Corp., Palo Alto, CA	17314–4608	Patch	Testosterone	10 mg
Testoderm 6 mg/d	Alza Corp., Palo Alto, CA	17314–4609	Patch	Testosterone	15 mg
Testoderm with Adhesive 6 mg/d.	Alza Corp., Palo Alto, CA	17314–2836	Patch	Testosterone	15 mg
Testoderm in-process film	Alza Corp., Palo Alto, CA		Sheet	Testosterone	0.25 mg/cm^2
Testoderm with Adhesive in-process film.	Alza Corp., Palo Alto, CA		Sheet	Testosterone	0.25 mg/cm^2
Testosterone Cypionate/Estradiol Cypionate Injection.	Best Generics, No. Miami Beach, FL.	54274–530	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
Testosterone Cypionate/Estradiol Cypionate Injection.	Goldline Labs, Ft. Lauderdale, FL.	0182–3069	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
Testosterone Cyp 50 Estradiol Cyp 2.	I.D.E.-Interstate, Amityville, NY.	0814–7737	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
Testosterone Cypionate/Estradiol Cypionate Injection.	Schein Pharmaceuticals, Port Washington, NY.	0364–6611	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
Testosterone Cypionate/Estradiol Cypionate Injection.	Steris labs, Inc., Phoenix, AZ	0402–0257	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
Testosterone Cypionate/Estradiol Cypionate Injection.	The Upjohn Co., kalamazoo, MI.	0009–0253	Vial	Testosterone cypionate Estradiol cypionate	50 mg/ml 2 mg/ml
Testosterone Enanthate/Estradiol Valerate Injection.	Goldline Labs, Ft. Lauderdale, FL.	0182–3073	Vial	Testosterone enanthate Estradiol valerate	90 mg/ml 4 mg/ml
Testosterone Enanthate/Estradiol Valerate Injection.	Schein Pharmaceuticals, Port Washington, NY.	0364–6618	Vial	Testosterone enanthate Estradiol valerate	90 mg/ml 4 mg/ml
Testosterone Enanthate/Estradiol Valerate Injection.	Steris Labs. Inc., Phoenix, AZ	0402–0360	Vial	Testosterone enanthate Estradiol valerate	90 mg/ml 4 mg/ml
Tilapia Sex Reversal Feed (Investigational).	Rangen, Inc., Buhl, ID		Plastic Bags.	Methyltestosterone	60 mg/kg fish feed
Tilapia Sex Reversal Feed (Investigational.	Zeigler Brothers, Inc., Gardners, PA.		Plastic Bags.	Methyltestosterone	60 mg/kg fish feed

In accordance with the provisions of 21 U.S.C. 811(a) of the CSA, this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive order (E.O.) 12866, section 3(d)(1).

The Deputy Assistant Administrator, Office of Diversion Control, in accordance with the Regulatory Flexibility Act [5 U.S.C. 605(b)], has reviewed this rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small-business entities. The inclusion of a product in 21 CFR 1308.34 relieves persons who handle the product in the course of legitimate business from the registration, records, reports, prescription, physical security, import and export requirements associated with Schedule III controlled substances under the CSA. Specifically, the products are exempted from application of sections 302 through 309 and 1002 through 1004 of the CSA (21 U.S.C. 822–829 and 952–954) and §§ 1301.11, 1301.13, and 1301.71 through 1301.76 of Title 21 Code of Federal Regulations.

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

This rule 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 E.O. 12612, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Dated: September 8, 1997.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 97–25972 Filed 10–2–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–97–023]

Safety Zone Regulations; Interstate 5 Bridge Repair Project, Columbia River, Vancouver, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Interstate 5 bridge repair project on the Columbia River in Vancouver, Washington. This project will run from Tuesday, September 16, 1997, from 5 a.m. (PDT) through Wednesday, October 8, 1997, at 1 p.m. (PDT). The Coast Guard, through this action, intends to protect persons, facilities, and vessels from safety hazards associated with heavy equipment and falling debris in the vicinity of the repair project. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on September 16, 1997, at 5 a.m. (PDT) and terminates on October 8, 1997, at 1 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: Lt. T.G. Allan, c/o Captain of the Port, Portland, 6767 N. Basin Ave., Portland, Oregon 97217–3992, (503) 240–9327.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days from the date of publication in the **Federal Register**. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the area of the bridge repair. Due to the complex planning and coordination involved, the event sponsor, the Oregon Department of Transportation, was unable to provide the Coast Guard with notice of the final details until 30 days prior to the date of the event. Therefore, sufficient time was not available to publish a proposed rule in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures in this case would be impracticable.

Drafting Information: The drafters of this regulation are LT T.G. Allan, Project Manager for the Captain of the Port, and LT K.A. Boodell, Project Counsel, Thirteenth Coast Guard District Legal Office.

Background and Purpose

The event requiring this regulation is the Oregon Department of Transportation's Interstate 5 bridge repair project. The repair project is scheduled to begin on September 16, 1997, at 5 a.m. (PDT) with work to continue twenty-four hours a day until the project is complete on or about October 8, 1997. This event may result in a large number of vessels congregating near the bridge and construction barges. To promote the safety of both spectators and workers, a safety zone is being established on the waters of the Columbia River around the repair project, and entry into this safety zone is prohibited unless authorized by the Captain of the Port. This action is necessary due to hazards associated with heavy equipment and possible debris falling into the Columbia River in the vicinity of the repair project. This safety zone will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal agencies.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 CFR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the safety zone will restrict less than a quarter of a square mile of the waterway. The entities most likely to be affected by this action are commercial ship, and tug and barge operators on the Columbia River. These entities are aware of the Interstate bridge repair project and the safety zone, and they can schedule their transits accordingly. If safe to do so, the representative of the

Captain of the Port assigned to enforce this safety zone may authorize commercial vessels to pass through the safety zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). For the reasons outlined in the Regulatory Evaluation above, the Coast Guard expects the impact of this final rule to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environmental Assessment

The Coast Guard has considered the environmental impact of this final rule and has concluded that, under section 2.B.2.c. of Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination will be made available in the rulemaking docket.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A temporary section 165.T13020 is added to read as follows:

§ 165.T13020 Safety Zone: Columbia River, Vancouver, WA.

(a) *Location:* The following area is a safety zone: All waters of the Columbia River in the vicinity of Vancouver, Washington, extending approximately 500 feet on both sides of the I–5 bridge from the Washington shore to the alternate barge channel. More specifically, this area is all waters of the Columbia River bounded by a line commencing at the Washington shore position 45°37.307′N latitude, 122°40.573′W longitude; thence to position 45°37.268′N latitude, 122°40.599′W longitude; thence to position 45°37.166′N latitude, 122°40.544′W longitude; thence to position 45°37.131′N latitude, 122°40.415′W longitude; thence to position 45°37.202′N latitude, 122°40.316′W longitude; thence to the Washington shore at position 45°37.240′N latitude, 122°40.293′W longitude; thence returning along the Washington shoreline to the point of origin.

(b) *Definitions:* The designated representative of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at Coast Guard Group, Portland, Oregon.

(c) *Regulations:* (1) In accordance with the general regulations in § 165.23, entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling or by the person acting under the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels or persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) *Effective Dates:* This section is effective on September 16, 1997, at 5 a.m. (PDT) and terminates on October 8, 1997, at 1 p.m. (PDT), unless sooner terminated by the Captain of the Port.

Dated: September 4, 1997.

M.J. Hall,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 97–26336 Filed 10–2–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[[COTP] Tampa 97–046]

RIN 2115–AE84

Regulated Navigation Area; Egmont Channel, Tampa Bay, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule removes the regulated navigation area on the Egmont Channel. The Channel has been dredged and the restriction of one way vessel movement for vessels with drafts in excess of 36 feet are no-longer required.

DATES: This rule is effective on November 3, 1997.

ADDRESSES: Documents referred to in this preamble are available for inspection and copying at U.S. Coast Guard Marine Safety Office Tampa, 155 Columbia Drive, Tampa, FL 33606 between 7:30 a.m. and 3:30 p.m. Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Murk, Project Manager, Coast Guard Marine Safety Office Tampa, at (813) 228–2189.

SUPPLEMENTARY INFORMATION:

Background and Purpose

This final rule cancels the Regulated Navigation Area on the Egmont Channel. Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation. This Regulated Navigation Area was created because of shoaling in the channel that posed possible impediments for vessels with drafts in excess of 36 feet when meeting or passing in the channel. The channel has been dredged, and no-longer poses a danger for vessels with drafts in excess of 36 feet. Consequently, the regulated navigation area is no-longer required.

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 been exempted from review

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) (44FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This rule reduces the regulatory burdens on shipping in the area by canceling a regulated navigated area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated are not dominant in their fields and (2) governmental jurisdiction with populations of less than 50,000. For the reasons stated above the Coast Guard finds that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environmental Assessment

The Coast Guard has considered the environmental impact of this action, and has determined pursuant to section 2.B.2.e. (34)(g) of Commandant Instruction M16475.1B, that this action is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying.

Lists of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation, (water), Reports and record keeping requirements, Security Measures, Waterways.

Regulations

For the reasons stated above, the Coast Guard amends Part 165 of title 33, Code of Federal regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–4, and 160.5; 49 CFR 1.46.

§ 165.709 [Removed]

2. Remove section 165.709.

Dated: September 23, 1997.

R.C. Olsen, Jr.,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 97–26335 Filed 10–2–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego, CA; 97–004]

RIN 2115–AA97

Safety Zone: San Diego Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is establishing a moving safety zone encompassing all navigable waters within 75 yards on all sides of the dredge FLORIDA while the FLORIDA is in the waters of San Diego Bay, California. This regulation is needed to restrict vessel traffic in the regulated area so as to prevent collisions, grounding or other navigational mishaps during the San Diego Channel project. Entry into, transit through, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port San Diego, CA, or a designated representative thereof.

DATES: This interim rule is effective from 6 a.m. PDT on September 9, 1997 until 11:59 p.m. PDT on December 15, 1997. Comments on this interim rule must be received on or before November 3, 1997.

ADDRESSES: Comments should be mailed to Commanding Officer, Coast Guard Marine Safety Office, 2716 N. Harbor Dr., San Diego, CA 92101. Comments received will be available for inspection and copying within the Port Safety Division at Marine Safety Office San Diego. Normal office hours are 7 a.m. to 4 p.m., PDT, Monday through Friday, except federal holidays.

The Marine Safety Office maintains the public docket for this rulemaking. Comments, and any documents referenced in this preamble, will become part of this docket and will be available for inspection and copying at the Marine Safety Office between 7 a.m. PDT and 4 p.m. PDT, Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Mike Arguelles, Chief, Port Safety and Security Division, Marine Safety Office San Diego, 2716 N. Harbor Dr., San Diego, CA 92101; (619) 683–6484.

SUPPLEMENTARY INFORMATION:

Request for Comments

Although this regulation is published as an interim rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure the regulation is both reasonable and workable. Accordingly, the Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should send them to the office listed under **ADDRESSES** in this preamble. Those providing comments should identify the docket number (COPT San Diego, CA; 97–004) for the regulation, and the specific section of this document to which each comment applies. Also include your name, address, and the reason(s) for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing. Persons wishing acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. Based upon the comments received, the scope of the regulation may be changed.

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

Regulatory Information

In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in

less than 30 days after **Federal Register** publication. Following normal rulemaking procedures could not be done in a timely fashion because the full parameters of the safety zone necessary to accommodate the dredging for the San Diego Channel project were not known until a date fewer than 30 days prior to the project start date. For these reasons, the Coast Guard finds good cause, under 5 U.S.C. 553(b)(B) and (d)(3), that notice, and public procedure on the notice, before the effective date of this rule are unnecessary and that this rule should be made effective in less than 30 days after publication.

Background and Purpose

Dredging for the San Diego Channel project officially begins on September 9, 1997. This safety zone is necessary for safeguarding recreational and commercial vessels from the dangers of the dredging activities in the project area and to prevent interference with vessels and barges engaged in these operations.

Discussion of Interim Rule

This rule creates a safety zone pursuant to the Ports & Waterways Safety Act, 33 U.S.C. 1221 *et seq*. All persons and vessels are prohibited from entering into, transmitting through or anchoring within the safety zone unless authorized by the Captain of the San Diego, CA, or a designated representative thereof.

Regulatory Evaluation

This interim rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. 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 regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary. Only minor delays to mariners are foreseen as vessel traffic can be easily diverted around the area of the safety zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*), the Coast Guard considers the economic impact on small entities of each rule for which a general notice of proposed rulemaking is required. Small entities include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, the Coast Guard has reviewed it for potential economic impact on small entities and determined that the rule is not expected to have a significant economic impact on any entity regardless of its size.

Therefore, the Coast Guard believes that this rule will not have a significant economic impact on any small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This interim rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Federalism

The Coast Guard has analyzed this interim 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 interim rule and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This regulation is expected to have no significant effect on the environment.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends subpart F of 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Section 165.T11–040 is added to read as follows:

§ 165.T11–040 Safety Zone: San Diego Bay, CA

(a) Location. A safety zone shall exist around the dredge Florida, 75 yards on all sides when the dredge Florida is within the navigable waters of San Diego Bay, CA.

(b) Effective Date. This regulation will be in effect from 6:00 a.m. PDT on September 9, 1997 until 11:59 p.m., PDT December 15, 1997, unless canceled earlier by the Captain of the Port.

(c) Regulations. In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port San Diego, CA, or a designated representative thereof.

Dated: September 9, 1997.

J.A. Watson, IV,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

[FR Doc. 97–26334 Filed 10–2–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–97–104]

RIN 2115–AA97

Security Zone Regulations: New London Harbor, CT

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is disestablishing two of four existing security zones in the Thames River, New London, Connecticut. Security Zone A and Security Zone D are being disestablished as these zones were used to safeguard moored Navy vessels which no longer moor at the facilities in these areas. The two remaining security zones, Security Zone B and Security Zone C shall remain in effect and will be renamed Security Zones A and B respectively.

DATES: This final rule is effective October 3, 1997.

ADDRESSES: Documents relating to this final rule are available for inspection

and copying at U.S. Coast Guard Marine Safety Office Long Island Sound, 120 Woodward Avenue, New Haven, CT 06512. Normal office hours are between 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander T. J. Walker, Chief of Port Operations, Coast Guard Marine Safety Office, Long Island Sound at (203) 468–4444.

SUPPLEMENTARY INFORMATION:

Regulatory History

This rule is being published as a final rule and is being made effective on the date of publication. Pursuant to 5 U.S.C. 553, good cause exists for promulgating this rule without a notice of proposed rulemaking (NPRM) and for making this rule effective less than 30 days after publication in the **Federal Register.** The facilities located in the areas protected under the disestablished security zones are no longer used by the Navy to moor vessels and therefore the security zones are of no further use. No purpose is served by restricting the boating public's access to the facilities and surrounding waters for a longer period of time due to delays associated with the normal rulemaking process. No adverse effects upon local commerce and/or public conveyances is expected under the proposed regulation changes. For these reasons, the Coast Guard finds good cause, under 5 U.S.C. 553, that notice, and public procedure on the notice, before the effective date of this rule are unnecessary and that this rule should be made effective in less than 30 days after publication.

Background and Purpose

Pursuant to consultations with the US Navy and the State of Connecticut, this final rule will remove two existing security zones on the Thames River, New London, Connecticut. Security Zone A, (33 CFR 165.140(a)(1)) restricted access to the waters surrounding the New London State Pier. Security Zone D, (33 CFR 165.140(a)(4)), restricted access to the waters surrounding the former Naval Underwater Warfare Center. These zones were used to safeguard Navy vessels moored at these facilities. The facilities mentioned above are no longer used by the Navy. The Navy stopped using the State Pier in 1992 and decommissioned the Naval Underwater Warfare Center in 1996. Therefore, these security zones are no longer necessary.

Security Zone B, (33 CFR 165.140(a)(2)), restricting access to the waters surrounding General Dynamics' Electric Boat facility and Security Zone C, (33 CFR 165.140(a)(3)) restricting access to the waters surrounding the Naval Submarine Base shall remain in effect.

Regulatory Evaluation

This final 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. For the reasons stated in the Regulatory History, the Coast Guard expects the economic impact of this regulation to be minimal

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard considered whether this rule will have a significant impact upon a substantial number of small entities. Small entities include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000. For the reasons addressed under the Regulatory History above, the Coast Guard finds that this rule will not have a significant impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environmental Assessment

The Coast Guard has considered the environmental impact of this rule and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, as revised by 59 FR 38654, July 29, 1994, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (waters), Reporting and Recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.50.

§ 165.140 [Amended]

2. Section 165.140 is amended as follows:

a. Remove paragraph (a)(1).

b. Remove paragraph (a)(4).

c. Redesignate paragraphs (a)(2) and (a)(3) as (a)(1) and (a)(2).

d. In the new paragraph (a)(1), and remove the words ''Security Zone B'' and add, in their place, the words ''Security Zone A''.

e. In the new paragraph (a)(2), remove the words ''Security Zone C'' and add, in their place, the words ''Security Zone B''.

f. In paragraph (b) remove the words ''SECURITY ZONES A or B'' and replace them with the words ''SECURITY ZONE A'', and remove the words ''SECURITY ZONE B'' and replace them with ''SECURITY ZONE A''.

Dated: September 16, 1997.

P.K. Mitchell,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 97–26337 Filed 10–2–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900–AI21

Disinterments From National Cemeteries

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is issuing a final rule to amend regulations concerning disinterments from national cemeteries. Current regulations permit disinterment of persons buried in a national cemetery with the consent of immediate family

members. Previously, the definition of immediate family members included a surviving spouse only if unmarried. The regulation change defines immediate family members for purposes of disinterments to include a surviving spouse whether or not the spouse had remarried. This is necessary since the emotional ties of the surviving spouse are sufficient to justify his or her consent as a condition of disinterment. This document also makes nonsubstantive changes for purposes of clarification.

DATES: This rule is effective November 3, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Greenberg, Program Analyst, or Mrs. Sonja McCombs, Program Analyst, Communications Division (402B1), National Cemetery System, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Telephone: 202–273–5179 or 202–273–5183 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: A document was published in the **Federal Register** on June 20, 1996 (61 FR 31479), which proposed to change the definition of immediate family members for purposes of disinterments to include a surviving spouse whether or not the spouse had remarried. The document also proposed to make certain nonsubstantive changes. No comments were received. Accordingly, based on the rationale set forth in the proposal and in this document, the proposed changes are adopted as a final rule without change.

Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule concerning disinterments from national cemeteries (38 CFR 1.621) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3504(h)) and have been assigned OMB Control Number 2900–0365.

This collection of information included in 38 CFR 1.621 concerns an application for authority to disinter remains that must be submitted on VA Form 40–4970. The provisions of § 1.621 are amended to reflect that the written and notarized consent of a remarried surviving spouse is a prerequisite for a disinterment from a national cemetery.

OMB assigns control numbers to collections of information it approves. VA 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.

Regulatory Flexibility Act

The Secretary 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. Pursuant to 5 U.S.C. 605(b), the amended regulation is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This certification can be made because the amendment does not affect any small entities. Only individual VA beneficiaries could be directly affected.

The final rule is not subject to OMB review pursuant to E.O. 12291.

(Catalog of Federal Domestic Assistance Number for programs affected by this regulation are 64.201 and 64.202)

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Cemeteries, Claims, Privacy, Security.

Approved: July 28, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 1 is amended as follows:

PART 1—GENERAL PROVISIONS

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

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

2. In § 1.621, paragraph (c) is amended by removing the second sentence; paragraph (d) and the designation ''[Reserved]'' are removed; paragraph (e) is redesignated as paragraph (d); and paragraphs (a) and (b)(2) are revised to read as follows:

§ 1.621 Disinterments from national cemeteries.

(a) Interments of eligible decedents in national cemeteries are considered permanent and final. Disinterment will be permitted only for cogent reasons and with the prior written authorization of the National Cemetery Area Office Director or Cemetery Director responsible for the cemetery involved. Disinterment from a national cemetery will be approved only when all living immediate family members of the decedent, and the person who initiated the interment (whether or not he or she is a member of the immediate family), give their written consent, or when a court order or State instrumentality of competent jurisdiction directs the disinterment. For purposes of this section, ''immediate family members'' are defined as surviving spouse, whether or not he or she is remarried; all adult children of the decedent; the appointed guardian(s) of minor children; and the appointed guardian(s) of the surviving spouse or of the adult child(ren) of the decedent. If the surviving spouse and all of the children of the decedent are deceased, the decedent's parents will be considered ''immediate family members.''

(b) * * *

(2) Notarized statement(s) by all living immediate family members of the decedent, and the person who initiated the interment (whether or not he or she is a member of the immediate family), that they consent to the proposed disinterment.

* * * * *

[FR Doc. 97–26254 Filed 10–2–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AI45

Survivors and Dependents Education: Extension of Eligibility Period

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the educational assistance and educational benefit regulations of the Department of Veterans Affairs (VA). It restores provisions that govern the extension of the period eligible spouses and surviving spouses have to use Survivors' and Dependents' Educational Assistance (DEA).

EFFECTIVE DATE: October 3, 1997.

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

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on January 9, 1997 (62 FR 1303), VA proposed to amend the ''Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35'' regulations which are set forth in 38 CFR 21.3001 *et seq.* It was proposed to add to the regulations a definition and a rule concerning qualifying for an extension of time for a spouse or surviving spouse to use Survivor's and Dependents' Educational Assistance. Such an extension is permitted when she or he could not

complete a program of education within the normal ten-year period for doing so due to a physical or mental disability that is not the result of willful misconduct. This definition and rule were removed in error from the Code of Federal Regulations when § 21.1043 was removed.

Interested persons were given 60 days to submit comments. One comment from an individual was received.

That individual suggested that, in addition to making the proposed changes, VA should restore § 21.1043 to the Code of Federal Regulations. He argued that by doing so a Vietnam Era veteran who had been unable to complete his or her training within the ten-year period allowed under the Vietnam Era GI Bill due to a physical or mental disability would be able to resume training under the Vietnam Era GI Bill.

After careful consideration VA has determined that there is no legal basis for restoring § 21.1043 to the Code of Federal Regulations in order to provide benefits under the Vietnam Era GI Bill. The statutory provisions governing the Vietnam Era GI Bill are found in 38 U.S.C. chapter 34. Section 3462(e) states, ''No educational assistance shall be afforded any eligible veterans under this chapter or chapter 36 of this title after December 31, 1989.'' Thus, if a Vietnam Era veteran who was unable to pursue a program of education under the Vietnam Era GI Bill due to a physical or mental disability, recovered from the disability to the point where he or she would be able to pursue that program in 1997, VA would be prohibited by 38 U.S.C. 3462(e) from paying educational assistance to that veteran.

Accordingly, based on the rationale set forth in the proposed rule document, we are adopting the provisions of the proposed rule as a final rule.

Paperwork Reduction Act of 1995

Information collection and recordkeeping requirements associated with this final rule (38 CFR 21.3047) have been approved by OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3520) and have been assigned OMB control number 2900–0573. The regulation requires that a spouse or surviving spouse who wants an extension of the applicable time limit to use educational assistance provided under DEA must apply for it. Since VA would consider any communication from such an individual seeking this extension to be an application, there are no corresponding form numbers.

VA is not authorized to impose a penalty on persons for failure to comply with information collection requirements which do not display a current OMB control number, if required.

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 affects only individuals. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

(The Catalog of Federal Domestic Assistance number for the program affected by this proposed rule is 64.117)

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Education, Employment, Grant programs—education, Grant 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: August 28, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 21 (subparts C and F) is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart C—Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35

1. The authority citation for subpart C continues to read as follows:

Authority: 38 U.S.C. 501(a), 512, 3500–3566, unless otherwise noted.

2. In § 21.3021, paragraph (l) is redesignated as paragraph (m); and new paragraph (l) is added, to read as follows:

§ 21.3021 Definitions.

* * * * *

(l) *Disabling effects of chronic alcoholism*. (1) The term *disabling effects of chronic alcoholism* means alcohol-induced physical or mental disorders or both, such as habitual intoxication, withdrawal, delirium, amnesia, dementia, and other like manifestations of chronic alcoholism which in the particular case:

(i) Have been medically diagnosed as manifestations of alcohol dependency or chronic alcohol abuse; and

(ii) Are determined to have prevented commencement or completion of the affected individual's chosen program of education.

(2) A diagnosis of alcoholism, chronic alcoholism, alcohol-dependency, chronic alcohol abuse, etc., in and of itself, does not satisfy the definition of this term.

(3) Injury sustained by an eligible spouse or surviving spouse as a proximate and immediate result of activity undertaken by the eligible spouse or surviving spouse while physically or mentally unqualified to do so due to alcoholic intoxication is not considered a disabling effect of chronic alcoholism.

(Authority: 38 U.S.C. 105, 3512(b))

* * * * *

3. In § 21.3046, paragraph (e) is removed.

4. Section 21.3047 is added, to read as follows:

§ 21.3047 Extended period of eligibility due to physical or mental disability.

(a) *General.* (1) An eligible spouse or surviving spouse shall be granted an extension of the applicable period of eligibility as otherwise determined by § 21.3046 provided the eligible spouse or surviving spouse:

(i) Applies for the extension within the appropriate time limit;

(ii) Was prevented from initiating or completing the chosen program of education within the otherwise applicable period of eligibility because of a physical or mental disability that did not result from the willful misconduct of the eligible spouse or surviving spouse;

(iii) Provides VA with any requested evidence tending to show that the requirement of paragraph (a)(1)(ii) of this section has been met; and

(iv) Is otherwise eligible for payment of educational assistance for the training pursuant to 38 U.S.C. chapter 35.

(2) In determining whether the eligible spouse or surviving spouse was prevented from initiating or completing the chosen program of education because of a physical or mental disability, VA will consider the following:

(i) It must be clearly established by medical evidence that such a program of education was medically infeasible.

(ii) An eligible spouse or surviving spouse who is disabled for a period of 30 days or less will not be considered as having been prevented from initiating or completing a chosen program, unless

the evidence establishes that the eligible spouse or surviving spouse was prevented from enrolling or reenrolling in the chosen program of education, or was forced to discontinue attendance, because of the short disability.

(iii) VA will not consider the disabling effects of chronic alcoholism to be the result of willful misconduct and will consider those disabling effects as physical or mental disabilities.

(b) *Commencing date.* The eligible spouse or surviving spouse shall elect the commencing date of an extended period of eligibility. The date chosen—

(1) Must be on or after the original date of expiration of eligibility as determined by § 21.3046(c); and

(2) Must be on or before the ninetieth day following the date on which the eligible spouse's or surviving spouse's application for an extension was approved by VA, if the eligible spouse or surviving spouse is training during the extended period of eligibility in a course not organized on a term, quarter, or semester basis; or

(3) Must be on or before the first ordinary term, quarter, or semester following the ninetieth day after the eligible spouse's or surviving spouse's application for an extension was approved by VA if the eligible spouse or surviving spouse is training during the extended period of eligibility in a course organized on a term, quarter, or semester basis.

(Authority: 38 U.S.C. 3512(b))

(c) *Length of extended periods of eligibility.* An eligible spouse's or surviving spouse's extended period of eligibility shall be for the length of time that the individual was prevented from initiating or completing his or her chosen program of education. This shall be determined as follows:

(1) If the eligible spouse or surviving spouse is in training in a course organized on a term, quarter, or semester basis, his or her extended period of eligibility shall contain the same number of days as the number of days from the date during the eligible spouse's or surviving spouse's original period of eligibility that his or her training became medically infeasible to the earliest of the following dates:

(i) The commencing date of the ordinary term, quarter, or semester following the day the eligible spouse's or surviving spouse's training became medically feasible;

(ii) The ending date of the eligible spouse's or surviving spouse's period of eligibility as determined by § 21.3046(c); or

(iii) The date the eligible spouse or surviving spouse resumed training.

(2) If the eligible spouse or surviving spouse is training in a course not organized on a term, quarter, or semester basis, his or her extended period of eligibility shall contain the same number of days from the date during the eligible spouse's or surviving spouse's original period of eligibility that his or her training became medically infeasible to the earlier of the following dates:

(i) The date the eligible spouse's or surviving spouse's training became medically feasible; or

(ii) The ending date of the eligible spouse's or surviving spouse's period of eligibility as determined by § 21.3046.

(Paperwork requirements were approved by the Office of Management and Budget under control number 2900–0573)

(Authority: 38 U.S.C. 3512(b))

Subpart F—Education Loans

5. The authority citation for subpart F continues to read as follows:

Authority: 38 U.S.C. 501, 3537, 3698, 3699, unless otherwise noted.

6. In § 21.4501, paragraph (b)(1) is amended by removing ''(d)'' and adding, in its place, ''(d), or § 21.3047''; paragraph (b)(2)(iv) is amended by removing ''(d)'' and adding, in its place, ''(d), or § 21.3047''; paragraph (b)(2)(v)(A) is amended by removing ''(d)'' and adding, in its place, ''(d), or § 21.3047''; paragraph (b)(2)(v)(B) is amended by removing ''(d)'' and adding, in its place, ''(d), or § 21.3047'', paragraph (c)(1) is amended by removing ''(d)'' and adding, in its place ''(d), or § 21.3047''; and paragraph (c)(3) is amended by removing ''(d)'' and adding, in its place, ''(d), or § 21.3047''.

[FR Doc. 97–26253 Filed 10–2–97; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

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

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona: Maricopa (FEMA Docket No. 7220).	Unincorporated Areas.	May 14, 1997, May 21, 1997, *The Arizona Republic.*	The Honorable Don Stapley, Chairperson, Maricopa County Board of Supervisors, 301 West Jefferson Street, Phoenix, Arizona 85003.	April 24, 1997	040037
Arizona: Pima (FEMA Docket No. 7216).	Unincorporated Areas.	April 9, 1997, April 16, 1997, *The Arizona Daily Star.*	The Honorable Paul Marsh, Chairman, Pima County Board of Supervisors, 130 West Congress Street, Tucson, Arizona 85701.	March 19, 1997 ..	040073
Arizona: Pima (FEMA Docket No. 7216).	City of Tucson	April 9, 1997, April 16, 1997, *The Arizona Daily Star.*	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726–7210.	March 17, 1997 ..	040076
Arizona: Pima (FEMA Docket No. 7216).	City of Tucson	April 9, 1997, April 16, 1997, *The Arizona Daily Star.*	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726–7210.	March 19, 1997 ..	040076
Arizona: Pima (FEMA Docket No. 7220).	City of Tucson	June 4, 1997, June 11, 1997, *The Arizona Daily Star.*	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	May 9, 1997	040076
California: San Diego (FEMA Docket No. 7220).	City of Chula Vista.	May 2, 1997, May 9, 1997, *San Diego Daily Transcript.*	The Honorable Shirley Horton, Mayor, City of Chula Vista 276 Fourth Avenue, Chula Vista, California 91910.	April 9, 1997	065021
California: Orange (FEMA Docket No. 7220).	City of Irvine	May 1, 1997, May 8, 1997, *Irvine World News.*	The Honorable Christina Shea, Mayor, City of Irvine, P.O. Box 19575, Irvine, California 92623.	April 8, 1997	060222
California: Alameda (FEMA Docket No. 7220).	City of Livermore	June 3, 1997, June 10, 1997, *Tri-Valley Herald.*	The Honorable Cathie Brown, Mayor, City of Livermore, 1052 South Livermore Avenue, Livermore, California 94550–4899.	May 15, 1997	060008
California: Los Angeles (FEMA Docket No. 7216).	Unincorporated Areas.	April 9, 1997, April 16, 1997, *Daily Commerce.*	The Honorable Zev Yaroslavsky, Chairperson, Los Angeles County Board of Supervisors, 500 West Temple Street, Suite 821, Los Angeles, California 90012.	March 19, 1997 ..	065043
California: San Diego (FEMA Docket No. 7220).	City of National City.	May 2, 1997, May 9, 1997, *San Diego Daily Transcript.*	The Honorable George Waters, Mayor, City of National City, 1243 National City Boulevard, National City, California 91950.	April 9, 1997	060293
California: Orange (FEMA Docket No. 7216).	City of Placentia	April 3, 1997, April 10, 1997, *Placentia News-Times.*	The Honorable Norman Z. Eckenrode, Mayor, City of Placentia, 401 East Chapman Avenue, Placentia, California 92670.	February 27, 1997.	060229

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California: San Diego (FEMA Docket No. 7220).	Unincorporated Areas.	May 2, 1997, May 9, 1997, *San Diego Daily Transcript*.	The Honorable Bill Horn, Chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, San Diego, California 92101.	April 9, 1997	060284
Colorado: Boulder (FEMA Docket No. 7216).	City of Boulder ...	April 23, 1997, April 30, 1997, *Boulder Daily Camera*.	The Honorable Leslie Durgin, Mayor, City of Boulder, P.O. Box 791, Boulder, Colorado 80306.	April 3, 1997	080024
Colorado: Adams (FEMA Docket No. 7216).	City of Thornton	April 17, 1997, April 24, 1997, *Northglenn-Thornton Sentinel*.	The Honorable Margaret Carpenter, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, Colorado 80229.	March 13, 1997 ..	080007
Hawaii: Honolulu (FEMA Docket No. 7216).	City and County	April 23, 1997, April 30, 1997, *Honolulu Star-Bulletin*.	The Honorable Jeremy Harris, Mayor, City and County of Honolulu, 650 South King Street, Honolulu, Hawaii 96183.	April 15, 1997	150001
Kansas: Harvey (FEMA Docket No. 7220).	City of Halstead	May 1, 1997, May 8, 1997, *The Harvey County Independent*.	The Honorable Kenneth B. Kierl, Mayor, City of Halstead, P.O. Box 312, Halstead, Kansas 67056–0312.	April 4, 1997	200131
Kansas: Harvey (FEMA Docket No. 7220).	Unincorporated Areas.	May 1, 1997, May 8, 1997, *The Harvey County Independent*.	The Honorable Craig R. Simons, Harvey County Administrator, Administration Department, P.O. Box 687, Newton, Kansas 67114–0687.	April 4, 1997	200585
Kansas: Pratt (FEMA Docket No. 7220).	City of Pratt	May 22, 1997, May 29, 1997, *The Pratt Tribune*.	The Honorable Glenna Borho, Mayor, City of Pratt, P.O. Box 807, Pratt, Kansas 67124.	May 5, 1997	200278
Kansas: Sedgwick (FEMA Docket No. 7216).	City of Wichita	April 23, 1997, April 30, 1997, *The Wichita Eagle*.	The Honorable Bob Knight, Mayor, City of Wichita, City Hall, 455 North Main Street, Wichita, Kansas 67202.	April 7, 1997	200328
Nebraska: Merrick (FEMA Docket No. 7216).	City of Central City.	April 17, 1997, April 24, 1997, *Central City Republican Nonpareil*.	The Honorable Calvin C. Lepp, Mayor, City of Central City, P.O. Box 418, Central City, Nebraska 68826.	March 14, 1997 ..	310148
Nevada: Douglas (FEMA Docket No. 7220).	Unincorporated Areas.	May 14, 1997, May 21, 1997, *The Record Courier Tahoe Daily Tribune*.	The Honorable Jacques Etchegoyhen, Chairman, Douglas County Board of County Commissioners, Minden Inn, P.O. Box 218, Minden, Nevada 89423.	April 29, 1997	320008
New Mexico: Bernalillo (FEMA Docket No. 7216).	Unincorporated Areas.	April 23, 1997 April 30, 1997, *Albuquerque Journal*.	The Honorable Albert Valdez, Chairman, Bernalillo County Board of Commissioners, 2400 Broadway Southeast, Albuquerque, New Mexico 87102.	April 4, 1997	350001
Oklahoma: Oklahoma (FEMA Docket No. 7216).	City of Edmond ..	April 22, 1997, April 29, 1997, *Edmond Evening Sun*.	The Honorable Bob Rudkin, Mayor, City of Edmond, 100 East First, Edmond, Oklahoma 73083–2970.	March 27, 1997 ..	400252
Oklahoma: Cleveland (FEMA Docket No. 7220).	City of Norman ...	June 6, 1997, June 13, 1997 *Norman Transcript*.	The Honorable Bill Nations, Mayor, City of Norman, P.O. Box 370, Norman Oklahoma 73070.	May 15, 1997	400046
South Dakota: Lawrence (FEMA Docket No. 7220).	City of Spearfish	May 16, 1997, May 23, 1997, *Blackhill Pioneer*.	The Honorable Johnny Niehaus, Mayor, City of Spearfish, 625 Fifth Street, Spearfish, South Dakota 57783.	April 24, 1997	460046
Texas: Bexar (FEMA Docket No. 7220).	Unincorporated Areas.	June 10, 1997, June 17, 1997, *San Antonio Express News*.	The Honorable Cyndi T. Krier, Bexar County Judge, 100 Dolorosa, Suite 101, San Antonio, Texas 78205.	May 23, 1997	480035
Texas: Dallas (FEMA Docket No. 7220).	Unincorporated Areas.	June 12, 1997, June 19, 1997, *The Dallas Morning News*.	The Honorable Lee F. Jackson, Dallas County Judge, 411 Elm Street, Dallas, Texas 75202.	May 21, 1997	480165

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Texas: Tarrant (FEMA Docket No. 7220).	City of Forth Worth.	May 8, 1997, May 15, 1997 *Fort Worth Star-Telegram*.	The Honorable Kenneth Barr, Mayor, City of Forth Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102–6311.	August 13, 1997	480596
Texas: Dallas (FEMA Docket No. 7220).	City of Garland ...	June 12, 1997, June 19, 1997 *The Garland News*.	The Honorable James Ratliff, Mayor, City of Garland, P.O. Box 469002, Garland, Texas 75046–9002.	May 21, 1997	485471
Texas: Tarrant (FEMA Docket No. 7220).	City of Haltom City.	May 8, 1997, May 15, 1997, *Fort Worth Star-Telegram*.	The Honorable Gary Larson, Mayor, City of Haltom City, P.O. Box 14246, Haltom City, Texas 76117–0246.	August 13, 1997	480599
Texas: Harris (FEMA Docket No. 7220).	City of Houston ..	June 6, 1997, June 13, 1997, *Houston Chronicle*.	The Honorable Bob Lanier, Mayor, City of Houston, P.O. Box 1562, Houston, Texas 77251–1562.	May 14, 1997	480296
Texas: Midland (FEMA Docket No. 7216).	City of Midland ...	April 22, 1997, April 29, 1997, *Midland Reporter-Telegram*.	The Honorable Robert E. Burns, Mayor, City of Midland, P.O. Box 1152, Midland, Texas 79702–1152.	March 26, 1997 ..	480477
Texas: Montgomery (FEMA Docket No. 7216).	Unincorporated Areas.	April 23, 1997, April 30, 1997, *Conroe Courier*.	The Honorable Alan B. Sadler, Montgomery County Judge, 301 North Thompson, Suite 210, Conroe, Texas 77301.	March 28, 1997 ..	480483
Texas: Montgomery (FEMA Docket No. 7216).	Unincorporated Areas.	April 23, 1997, April 30, 1997, *Houston Chronicle*.	The Honorable Alan B. Sadler, Montgomery County Judge, 301 North Thompson, Suite 210, Conroe, Texas 77301.	April 3, 1997	480483
Texas: Tarrant (FEMA Docket No. 7216).	City of North Richland Hills.	April 8, 1997, April 15, 1997, *Fort Worth Star-Telegram*.	The Honorable Tommy Brown, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182–0609.	March 7, 1997	480607
Texas: Collin (FEMA Docket No. 7220).	City of Plano	May 23, 1997, May 30, 1997 *Plano Star Courier*.	The Honorable John Longstreet, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	April 29, 1997	480140
Texas: Dallas (FEMA Docket No. 7220).	City of Rowlett	June 12, 1997, June 19, 1997, *The Rowlett Lakeshore Times*.	The Honorable Buddy Wall, Mayor, City of Rowlett, P.O. Box 99, Rowlett, Texas 75030–0099.	May 21, 1997	480185
Texas: Dallas (FEMA Docket No. 7220).	City of Sachse	June 18, 1997, June 25, 1997, *The Wylie News*.	The Honorable Larry Holden, Mayor, City of Sachse, 5560 Highway 78, Sachse, Texas 75048.	May 21, 1997	480186
Texas: Bexar (FEMA Docket No. 7220).	City of San Antonio.	May 23, 1997, May 30, 1997, *San Antonio Express-News*.	The Honorable William E. Thornton, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	April 28, 1997	480045
Texas: Denton (FEMA Docket No. 7220).	City of The Colony.	June 4, 1997, June 11, 1997, *Lewisville Leader*.	The Honorable William Manning, Mayor, City of The Colony, 5151 North Colony Boulevard, The Colony, Texas 75056.	May 12, 1997	481581

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

Dated: September 25, 1997.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 97–26282 Filed 10–2–97; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7228]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any

person has ninety (90) days in which to request through the community that the Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

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

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona: Maricopa	City of Avondale	August 12, 1997, August 19, 1997, *The Arizona Republic.*	The Honorable Thomas S. Morales, Jr., Mayor, City of Avondale, 525 North Central Avenue, Avondale, Arizona 85323.	August 5, 1997 ...	040038
Arizona: Maricopa	Town of Cave Creek.	August 12, 1997, August 19, 1997, *The Arizona Republic.*	The Honorable Tom Aukerton, Mayor, Town of Cave Creek, 37622 North Cave Creek Road, Cave Creek, Arizona 85331.	August 5, 1997 ...	040129
Arizona: Maricopa	City of El Mirage	August 12, 1997, August 19, 1997, *The Arizona Republic.*	The Honorable Maggie Reese, Mayor, City of El Mirage, P.O. Box 26, El Mirage, Arizona 85335.	August 5, 1997 ...	040041
Arizona: Maricopa	City of Glendale	August 12, 1997, August 19, 1997, *The Arizona Republic.*	The Honorable Elaine Scruggs, Mayor, City of Glendale, 5850 West Glendale Avenue, Glendale, Arizona 85301.	August 5, 1997 ...	040045
Arizona: Maricopa	City of Goodyear	August 12, 1997, August 19, 1997, *The Arizona Republic.*	The Honorable William Arnold, Mayor, City of Goodyear, 119 North Litchfield Road, Goodyear, Arizona 85338.	August 5, 1997 ...	040046
Arizona: Maricopa	Unincorporated Area.	August 12, 1997, August 19, 1997, *The Arizona Republic.*	The Honorable Don Stapley, Chairperson, Maricopa County Board of Supervisors, 301 West Jefferson Street, Phoenix, Arizona 85003.	August 5, 1997 ...	040037

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona: Maricopa	City of Peoria	August 12, 1997, August 19, 1997, *The Arizona Republic*.	The Honorable John Keegan, Mayor, City of Peoria, 8401 West Monroe, Peoria, Arizona 85345.	August 5, 1997	040050
Arizona: Maricopa	City of Phoenix	August 12, 1997, August 19, 1997, *The Arizona Republic*.	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, Phoenix, Arizona 85003.	August 5, 1997	040051
Arizona: Maricopa	City of Phoenix	August 22, 1997, August 29, 1997, *The Arizona Republic*.	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, Phoenix, Arizona 85003.	August 7, 1997	040051
Arizona: Maricopa	City of Surprise	August 12, 1997, August 19, 1997, *The Arizona Republic*.	The Honorable Joan Shafer, Mayor, City of Surprise, 12425 West Bell Road, Suite D–100, Surprise, Arizona 85374.	August 5, 1997	040053
Arizona: Pima	City of Tucson	July 22, 1997, July 29, 1997, *Arizona Daily Star*.	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	June 23, 1997	040076
Arizona: Pima	City of Tucson	August 21, 1997, August 28, 1997, *The Arizona Daily Star*.	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	August 1, 1997	040076
Arizona: Maricopa	Town of Youngstown.	August 12, 1997, August 19, 1997, *The Arizona Republic*.	The Honorable William Kosanovich, Mayor, Town of Youngstown.	August 5, 1997	040057
California: Alameda	City of Livermore	August 20, 1997, August 27, 1997 *The Independent*.	The Honorable Cathie Brown, Mayor, City of Livermore, 1052 South Livermore Avenue, Livermore, California 94550.	August 4, 1997	060008
California: San Diego	City of Poway	August 7, 1997, August 14, 1997, *Poway News Chieftain*.	The Honorable Don Higginson, Mayor, City of Poway, 13325 Civic Center Drive, Poway, California 92074–0789.	November 13, 1997.	060702
California: Riverside	Unincorporated Areas.	August 14, 1997, August 21, 1997, *Press-Enterprise*.	The Honorable Kay Ceniceros, Chairperson, Riverside County Board of Supervisors, P.O. Box 1359, Riverside, California 92502–1359.	July 18, 1997	060245
California: Sacramento	Unincorporated Areas.	August 20, 1997, August 27, 1997, *The Sacramento-Bee*.	The Honorable Don Nottoli, Chairman, Board of Supervisors, Sacramento County, 700 H Street, Room 2450, Sacramento, California 95814.	August 14, 1997	060262
California: San Bernardino.	Unincorporated Areas.	August 20, 1997, August 27, 1997 *The Sun*.	The Honorable Jon D. Mikels, Chair, San Bernardino County Board of Supervisors, 385 North Arrowhead Avenue, San Bernardino, California 92415–0110.	August 8, 1997	060270
Guam	Territory of Guam	August 26, 1997, September 2, 1997, *Pacific Daily News*.	The Honorable Carl T.C. Gutierrez, Governor, Territory of Guam, Agana, Guam 96910.	August 8, 1997	660001
Idaho: Bingham	City of Blackfoot	July 24, 1997, July 31, 1997, *The Morning News*.	The Honorable R. Scott Reese, Mayor, City of Blackfoot, 157 North Broadway, Blackfoot, Idaho 83221.	October 30, 1997	160019
Idaho: Bingham	Unincorporated Areas.	July 24, 1997, July 31, 1997, *The Morning News*.	The Honorable Dale Arave, Chairman, Bingham County Commissioners, P.O. Box 1028, Blackfoot, Idaho 83221.	October 30, 1997	160018
Kansas: Sedgwick	Unincorporated Areas.	July 22, 1997, July 29, 1997, *The Wichita Eagle*.	The Honorable Thomas G. Winters, Chairman, Board of Commissioners, Sedgwick County, 525 North Main Street, Suite 320, Wichita, Kansas 67203.	June 26, 1997	200321
Kansas: Sedgwick	City of Wichita	July 22, 1997, July 29, 1997, *The Wichita Eagle*.	The Honorable Bob Knight, Mayor, City of Wichita, 455 North Main Street, Wichita, Kansas 67202.	June 26, 1997	200328
New Mexico: Bernalillo	City of Albuquerque.	July 24, 1997, July 31, 1997, *Albuquerque Journal*.	The Honorable Martin J. Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	July 1, 1997	350002

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
New Mexico: Bernalillo ..	City of Albuquerque.	August 5, 1997, August 12, 1997, *Albuquerque Journal.*	The Honorable Martin J. Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	July 16, 1997	350002
New Mexico: Bernalillo ..	City of Albuquerque.	August 20, 1997, August 27, 1997, *Albuquerque Journal.*	The Honorable Martin J. Chavez, Mayor, City of Albuquerque, P.O. Box 1293 Albuquerque, New Mexico 87103–1293.	August 1, 1997 ...	350002
North Dakota: Burleigh ..	City of Bismarck	August 15, 1997, August 22, 1997, *Bismarck Tribune.*	The Honorable Bill Sorenson, Mayor, City of Bismarck, P.O. Box 5503, Bismarck, North Dakota 58502–5503.	November 21, 1997.	380149
Oklahoma: Tulsa	City of Glenpool	August 22, 1997, August 29, 1997, *Tulsa World.*	The Honorable Curtis Killian, Mayor, City of Glenpool, P.O. Box 70, Glenpool, Oklahoma 74033.	August 6, 1997 ...	400208
Oklahoma: Oklahoma	City of Oklahoma City.	August 22, 1997, August 29, 1997, *The Daily Oklahoman.*	The Honorable Ronald J. Norick, Mayor, City of Oklahoma City, 200 North Walker Avenue, Oklahoma City, Oklahoma 73102.	August 1, 1997 ...	405378
Texas: Collin	City of Allen	August 13, 1997, August 20, 1997, *The Allen American.*	The Honorable Kevin Lilly, Mayor, City of Allen, One Butler Circle, Allen, Texas 75013.	July 23, 1997	480131
Texas: Tarrant	City of Benbrook	July 22, 1997, July 29, 1997, *Fort Worth Star-Telegram.*	The Honorable Jerry Dunn, Mayor, City of Benbrook, P.O. Box 26569, Benbrook, Texas 76126.	July 1, 1997	480586
Texas: Dallas, Denton, and Collin.	City of Carrollton	July 18, 1997, July 25, 1997, *Metrocrest News.*	The Honorable Milburn Gravley, Mayor, City of Carrollton, P.O. Box 110535, Carrollton, Texas 75011–0535.	July 2, 1997	480167
Texas: Tarrant	City of Fort Worth	July 22, 1997, July 29, 1997, *Fort Worth Star-Telegram.*	The Honorable Kenneth Barr, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102–6311.	July 1, 1997	480596
Texas: Tarrant	City of Haltom City.	August 5, 1997, August 12, 1997, *Fort Worth Star-Telegram.*	The Honorable Gary Larson, Mayor, City of Haltom City, P.O. Box 14246, Haltom City, Texas 76117–0246.	July 8, 1997	480599
Texas: Cameron	Town of South Padre Island.	July 24, 1997, July 31, 1997, *Brownsville Herald.*	The Honorable Edmund Cyganiewicz, Mayor, Town of South Padre Island, 4501 Padre Boulevard, South Padre Island, Texas 78597.	June 20, 1997	480115
Texas: Bexar	City of Universal City.	July 23, 1997, July 30, 1997, *San Antonio Express-News.*	The Honorable Wesley D. Becken, Mayor, City of Universal City, P.O. Box 3008, Universal City, Texas 78148.	June 23, 1997	480049

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

Dated: September 25, 1997.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 97–26284 Filed 10–2–97; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base

flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

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

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD).
ARIZONA	
Santa Cruz County (Unincorporated Areas) (FEMA Docket No. 7218)	
Alamo Wash:	
Just upstream of Interstate 19	*3,590
Approximately 6,500 feet upstream of Interstate 19	*3,669
Maps are available for inspection at the Santa Cruz County Flood Control District and Flood Plain Administration, 2150 North Congress Drive, Nogales, Arizona.	
ARKANSAS	
Cave City (City), Sharp and Independence Counties (FEMA Docket No. 7218)	
Lick Fork:	
Just downstream of a low water crossing located at the eastern corporate limit	+595
Just upstream of Johnson Street	+630
Just upstream of U.S. Highway 167	+650
Curia Creek:	
Just upstream of East Center Street	+610
Approximately 830 feet upstream of Matlock Road	+682
South Big Creek Tributary:	
Just downstream of the dam at Levee Street	+659
Just upstream of the dam at Levee Street	+674
Maps are available for inspection at the Mayor's Office, 107 Spring Street, Cave City, Arkansas.	
Faulkner County (and Incorporated Areas) (FEMA Docket No. 7218)	
East Fork Cadron Creek:	
At U.S. Highway 25	*294
Approximately 150 feet upstream of U.S. Highway 65	*294
Maps are available for inspection at the Faulkner County Tax Assessor's Office, 806 Locust Street, Conway, Arkansas.	
Washington County (and Incorporated Areas) (FEMA Docket No. 7218)	
Clear Creek:	
Approximately 800 feet downstream of State Highway 265	*1,244
At Hylton Road	*1,302
Clear Creek Tributary:	
At confluence with Clear Creek	*1,251
Just upstream of State Highway 265	*1,310
Clear Creek Tributary 1:	
At confluence with Clear Creek	*1,262
Approximately 6,000 feet upstream from Ivey Lane	*1,327
Clear Creek Tributary 2:	
Just upstream of Butterfield Coach Road	*1,292
Approximately 200 feet upstream of Hylton Road	*1,321
Maps are available for inspection at the Washington County Courthouse, 2 North College Avenue, Fayetteville, Arkansas.	
Maps are available for inspection at the City of Fayetteville City Hall, 113 West Mountain Street, Fayetteville, Arkansas.	
Maps are available for inspection at the City of Springdale City Hall, 201 North Spring Street, Springdale, Arkansas.	
CALIFORNIA	
Sacramento County (Unincorporated Areas) (FEMA Docket No. 7192)	
Cosumnes River:	
At confluence with North Fork Mokelumne River	*19
At the Union Pacific Railroad	*19
Approximately 3,500 feet upstream of the Union Pacific Railroad	*19
Approximately 7,000 feet upstream of the Union Pacific Railroad	*20
Cosumnes River Overflow North of Lambert Road:	
Approximately 250 feet upstream of the Union Pacific Railroad	*17
Approximately 1,000 feet upstream of Core Road	*18
At Eschinger Road	*18
At Fitzgerald Road	*19
At Lambert Road	*19
North Fork Mokelumne River:	
Approximately 5,300 feet upstream of divergence from the South Fork Mokelumne River	*15

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD).
Approximately 6,900 feet upstream of divergence from the South Fork Mokelumne River	*16
Approximately 10,600 feet upstream of divergence from the South Fork Mokelumne River	*17
Approximately 14,300 feet upstream of divergence from the South Fork Mokelumne River	*18
Approximately 1,300 feet downstream of confluence with the Cosumnes River	*19
North Fork Mokelumne River Overflow Channel:	
At confluence with Snodgrass Slough	*15
Approximately 5,000 feet upstream of confluence with Snodgrass Slough	*16
Approximately 7,500 feet upstream of confluence with Snodgrass Slough	*17
Approximately 10,000 feet upstream of confluence with Snodgrass Slough	*18
At confluence with the North Fork Mokelumne River	*19
Snodgrass Slough:	
At confluence with Delta Cross Channel	*15
Approximately 4,400 feet upstream of confluence with Delta Cross Channel	*15
Approximately 800 feet upstream of the Southern Pacific Railroad	*16
Maps are available for inspection at the Sacramento County Department of Public Works, Water Resources Division, 827 Seventh Street, Room 301, Sacramento, California.	
Sacramento County (Unincorporated Areas) (FEMA Docket No. 7218)	
Morrison Creek:	
Just downstream of Interstate Highway 5	*16
Just downstream of Meadowview Road	*16
Laguna Creek:	
At confluence with Morrison Creek	*16
Approximately 3,300 feet upstream of the Union Pacific Railroad	*16
Maps are available for inspection at the Sacramento County Department of Public Works, Water Resources Division, 827 Seventh Street, Room 301, Sacramento, California.	
IOWA	
Bettendorf (City), Scott County (FEMA Docket No. 7218)	
Spencer Creek:	
Approximately 1,300 feet upstream of Wellsferry Road (at downstream corporate limits)	*658
Just upstream of Interstate Highway 80	*675
Approximately 120 feet downstream of Devil's Glen Road	*693
Approximately 3,000 feet upstream of Devil's Glen Road	*702
Maps are available for inspection at the City of Bettendorf Department of Public Works, 4403 Devil's Glen Road, Bettendorf, Iowa.	
Davenport (City), Scott County (FEMA Docket No. 7218)	
Spencer Creek:	
Approximately 4,300 feet downstream of Utica Ridge Road	*702
Approximately 1,000 feet upstream of Utica Ridge Road	*717
Cardinal Creek:	
Approximately 400 feet downstream of Chicago Milwaukee-St. Paul & Pacific Railroad	*664
Approximately 1,400 feet upstream of Wisconsin Avenue	*675
Approximately 400 feet upstream of 46th Street	*686
Maps are available for inspection at the City of Davenport Department of Public Works, 226 West Fourth Street, Davenport, Iowa.	
Scott County (Unincorporated Areas) (FEMA Docket No. 7218)	
Spencer Creek:	
Approximately 320 feet upstream of East Valley Drive	*575
Just downstream of Wellsferry Road	*592
Approximately 150 feet upstream of Forest Grove Drive	*648
Approximately 250 feet downstream of Wellsferry Road, second crossing going upstream	*653
At 210th Street	*722
Maps are available for inspection at the Scott County Department of Planning and Development, 518 West Fourth Street, Davenport, Iowa.	
KANSAS	
Jefferson County (Unincorporated Areas) (FEMA Docket No. 7218)	
Kansas River:	
At Douglas-Jefferson County line	*838
At confluence of Stone House Creek, near Town of Williamstown	*840
At Douglas-Shawnee County line	*862
Maps are available for inspection at the Jefferson County Planning and Zoning Office, 300 West Jefferson, Oskaloosa, Kansas.	
Leavenworth County (Unincorporated Areas) (FEMA Docket No. 7218)	
Kansas River:	
At the corner of Douglas, Johnson, and Leavenworth Counties, near the City of Linwood	*798
At confluence of Mud Creek	*812
Maps are available for inspection at the Leavenworth County Department of Planning, County Courthouse, Fourth and Walnut Streets, Leavenworth, Kansas.	
Pottawatomie County (Unincorporated Areas) (FEMA Docket No. 7218)	
Kansas River:	
Approximately 3,600 feet east of confluence of Sand Creek	*990
Approximately 5,000 feet upstream of confluence of the Big Blue River	*1,012
Maps are available for inspection at the Pottawatomie County Courthouse, 106 Main Street, Westmoreland, Kansas.	
Reno County (and Incorporated Areas) (FEMA Docket No. 7218)	
Arkansas River:	
At extension of Bone Springs Road to Arkansas River	*1,639
At 108th Avenue bridge over Peace Creek	*1,644
Maps are available for inspection at the Reno County Public Works Department, County Courthouse, 206 West First Street, Hutchinson, Kansas.	
St. George (City), Pottawatomie County (FEMA Docket No. 7218)	
Kansas River:	
In the southeast corner of the City	*993
At confluence of Blackjack Creek	*994
Maps are available for inspection at the City of St. George City Hall, 214 First Street, St. George, Kansas.	

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD).
MISSOURI	
Park Hills (City), St. Francois County (FEMA Docket No. 7218)	
Flat River:	
Approximately 3,000 feet upstream of Main Street	*741
Approximately 4,800 feet upstream of Main Street	*751
Maps are available for inspection at the City of Park Hills City Hall, 10 Municipal Drive, Park Hills, Missouri.	
MONTANA	
Wibaux County (and Incorporated Areas) (FEMA Docket No. 7218)	
Beaver Creek:	
Approximately 4,200 feet downstream of Interstate Highway 94	*2,628
Approximately 4,400 feet upstream of the southernmost corporate limits	*2,662
Maps are available for inspection at the Town of Wibaux Town Hall, 112 South Wibaux Street, Wibaux, Montana.	
Maps are available for inspection at the Office of the County Clerk and Recorder, Wibaux County Courthouse, 200 South Wibaux Street, Wibaux, Montana.	
NEVADA	
Eureka County (Unincorporated Areas) (FEMA Docket No. 7218)	
Eureka Canyon:	
Approximately 650 feet downstream of Reno Avenue	*6,399
Approximately 250 feet upstream of intersection of U.S. Highway 50 (also County Route 2) and New York Canyon Road	**6,609
Maps are available for inspection at the Eureka County Department of Public Works, County Courthouse Annex, 701 South Main Street, Eureka, Nevada.	
OREGON	
Bandon (City), Coos County (FEMA Docket No. 7218)	
Pacific Ocean:	
Just downstream of the south jetty, near the mouth of the Coquille River	*19
At the intersection of Madison Avenue and Fourth Street	*13
Approximately 100 feet north of the northern limit of Newport Avenue	#2
800 feet north of Coquille Point	*29
Approximately 800 feet south of Coquille Point, at the mouth of Tupper Creek	*40
At the mouth of Johnson Creek	*29
Maps are available for inspection at the City of Bandon Planning Department, 555 Highway 101, Bandon, Oregon.	
Curry County (Unincorporated Areas) (FEMA Docket No. 7218)	
Pacific Ocean:	
Approximately 1,900 feet north of the north end of Sandy Drive	*11
Approximately 600 feet south and 400 feet west of the south end of Sandy Drive	*13
Maps are available for inspection at the Curry County Planning Department, 145 East Moore Street, Gold Beach, Oregon.	
Glendale (City), Douglas County (FEMA Docket No. 7218)	
Cow Creek:	
Approximately 4,400 feet downstream of the Southern Pacific Railway	*1,386
Approximately 600 feet downstream of Reuben Road	*1,395
Maps are available for inspection at the City of Glendale City Hall, 124 Third Street, Glendale, Oregon.	
Riddle (City), Douglas County (FEMA Docket No. 7218)	
Cow Creek:	
Approximately 3,200 feet downstream of Main Street	*667
Approximately 440 feet upstream of Main Street	*673
Maps are available for inspection at the City of Riddle City Hall, 647 First Avenue, Riddle, Oregon.	
SOUTH DAKOTA	
Montrose (City), McCook County (FEMA Docket No. 7218)	
East Fork Vermillion River:	
At downstream corporate limits (approximately 1,600 feet upstream of State Highway 38)	*1,471
Just upstream of Clark Street	*1,474
At upstream corporate limits (approximately 1,600 feet upstream of Clark Street)	*1,477
Maps are available for inspection at the City of Montrose City Hall, 100 West Main Street, Montrose, South Dakota.	
TEXAS	
Hays County (and Incorporated Areas) (FEMA Docket No. 7181)	
San Marcos River:	
At border of Hays and Guadalupe Counties	*551
At confluence of Sink Creek	*577
Plum Creek:	
At border of Township of Uhland and Caldwell County	*538
8,500 feet upstream of Interstate Highway 35 bridge	*732
Stream Plum–1:	
At confluence with Plum Creek	*631
Just above Sledge Street bridge	*729
Brushy Creek:	
Just above State Highway 21	*542
1,150 feet upstream of Satterwhite Road bridge	*654
Stream Brushy–1:	
At confluence with Brushy Creek	*556
650 feet upstream of County Road 131 bridge	*643
Stream Brushy–1A:	
At confluence with Stream Brushy–1	*596
Behind dam located 1,200 feet from County Road 157 bridge	*631
Cottonwood Creek:	
At Old Bastrop Highway bridge	*592
200 feet upstream of Center Point Road	*669
Stream CC–1:	
At confluence with Cottonwood Creek	*601
Just west of Interstate Highway 35	*642
Stream CC–2:	
At confluence with Cottonwood Creek	*639
1,870 feet upstream of Hunter Road bridge	*711
Stream CC–2D:	
At confluence with Cottonwood Creek	*634
Just upstream of Interstate Highway 35	*656
Stream CC–IH35:	
At confluence with Stream CC–1	*643
At divergence from Cottonwood Creek	*656
Blanco River:	
At confluence with San Marcos River	*571
3,300 feet upstream of confluence of Wanslow Creek	*1,021
Bypass Creek:	
2,500 feet downstream of Missouri, Kansas, Texas Railroad bridge	*563
1,050 feet upstream of Harris Hill Road bridge	*603
Stream BPC–1:	
At confluence with Stream BPC–2	*573
At divergence from Blanco River	*593
Stream BPC–2:	
At confluence with Bypass Creek	*573

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD).
At divergence from Blanco River	*599
Loneman Creek:	
At confluence with Blanco River	*760
Just above Deer Lake Road bridge	*913
200 feet downstream of County Road 317	*1,042
Smith Creek:	
At confluence with Loneman Creek	*872
Above earthen dam 4,700 feet upstream from Deer Lake Road bridge	*1,015
Cypress Creek:	
At confluence with Blanco River	*839
1,250 feet above confluence of Stream CC–3	*1,001
Stream Cypress-1:	
At confluence with Cypress Creek	*967
3,900 feet upstream of Valley Spring Road	*1,033
Wilson Creek:	
At confluence with the Blanco River	*843
100 feet downstream of dirt road that intersects FM 2325	*1,005
Willow Springs Creek:	
At confluence with the San Marcos River	*571
2,400 feet upstream of McCarty Lane	*715
Stream WSC-RR:	
At confluence with Purgatory Creek Diversion No. 2	*582
At diversion from Willow Springs Creek	*592
Stream WSC–1:	
At confluence with Willow Springs Creek	*672
600 feet upstream of McCarty Lane	*707
Purgatory Creek:	
At confluence with the San Marcos River	*571
Approximately 20,000 feet upstream of SCS Dam No. 4	*910
Stream PC–1:	
At confluence with Purgatory Creek	*653
6,300 feet upstream of McCarty Lane bridge	*792
Sink Creek:	
At confluence with the San Marcos River	*577
At County Road 213 crossing	*801
Onion Creek:	
At border of Travis and Hays Counties	*644
Approximately 2.5 miles upstream of County Road 190 bridge	*1,141
Bear Creek:	
At border of Hays and Travis Counties	*805
At dam located 2,000 feet upstream of Wildwood Hills Lane	*986
Little Bear Creek:	
At border of Hays and Travis Counties	*672
2,500 feet upstream of Arbor Trail bridge	*815
Stream LB–1:	
At confluence with Little Bear Creek	*741
2,500 feet upstream of Chaparral Road	*790
Stream Bear-1:	
At confluence with Bear Creek	*848
At border of Hays and Travis Counties	*922
Stream Bear-1A:	
At confluence with Stream Bear-1	*851
2,000 feet upstream of Todd Road bridge	*1,037
Stream Bear-2:	
At confluence with Bear Creek	*848
4,650 feet upstream of confluence with Bear Creek	*921
Barton Creek:	
At border of Hays and Travis Counties	*942
At County Road 169	1,333
Long Branch:	
At border of Hays and Travis Counties	*1,035
Above dam located 3,000 feet upstream of Carriage House Lane	*1,160
Stream BC–1:	
At confluence with Barton Creek	*1,085
3,300 feet upstream of confluence of Stream BC–1A	*1,124
Stream BC–1A:	
At confluence with Stream BC–1	*948
1,870 feet upstream of confluence with Stream BC–1	*1,151
Roy Branch:	
At confluence with Barton Creek	*957
2,100 feet upstream of Oakwood Lane bridge	*1,103
Cottonwood Branch:	
At confluence with Ray Branch	*991
1,000 feet upstream of Hidden Hills Drive bridge	*1,096
Little Barton Creek:	
At confluence with Barton Creek	*989
2,500 feet upstream of Spring Lake Drive bridge	*1,245
Stream BC–2:	
At confluence with Barton Creek	*1,096
750 feet upstream of County Road 169	*1,227
Stream BC–2A:	
At confluence with Stream BC–2	*1,153
Approximately 5,500 feet upstream of confluence with Stream BC–2	*1,236
School House Hollow:	
At confluence with Barton Creek	*1,119
Above dam located 2,000 feet upstream of County Road 169 bridge	*1,192
Stream SH–1:	
At confluence with School House Hollow	*1,185
Approximately 4,000 feet upstream of confluence with School House Hollow	*1,261
Purgatory Creek Diversion No. 1:	
At confluence with Purgatory Creek	*583
At divergence from Purgatory Creek	*602
Purgatory Creek Diversion No. 2:	
At confluence with Willow Springs Creek	*581
At divergence from Purgatory Creek	*585
Maps are available for inspection at the Hays County Environmental Health Department, 1251 Civic Center Loop, San Marcos, Texas.	
Maps are available for inspection at the City of Kyle Department of Public Works, City Hall, 101 South Burleson, Kyle, Texas.	
Maps are available for inspection at the City of San Marcos Engineering Department, City Hall, 630 East Hopkins Street, San Marcos, Texas.	
Maps are available for inspection at the City of Woodcreek, 17 Wildwood, Wimberley, Texas.	
Maps are available for inspection at the City of Buda City Hall, 121 North Main Street, Buda, Texas.	
Maps are available for inspection at the City of Hays, c/o Mayor of Hays, 12633 Red Bud Trail, Buda, Texas.	
Maps are available for inspection at the City of Niederwald, Go Forth Water Supply, 13841 Camino Real, Niederwald, Texas.	
Maps are available for inspection at the Township of Uhland, 17 Cotton Gin Road, Uhland, Texas.	

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

Dated: September 25, 1997.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 97–26281 Filed 10–02–97; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[GC Docket No. 97–143; FCC 97–332]

Implementation of the Electronic Freedom of Information Act Amendments of 1996

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This order amends the Commission's rules regarding implementation of the Electronic Freedom of Information Act Amendments of 1996 to comply with the changes mandated by the Electronic Freedom of Information Act Amendments of 1996. This action will make it easier for the public to request access under the FOIA to the Commission's records.

EFFECTIVE DATE: October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Laurence H. Schecker, Office of General Counsel, (202) 418–1720.

SUPPLEMENTARY INFORMATION:

Adopted: September 18, 1997.
Released: September 23, 1997.

1. In this Order, we amend part 0 of our rules to implement the amendments to the Freedom of Information Act (''FOIA'') enacted in the Electronic Freedom of Information Act Amendments of 1996 (''EFOIA'').[1]

Discussion

2. We instituted this proceeding to conform our rules to EFOIA's requirements governing electronic records and to implement the EFOIA directive that we provide for the expedited processing of FOIA requests.[2] Only two comments were received, neither of which addressed the substance of our proposals.[3] For the reasons stated in the Notice of Proposed Rulemaking (NPRM), we adopt, as proposed, the following amendments to our Rules: amendments to § 0.461(a), to reflect the EFOIA requirement that agencies honor requests that records be provided in specific formats; amendments to § 0.461(g), to permit 20 working days to respond to initial FOIA requests and to provide requesters with the opportunity to both limit the scope of their requests or negotiate a time frame for processing requests; and amendments to sections §§ 0.441, 0.443, 0.453, 0.455, and 0.460, to provide the public with better guidance concerning the availability of Commission records. We also adopt, with a minor modification described below, the proposed new paragraph (h) to § 0.461, which provides for the expedited processing of certain FOIA requests. The specific language of the amendments to part 0 is set forth below.

3. The Edgewood Students sought clarification of the method for filing FOIA requests. As they noted, FOIA requests can currently be filed by United States mail, hand delivery, or by electronic mail at <foia@fcc.gov>. FOIA requests may also be filed by facsimile. The NPRM proposed no changes in filing procedures. However, based on the Edgewood Students's comments, we believe § 0.461 should be amended to reflect the option of filing FOIA requests through electronic mail or by facsimile. We will therefore amend § 0.461 of our Rules to indicate that FOIA requests can be filed electronically. Similarly, we will modify our proposed rule for expedited processing of FOIA requests, § 0.461(h), to reflect the possibility of filing such requests through electronic mail. However, we do not at this time envision the filing of FOIA requests or applications for review through the electronic comment filing system (ECFS) currently being developed.[4] Once that system is fully operational, we may reassess its applicability to the FOIA process.

4. The Edgewood Students's comments also addressed the availability of information on our Internet site. A wide variety of FCC information is already available on the Internet site, and more is added regularly. When the new electronic document filing system is in place, even more records will be available through the Internet. The Edgewood Students ask that the Commission's RIPS system[5] be made accessible through our Internet site. However, the RIPS system will be replaced by the ECFS system under development, which will be Internet-accessible.[6]

5. Finally, we note that we did not, as the Reporters Committee's comments feared, adopt any procedures that burden requests for expedited FOIA processing. Our rules simply track the language of the EFOIA and are designed to process such requests speedily.

Procedural Matters

6. In the NPRM, we certified that the proposed rules ''[would] not, if promulgated, have a significant economic impact on a substantial number of small entities.''[7] No comments were received concerning this certification. The rules adopted in this Order implement the amendments to the FOIA enacted through the EFOIA. There is no reason to believe that the revised rules will impose any costs on FOIA requesters beyond those costs incurred under our former rules. Accordingly, we certify, pursuant to section 605(b) of the Regulatory Flexibility Act, that the rules adopted herein will not have a significant economic impact on a substantial number of small entities. The Secretary shall send a copy of this certification to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this certification will also be published in the **Federal Register**.

Ordering Clauses

7. Accordingly, *it is ordered* that pursuant to sections 4(i), 303(r), and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 154(j), and the Electronic Freedom of Information Act Amendments of 1996, Pub. L. 104–231, 110 Stat. 3048 (1996), part 0 of the Commission's Rules is amended as set forth below.

8. *It is further ordered* that the rules adopted herein will become effective October 3, 1997. The rules merely codify provisions of the EFOIA designed to benefit FOIA requesters or otherwise incorporate procedural rules that benefit requesters. We therefore find, for good cause, that the rules should be made effective upon publication.[8]

List of Subjects in 47 CFR Part 0

Organization and functions (Government agencies).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 0 of title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

[1] Pub. L. 104–231, 110 Stat. 3048 (1996), *codified at scattered subsections* of 5 U.S.C. 552.

[2] *Amendment of Part 0 of the Commission's Rules to Implement the Electronic Freedom of Information Act Amendments of 1996,* Notice of Proposed Rulemaking, GC Docket No. 97–143, FCC 97–198 (released June 19, 1997) (NPRM), published at 62 FR 34188 (June 25, 1997).

[3] Reporters Committee for Freedom of the Press (Reporters Committee) and the Regulatory Affairs Committee of the Student Council of Edgewood Senior High School, Ashtabula, Ohio (Edgewood Students).

[4] *Electronic Filing of Documents in Rulemaking Proceedings,* Notice of Proposed Rulemaking, GC Docket No. 97–113, FCC 97–113 (released April 7, 1997) (Electronic Filing of Documents).

[5] The Record Image Processing System (RIPS) provides access to comments filed with the Commission in notice and comment rulemaking proceedings, as well as a variety of filings in other kinds of docketed proceedings (*e.g.,* tariff investigations, formal hearings before Administrative Law Judges, and applications by Bell Operating Companies to provide out-of-region long distance service). See *Electronic Filing of Documents,* at ¶ 6.

[6] The Edgewood Students's other suggestions for placement of information on the Internet have been forwarded to the Office of Public Affairs for consideration.

[7] NPRM ¶ 12, *citing,* 5 U.S.C. § 605(b).

[8] *See* 5 U.S.C. § 553(d)(3).

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.441 is revised to read as follows:

§ 0.441 General.

Any person desiring to obtain information may do so by writing or coming in person to any of the Commission's offices. A broader range of information and more comprehensive information facilities are available at the Commission's main office in Washington, D.C., however, and inquiries of a general nature should ordinarily be submitted to that office. A wide range of information is also available from the Commission's World Wide Web site located at <http://www.fcc.gov>.

3. Section 0.443 is revised to read as follows:

§ 0.443 General information office.

The Public Service Division of the Office of Public Affairs is located at 1919 M Street, N.W., Washington, D.C. Here, the public may obtain copies of the ''Federal Communications Commission Information Seekers Guide,'' which is a handbook for obtaining information from the FCC. This office also maintains current and back issues of public notices of Commission actions, formal documents adopted by the Commission, and copies of fact sheets that answer general questions about the Commission. Many such recent items may also be obtained from the Commission's World Wide Web site located at <http://www.fcc.gov>. Commission documents listed in § 0.416 are published in the FCC Record, and many such documents or summaries thereof are also published in the **Federal Register**.

4. Section 0.453 introductory text is revised to read as follows:

§ 0.453 Public reference rooms.

The Commission maintains the following public reference rooms at its offices in Washington, DC, Gettysburg, Pennsylvania, and Columbia, Maryland. Much of the information available from the public reference rooms may also be retrieved from the Commission's World Wide Web site at <http://www.fcc.gov>:

* * * * *

5. Section 0.455 introductory text is revised to read as follows:

§ 0.455 Other locations at which records may be inspected.

Except as provided in §§ 0.453, 0.457 and 0.459, records are routinely available for inspection in the offices of the Bureau or Office which exercises responsibility over the matters to which those records pertain (see § 0.5), or will be made available for inspection at those offices upon request. Many of these records may be retrieved from the Commission's site on the World Wide Web, located at <http://www.fcc.gov>. Upon inquiry to the appropriate Bureau or Office, persons desiring to inspect such records will be directed to the specific location at which the particular records may be inspected. A list of Bureaus and Offices and examples of the records available at each is set out below:

* * * * *

6. Section 0.460(a) is revised to read as follows:

§ 0.460 Requests for inspection of records which are routinely available for public inspection.

(a) Sections 0.453 and 0.455 list those Commission records which are routinely available for public inspection and the places at which those records may be inspected. Subject to the limitations set out in this section and to the provisions of § 0.466 and paragraph (l) of this section, a person who wants to inspect such records need only appear at the specified location and ask to see the records. Many such records also are available through the Commission's site on the World Wide Web, located at <http://www.fcc.gov>. Commission documents listed in § 0.416 are published in the FCC Record, and many such documents or summaries thereof are also published in the **Federal Register**.

* * * * *

7. Section 0.461 is amended by redesignating paragraph (a) as paragraph (a)(1) and adding paragraph (a)(2), revising paragraphs (d)(1) and (d)(3), paragraph (g) introductory text, paragraph (g)(3) and the concluding text of paragraph (g), redesignating paragraphs (h) and (i) as paragraphs (i) and (j) and revising them, adding new paragraph (h), and revising paragraph (k) introductory text and paragraph (k)(3) to read as follows:

§ 0.461 Requests for inspection of materials not routinely available for public inspection.

* * * * *

(a) (1) * * *

(2) The person requesting records under this section may specify the form or format of the records to be produced.

* * * * *

(d) (1) Requests shall be delivered or mailed to the Managing Director, sent by electronic mail to <foia@fcc.gov>, or sent by facsimile. (For purposes of this section, the custodian of the records is the Chief of the appropriate Bureau or Office.)

* * * * *

(3) An original and two copies of the request shall be submitted. If the request is submitted by electronic mail, only one copy need be submitted. If the request is for materials not open to routine public inspection under § 0.457(d) or § 0.459, one copy of the request will be mailed by the custodian of the records to the person who originally submitted the materials to the Commission.

* * * * *

(g) The custodian of the records will make every effort to act on the request within 20 working days after it is received by the FOIA Control Office. If it is not possible to locate the records and to determine whether they should be made available for inspection within 20 working days, the custodian may, in any of the following circumstances, extend the time for action by up to 10 working days:

* * * * *

(3) It is necessary to consult with another agency having a substantial interest in the determination of the request, or among two or more components of the Commission having substantial subject matter interest therein.

The custodian of the records will notify the requester in writing of any extension of time exercised pursuant to paragraph (g) of this section. If it is not possible to locate the records and make the determination within the extended period, the person or persons who made the request will be provided an opportunity to limit the scope of the request so that it may be processed within the extended time limit, or an opportunity to arrange an alternative time frame for processing the request or a modified request, and asked to consent to an extension or further extension. If the requester agrees to an extension, the custodian of the records will confirm the agreement in a letter specifying the length of the agreed-upon extension. If he or she does not agree to an extension, the request will be denied, on the grounds that the custodian has not been able to locate the records and/or to make the determination within the period for a ruling mandated by the Freedom of Information Act, 5 U.S.C. 552. In that event, the custodian will continue to search for and/or assess the records and will advise the person who made the request of further developments; but that person may file an application for review by the Commission. When action is taken by

the custodian of the records, written notice of the action will be given.

(h) (1) Requesters who seek expedited processing of FOIA requests shall submit such requests, along with their FOIA requests, to the Managing Director, as described in § 0.461(d). If the request is enclosed in an envelope, the envelope shall be marked ''Request for Expedited Proceeding—FOIA Request.'' An original and two copies of the request for expedition shall be submitted, but only one copy is necessary if submitted by electronic mail. When the request is received by the Managing Director, it, and the accompanying FOIA request, will be assigned to the FOIA Control Office, where it will be date-stamped and assigned to the custodian of records.

(2) Expedited processing shall be granted to a requester demonstrating a compelling need that is certified by the requester to be true and correct to the best of his or her knowledge and belief.

(3) For purposes of this section, *compelling need* means—

(i) That failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) With respect to a request made by a person primarily engaged in disseminating information, there is an urgency to inform the public concerning actual or alleged Federal Government activity.

(4) (i) Notice of the determination as to whether to grant expedited processing shall be provided to the requester by the custodian of records within 10 calendar days after receipt of the request by the FOIA Control Office. Once the determination has been made to grant expedited processing, the custodian shall process the FOIA request as soon as practicable.

(ii) If a request for expedited processing is denied, the person seeking expedited processing may file an application for review within five working days after the date of the written denial. The application for review and the envelope containing it (if any) shall be captioned ''Review of FOIA Expedited Proceeding Request.'' The application for review shall be delivered or mailed to the General Counsel. (For general procedures relating to applications for review, *see* § 1.115 of this chapter.) The Commission shall act expeditiously on the application for review, and shall notify the custodian of records of the disposition of such an application for review.

(i) If a request for inspection of records submitted to the Commission in confidence under § 0.457(d) or § 0.459 is granted, an application for review of the action may be filed only by the person who submitted the records to the Commission. The application for review and the envelope containing it (if any) shall be captioned ''Review of Freedom of Information Action.'' The application for review shall be filed within 10 working days after the date of the written ruling, shall be delivered or mailed to the General Counsel, and shall be served on the person who filed the request for inspection of records. The first day to be counted in computing the time period for filing the application for review is the day after the date of the written ruling. If an application for review is not filed within this period, the records will be produced for inspection. The person who filed the request for inspection of records may respond to the application for review within 10 working days after it is filed.

(j) Except as provided in paragraph (i) of this section, an application for review of an initial action on a request for inspection may be filed only by the person who made the request. The application shall be filed within 30 days after the date of the written ruling by the custodian of records, and shall be captioned, ''Review of Freedom of Information Action.'' The envelope (if any) shall also be so captioned. The application shall be delivered or mailed to the General Counsel and shall be served on the person (if any) who originally submitted the materials to the Commission. That person may file a response within 10 working days after the application for review is filed. If the records are made available on review, the person who submitted them to the Commission (if any) will be afforded 10 working days after the date of the written ruling to seek a judicial stay. *See* paragraph (i) of this section. The first day to be counted in computing the time period for filing the application for review or seeking a judicial stay is the day after the date of the written ruling. (For general procedures relating to applications for review, see § 1.115 of this chapter.)

(k) The Commission will make every effort to act on an application for review of an action on a request for inspection of records within 20 working days after it is filed. See, however, paragraph (i) of this section. If it is not possible to locate the records and to determine whether they should be made available for inspection within 20 working days, the General Counsel may, in the following circumstances and to the extent time has not been extended under paragraphs (g) (1)(i), (ii), or (iii) of this section, extend the time for action up to 10 working days. (The total period of extensions taken under this paragraph and under paragraph (g) of this section without the consent of the person who submitted the request shall not exceed 10 working days.):

* * * * *

(3) It is necessary to consult with another agency having a substantial interest in the determination of the request or among two or more components of the Commission having substantial subject matter interest therein.

* * * * *

[FR Doc. 97–26205 Filed 10–2–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–135; RM–9087]

Radio Broadcasting Services; Spring Valley, MN and Osage, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action in this document substitutes Channel 282C3 for Channel 282A at Spring Valley, Minnesota, and modifies the license for Station KVGO(FM) to specify operation on Channel 282C3 in response to a petition filed by KVGO, Inc. *See* 62 FR 29090, May 29, 1997. The coordinates for Channel 282C3 are 43–38–23 and 82–38–30. To accommodate the proposal for Spring Valley, we shall substitute Channel 254A for Channel 279A at Osage, Iowa, and modify the license for Station KCZY accordingly. The coordinates for Channel 254A are 43–19–20 and 92–51–22. With this action this proceeding is terminated.

EFFECTIVE DATE: November 10, 1997.

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. 97–135, adopted September 17, 1997, and released September 26, 1997. 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., 1231 20th Street, NW.,

Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

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: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 282A and adding Channel 282C3 at Spring Valley.

3. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 279A and adding Channel 254A at Osage.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–26251 Filed 10–2–97; 8:45 am]

BILLNG CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–152; RM–9102]

Radio Broadcasting Services; Naylor, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 260A to Naylor, Missouri, as that community's first local FM broadcast service in response to a petition filed by B.B.C., Inc. *See* 62 FR 38053, July 16, 1997. The coordinates for Channel 260A at Naylor are 36–34–12 and 90–35–30. With this action, this proceeding is terminated.

DATES: Effective November 10, 1997. The window period for filing applications for Channel 260A at Naylor, Missouri, will open on November 10, 1997, and close on December 11, 1997.

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. 97–152, adopted September 17, 1997, and released September 26, 1997. 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., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

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: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Naylor, Channel 260A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–26249 Filed 10–2–97; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–9; RM–8929, RM–9067]

Radio Broadcasting Services; New Boston, TX and Idabel, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Dixie Broadcasting Company, allots Channel 286A to New Boston, Texas. *See* 62 FR 3851, January 27, 1997. In response to a counterproposal filed by Idabel Community Broadcasters (RM–9067), the Commission also allots Channel 275A to Idabel, Oklahoma. Channel 286A and Channel 275A can be allotted to New Boston and Idabel, respectively, in compliance with the Commission's minimum distance separation requirements. The coordinates for Channel 286A at New Boston, Texas, are 33–27–41 NL and 94–31–00 WL. The coordinates for Channel 275A at Idabel, Oklahoma, are 33–53–48 NL and 94–49–42 WL. With this action, this proceeding is terminated.

DATES: Effective November 10, 1997. The window period for filing applications for Channel 286A at New Boston, Texas, and Channel 275A at Idabel, Oklahoma, will open on November 10, 1997, and close on December 11, 1997.

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. 97–9, adopted September 17, 1997, and released September 26, 1997. 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, 1231 20th Street, NW, Washington, DC 20036.

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: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 286A at New Boston.

3. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Channel 275A at Idabel.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–26248 Filed 10–2–97; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–147; RM–9099]

Radio Broadcasting Services; Sardis, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Delta Radio, Inc., allots

Channel 271A to Sardis, Mississippi, as the community's first local aural transmission service. *See* 62 FR 36756, July 9, 1997. Channel 271A can be allotted in compliance with the Commission's distance separation requirements with a site restriction of 7.0 kilometers (4.4 miles) southeast. The coordinates for Channel 271A at Sardis are 34–24–09 NL and 89–51–23 WL. With this action, this proceeding is terminated.

DATES: Effective November 10, 1997. The window period for filing applications for Channel 271A at Sardis, Mississippi, will open on November 10, 1997, and close on December 11, 1997.

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. 97–147, adopted September 17, 1997, and released September 26, 1997. 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, 1231 20th Street, NW, Washington, DC 20036.

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: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Sardis, Channel 271A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 97–26247 Filed 10–2–97; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF ENERGY

48 CFR Parts 952 and 970

Acquisition Regulation, Classification, Security and Counterintelligence

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending the Department of Energy Acquisition Regulation (DEAR) to revise its classification contract clause, revise its access authorization (security clearance) procedures for contractor personnel, and add new counterintelligence provisions. Specific material being revised or added is summarized in the ''Section-by-Section Analysis'' appearing later in this document.

EFFECTIVE DATE: This rule will be effective December 2, 1997.

FOR FURTHER INFORMATION CONTACT: Richard B. Langston, Office of Procurement and Assistance Policy (HR–51), Office of the Deputy Assistant Secretary for Procurement and Assistance Management, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585–0705, (202) 586–8247.

SUPPLEMENTARY INFORMATION:

I. Background
II. Disposition of Comments
III. Section-by-Section Analysis
IV. Procedural Requirements
A. Review Under Executive Order 12612
B. Review Under Executive Order 12866
C. Review Under Executive Order 12988
D. Review Under the National Environmental Policy Act
E. Review Under the Paperwork Reduction Act
F. Review Under the Regulatory Flexibility Act
G. Review Under Small Business Regulatory Enforcement Fairness Act of 1996
H. Review Under the Unfunded Mandates Reform Act of 1995

I. Background

This final rule results from a notice of proposed Rulemaking published in the **Federal Register** on November 20, 1996, 61 FR 59072. This rule will accomplish three objectives.

First, it will revise the classification contract clause to provide that only Federal Government employees may serve as ''original classifiers'' and that both Federal Government employees and contractor employees may serve as ''derivative classifiers.'' The clause is also changed to recognize that a balance is required between the Department's mission to protect the national security and prevent nuclear proliferation and its commitment to maximize the amount of information available to the public. As revised, the clause requires that information, documents or material originated or generated in classified or potentially classified subject areas be reviewed for classification by the appropriate officials using proper classification guidance provided by the Department. The clause also requires that documents containing information which is no longer classified by current classification guidance be systematically reviewed for declassification by a Derivative Declassifier. Only when both classification and declassification reviews are performed can the Department achieve its goal of protecting the national security while providing the public with access to as much Government information as possible. Definitions of certain terms are added. These changes are at item 2 of the final rule, subsection 952.204–70, the clause itself, and item 5 of the final rule, subsection 970.0404–4, paragraph (a)(1), a reference to the clause and its revised title.

Second, it will provide a definition of ''counterintelligence'' consistent with E.O. 12333, a policy statement regarding DOE's counterintelligence program, and a new contract clause on counterintelligence applicable to certain DOE management and operating contractors and other contractors managing DOE-owned facilities. These changes appear at item 3 of the final rule, subsection 970.0404–1, a definition, item 4 of the final rule, subsection 970.0404–2, paragraph (e), a policy statement, item 5, subsection 970.0404–4, paragraph (a)(2), an instruction for use of the clause, and item 7, subsection 970.5204–1, paragraph (b), the text of the clause.

Third, it will revise the DEAR to be consistent with the recommendations of the General Accounting Office Report on Nuclear Security, RCED–93–183, as implemented by DOE Order 472.1B entitled ''Personnel Security Activities.'' The GAO report stressed contractor responsibility for certifying preemployment checks conducted on prospective employees. Where DOE access authorization is required, the contractor must perform normal and prudent preemployment checks and the applicant's job qualifications and suitability must be established before a request is made to the Department for a security clearance. This revision is applicable to DOE management and operating contractors and other contractors managing DOE-owned facilities. Such contractors may, at their discretion, include this procedure in their subcontracts where subcontractor employees are required to hold a DOE access authorization in order to perform on-site duties, such as protective force operations. This change appears at item 6 of the final rule, section 970.2201, paragraph (b)(1)(ii).

II. Disposition of Comments

Comments were received from 2 reviewers.

The first reviewer registered general support for the amendment. The reviewer supported the Department's efforts to maximize information available to the public while ensuring the proper protection of sensitive national security and atomic energy information. The addition of the declassification reviews to DOE's security program was supported by this reviewer.

The second reviewer offered four comments.

First Comment. The reviewer notes that the rulemaking emphasizes the importance of a contractor's declassification activities. The reviewer suggests that the declassification activities of the contractor be formally recognized in the contract and states the opinion that such declassification activities may be substantially under funded until such action is taken.

First Response. Including the Classification/Declassification clause in a contract constitutes formal recognition of these activities. Contracts do not specify the individual tasks involved in the work to such a specific level of work as classifying or declassifying a document. DOE policy emphasizes the importance of conducting declassification reviews. This policy has led, during each of the past three years, to the declassification of greater numbers of documents than have been classified. This suggests that our policy emphasis has been effective.

Second Comment. The reviewer notes a statement in the ''Review Under the Regulatory Flexibility Act'' (item IV.F. of the preamble of the notice) which says that the security and counterintelligence requirements apply only to management and operating contractors and do not flow down to subcontractors. The reviewer asks for clarification regarding whether the requirements apply to subcontractors.

Second Response. The statement has been revised to more specifically define what is meant by ''security requirements.'' The security requirements being revised, in this context, are those of 970.2201 which discuss completion of preemployment background checks in relation to access authorizations. This specific section (i.e. 970.2201(b)(1)(ii)) applies to DOE management and operating contractors and other contractors operating DOE facilities which require access authorizations. Section 970.2201 is a guiding principle, not a contract clause. It does not flow down to subcontracts. Management and operating contractors and other contractors operating DOE facilities may, at their discretion, include this guiding principle in their solicitations and subcontracts wherein subcontractor employees are required to hold a DOE access authorization in order to perform on-site duties, such as protective force operations. Possible applicability to subcontractors, in specific circumstances, was added based on our analysis of the comment. The Classification/Declassification clause does flow down to subcontracts if they require access to classified information. The counterintelligence requirements do not flowdown to subcontracts. Section IV.F. of the preamble has been revised to avoid any misunderstanding.

Third Comment. The reviewer notes section IV.E. ''Review Under the Paperwork Reduction Act,'' of the preamble of the notice. The reviewer suggests that the declassification activity under the revised Classification/Declassification clause of the notice represents a tremendous record keeping and information burden.

Third Response. The rulemaking makes no change in the amount of records or information. It is intended to move more records and information from the classified category to the declassified category.

Fourth Comment. The reviewer expressed concern that the clause would require most classification decisions to be made by Federal classifiers even in situations where a major contractor operated security program was involved. The reviewer suggested that the lack of definition of the terms ''document,'' ''equipment,'' and ''information'' made the intent of the clause unclear.

Fourth Response. We agree with the comment and have added definitions of terms and revised the text of the clause for clarity.

III. Section-by-Section Analysis

1. The authority citations for Parts 952 and 970 are restated.

2. The classification clause at 952.204–70 is renamed classification/declassification. It is revised to emphasize declassification, add definitions, and differentiate the duties of original versus derivative classifiers.

3. A definition of counterintelligence is added to subsection 970.0404–1.

4. A new paragraph is added to 970.0404–2 to describe DOE policy on counterintelligence.

5. New instructions are added to 970.0404–4 to detail the security clause requirements for management and operating contractors and other contractors managing DOE-owned facilities which require access authorizations.

6. Section 970.2201 is amended to describe the procedures for confirming to DOE the conduct and outcome of preemployment checks performed by management and operating contractors and other contractors managing DOE-owned facilities, when such contractors request that the DOE process an applicant for access authorization. Such contractors may, at their discretion, include this procedure in subcontracts wherein subcontractor employees are required to possess DOE access authorization in order to perform on-site duties, such as protective force operations.

7. Section 970.5204–1 is amended to add a new clause entitled counterintelligence.

IV. Procedural Requirements

A. Review Under Executive Order 12612

Executive Order 12612, entitled ''Federalism,'' 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on states, on the relationship between the Federal Government and the states, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. DOE has determined that this rulemaking will not have a substantial direct effect on the institutional interests or traditional functions of states.

B. Review Under Executive Order 12866

Today's regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review, under that Executive Order, by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

C. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write

regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the final regulations meet the relevant standards of Executive Order 12988.

D. Review Under the National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR 1500–1508), the Department has established guidelines for its compliance with the provisions of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*). Pursuant to Appendix A of Subpart D of 10 CFR Part 1021, National Environmental Policy Act Implementing Procedures (Categorical Exclusion A), DOE has determined that this rulemaking is categorically excluded from the need to prepare an environmental impact statement or environmental assessment.

E. Review Under the Paperwork Reduction Act

This rulemaking imposes no new information collection or record keeping requirements. Accordingly, they require no OMB clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

F. Review Under the Regulatory Flexibility Act

This rulemaking was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, 5 U.S.C. 601, *et seq.*, which requires preparation of a regulatory flexibility analysis for any rule that is likely to have a significant economic impact on a substantial number of small entities. This rulemaking revises established classification and security requirements and adds counterintelligence requirements. The changes to the security requirements being made by this final rule (i.e., 970.2201 dealing with completion of preemployment background checks prior to requests for access authorizations) are applicable to management and operating contractors and other contractors managing DOE-owned facilities. Such contractors may, at their discretion, include this procedure in subcontracts wherein subcontractor employees will require DOE access authorization in order to perform on-site duties, such as protective force operations. The prime contractors operating DOE facilities are large businesses, large universities, or large not for profit entities. This part of the rulemaking could affect small entities only if they become subcontractors performing on-site services that require DOE access authorizations such as protective force operations. Even under such circumstances, there will not be a significant economic impact on a substantial number of small entities as the rulemaking does not require any unusual effort on the part of the small entity. The procedure merely provides that, before requesting that DOE undertake a review for employee access authorization, the employer complete normal preemployment background checks, i.e. police and credit checks, which are normal to the employment of personnel in sensitive type positions such as protective force operations. Moreover, the cost of the background checks are reimbursable.

The new counterintelligence requirements are only applicable to management and operating contractors and other contractors managing DOE facilities. As noted above, such contractors are large businesses or universities, therefore, this rulemaking will have no significant impact on a substantial number of small entities. The change to the classification/declassification clause (i.e. 952.204–70) applies to all contracts and subcontracts but has no significant economic impact. The associated costs are estimated to be relatively small, and in any event, the contracts are likely to be of the cost reimbursement type.

Based on the foregoing review, DOE certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

G. Review Under Small Business Regulatory Enforcement Fairness Act of 1966

As required by 5 U.S.C. 801, DOE will report to Congress promulgation of the rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(3).

H. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires a Federal agency to perform a detailed assessment of costs and benefits of any rule imposing a Federal mandate with costs to State, local or tribal governments, or to the private sector, of $100 million or more. This rulemaking imposes no Federal mandates and does not have an impact of $100 million or more.

List of Subjects in 48 CFR Parts 952 and 970

Government Procurement.

Issued in Washington, D.C., on September 29, 1997.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 952 continues to read:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c); 42 U.S.C. 13524.

PART 952—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

952.204–70 [Amended]

2. Subsection 952.204–70 is amended by revising the section heading and revising the clause to read:

952.204–70 Classification/Declassification.

* * * * *

Classification/Declassification (Sep 1997)

In the performance of work under this contract, the contractor or subcontractor shall comply with all provisions of the Department of Energy's regulations and mandatory DOE directives which apply to work involving the classification and declassification of information, documents, or material. In this section, ''information'' means facts, data, or knowledge itself; ''document'' means the physical medium on or in which information is recorded; and ''material'' means a product or substance which contains or reveals information, regardless of its physical form or characteristics. Classified information is ''Restricted Data'' and ''Formerly Restricted Data'' (classified under the Atomic Energy

Act of 1954, as amended) and ''National Security Information'' (classified under Executive Order 12958 or prior Executive Orders).

The original decision to classify or declassify information is considered an inherently Governmental function. For this reason, only Government personnel may serve as original classifiers, i.e., Federal Government Original Classifiers. Other personnel (Government or contractor) may serve as derivative classifiers which involves making classification decisions based upon classification guidance which reflect decisions made by Federal Government Original Classifiers.

The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a Federal Government or a Contractor Derivative Classifier in accordance with classification regulations including mandatory DOE directives and classification/declassification guidance furnished to the contractor by the Department of Energy to determine whether it contains classified information prior to dissemination. For information which is not addressed in classification/declassification guidance, but whose sensitivity appears to warrant classification, the contractor or subcontractor shall ensure that such information is reviewed by a Federal Government Original Classifier.

In addition, the contractor or subcontractor shall ensure that existing classified documents (containing either Restricted Data or Formerly Restricted Data or National Security Information) which are in its possession or under its control are periodically reviewed by a Federal Government or Contractor Derivative Declassifier in accordance with classification regulations, mandatory DOE directives and classification/declassification guidance furnished to the contractor by the Department of Energy to determine if the documents are no longer appropriately classified. Priorities for declassification review of classified documents shall be based on the degree of public and researcher interest and the likelihood of declassification upon review. Documents which no longer contain classified information are to be declassified. Declassified documents then shall be reviewed to determine if they are publicly releasable. Documents which are declassified and determined to be publicly releasable are to be made available to the public in order to maximize the public's access to as much Government information as possible while minimizing security costs.

The contractor or subcontractor shall insert this clause in any subcontract which involves or may involve access to classified information.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

The authority citation for Part 970 continues to read:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), and Sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254).

3. Subsection 970.0404–1 is amended by adding in alphabetic order ''counterintelligence'' as a new definition to read as follows:

970.0404–1 Definitions.

* * * * *

Counterintelligence means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communication security programs.

* * * * *

4. Subsection 970.0404–2 is amended by adding paragraph (e) to read as follows:

970.0404–2 General.

* * * * *

(e) Executive Order 12333, United States Intelligence Activities, provides for the organization and control of United States foreign intelligence and counterintelligence activities. In accordance with this Executive Order, DOE has established a counterintelligence program which is described in DOE Order 5670.3 (as amended). All DOE elements, including management and operating contractors and other contractors managing DOE-owned facilities which require access authorizations, should undertake the necessary precautions to ensure that DOE and covered contractor personnel, programs and resources are properly protected from foreign intelligence threats and activities.

5. Subsection 970.0404–4 is amended by revising paragraph (a)(1) and by adding a new paragraph (a)(2) to read as follows:

970.0404–4 Contract clauses.

(a) * * *

(1) *Security and Classification/Declassification, 970.5204–1(a).* These clauses are required in all contracts which involve access to classified information, nuclear material, or access authorizations.

(2) *Counterintelligence, 970.5204–1(b).* This clause is required in all management and operating contracts and other contracts for the management of DOE-owned facilities which include the security and classification/declassification clauses.

* * * * *

6. Section 970.2201 is amended by revising paragraph (b)(1)(ii) to read as follows:

970.2201 Basic labor policies.

* * * * *

(b) * * *

(1) * * *

(ii) The job qualifications and suitability of prospective employees should be established by the contractor prior to employment by careful personnel investigations. Such personnel investigations should include, as appropriate: a credit check; verification of high school degree/diploma or degree/diploma granted by an institution of higher learning within the last 5 years; contacts with listed personal references; contacts with listed employers for the past 3 years (excluding employment of less than 60 days duration, part-time employments, and craft/union employments); and local law enforcement checks when such checks are not prohibited by State or local law, statute, or regulation, and when the individual had resided in the jurisdiction where the contractor is located. When a DOE access authorization (security clearance) will be required, the aforementioned preemployment checks must be conducted and the applicant's job qualifications and suitability must be established before a request is made to the DOE to process the applicant for access authorization. Evidence must be furnished to the DOE with the applicant's security forms that specifies: the date each check was conducted, the entity contacted that provided information concerning the applicant, a synopsis of the information provided as a result of each contact, and a statement that all information available has been reviewed and favorably adjudicated in accordance with the contractor's personnel policies. When an applicant is being hired specifically for a position which requires a DOE access authorization, the applicant shall not be placed in that position prior to the access authorization being granted by the DOE unless an exception has been obtained from the Head of the Contracting Activity or designee. If an applicant is placed in that position prior to access authorization being granted by the DOE, the applicant may not be afforded access to classified matter or special nuclear materials (in categories requiring access authorization) until the DOE notifies the employer that access authorization has been granted. Management and operating contractors and other contractors operating DOE facilities may, at their discretion, include this language in solicitations and subcontracts (appropriately modified to identify the parties) wherein subcontract employees will be required to hold DOE access

authorization in order to perform on-site duties, such as protective force operations.

* * * * *

7. Section 970.5204–1 is revised to read as follows:

Subpart 970.52—Contract Clauses for Management and Operating Contracts.

970.5204–1 Security.

(a) As prescribed in 970.0404–4(a)(1), insert the Security clause found at 952.204–2 and the Classification/Declassification clause found at 952.204–70.

(b) As prescribed in 970.0404–4(a)(2), insert the following Counterintelligence clause in contracts containing the security and classification/declassification clauses:

Counterintelligence (Sep 1997)

(a) The contractor shall take all reasonable precautions in the work under this contract to protect DOE programs, facilities, technology, personnel, unclassified sensitive information and classified matter from foreign intelligence threats and activities conducted for governmental or industrial purposes, in accordance with DOE Order 5670.3, Counterintelligence Program; Executive Order 12333, U.S. Intelligence Activities; and other pertinent national and Departmental Counterintelligence requirements.

(b) The contractor shall appoint a qualified employee(s) to function as the Contractor Counterintelligence Officer. The Contractor Counterintelligence Officer will be responsible for conducting defensive Counterintelligence briefings and debriefings of employees traveling to foreign countries or interacting with foreign nationals; providing thoroughly documented written reports relative to targeting, suspicious activity and other matters of Counterintelligence interest; immediately reporting targeting, suspicious activity and other Counterintelligence concerns to the DOE Headquarters Counterintelligence Division; and providing assistance to other elements of the U.S. Intelligence Community as stated in the aforementioned Executive Order, the DOE Counterintelligence Order, and other pertinent national and Departmental Counterintelligence requirements.

[FR Doc. 97–26280 Filed 10–2–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Parts 1 and 10

[OST Docket No. 1; Amdt. 1–290]

Organization and Delegation of Powers and Duties to the Chief Information Officer; Miscellaneous Changes, Office of the Secretary

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The rule delegates certain functions to the Office of the Chief Information Officer.

EFFECTIVE DATE: October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Crystal M. Bush, Program Analyst, Office of the Chief Information Officer, S–80, Room 7107–T, 400 Seventh Street, S.W., Washington, DC 20590, (202) 366–9713, or Ms. Gwyneth Radloff, Attorney Advisor, Assistant General Counsel for Regulation and Enforcement, C–50, Room 10424, 400 Seventh Street, S.W., Washington, DC 20590, (202) 366–9305.

SUPPLEMENTARY INFORMATION: On April 23, 1997, the Secretary of Transportation established the Office of the Chief Information Officer. These amendments to 49 CFR Parts 1 and 10 delegates the Secretary's authority related to specific statutes to the Office of the Chief Information Officer.

List of Subjects

49 CFR Part 1

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

49 CFR Part 10

Privacy.

In accordance with the above, DOT amends 49 CFR, as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322; Public Law 101–552, 28 U.S.C. 2672, 31 U.S.C. 3711(a)(2).

2. Section 1.22(a) is revised to read as follows:

§ 1.22 Structure.

(a) *Secretary and Deputy Secretary.* The Secretary and Deputy Secretary are assisted by the following, all of which report directly to the Secretary: The Associate Deputy Secretary and Director, Office of Intermodalism; the Executive Secretariat; the Board of Contract Appeals; the Departmental Office of Civil Rights; the Office of Small and Disadvantaged Business Utilization; the Office of Intelligence and Security; the Office of Public Affairs; and the Office of the Chief Information Officer. The Assistant Secretaries, the General Counsel, and the Inspector General also report directly to the Secretary.

* * * * *

3. Section 1.23 is amended by adding a new paragraph (q) as follows:

§ 1.23 Spheres of primary responsibility.

* * * * *

(q) *Office of the Chief Information Officer.* Serves as principal advisor to the Secretary on matters involving information resources and information systems management.

4. Subpart C—Delegations is amended by adding a new § 1.72 as follows:

§ 1.72 Delegations to the Office of the Chief Information Officer.

(a) Carry out all functions and responsibilities assigned to the Secretary with respect to the Paperwork Reduction Act of 1995 (44 U.S.C. 3506);

(b) Carry out all functions and responsibilities assigned to the Secretary with respect to the Clinger-Cohen Act of 1996 (40 U.S.C. 1422 to 1424, 1427);

(c) Carry out all functions and responsibilities assigned to the Secretary with respect to the Computer Security Act of 1987 (40 U.S.C. 759, 759 notes);

(d) Approve waivers to Federal Information Processing Standards (FIPS) under Section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441); and

(e) Carry out all the functions and responsibilities assigned to the Secretary with respect to Executive Order 13011, Federal Information Technology, Section 2, paragraphs (a), (b), (d), (e), and (f).

PART 10—[AMENDED]

5. The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552a; 49 U.S.C. 322.

6. Section 10.13 is amended by revising paragraphs (a) and (b) to read as follows:

§ 10.13 Privacy Act Officer.

(a) To assist with implementation, evaluation, and administration issues, the Chief Information Officer appoints a principal coordinating official with the title Privacy Act Officer, and one Privacy Act Coordinator from his/her staff.

(b) Inquiries concerning Privacy Act matters, or requests for assistance, may be addressed to the Privacy Act Officer

(S–80), Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590.

* * * * *

Dated: July 30, 1997.

Rodney E. Slater,

Secretary of Transportation.

[FR Doc. 97–26198 Filed 10–2–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 970129015–7220–05; I.D. 010397A]

RIN 0648–AI84

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Pacific Offshore Cetacean Take Reduction Plan Regulations

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to require new training, equipment, and gear modifications for operators and vessels in the California/Oregon drift gillnet fishery for thresher shark and swordfish to reduce the level of mortality and serious injury of several marine mammal stocks that occur incidental to fishing operations.

DATES: Effective October 30, 1997.

ADDRESSES: Copies of the final Pacific Offshore Cetacean Take Reduction Plan and final Environmental Assessment (EA) prepared for the final rule may be obtained by writing to Irma Lagomarsino, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; or Victoria Cornish, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226.

FOR FURTHER INFORMATION CONTACT: Irma Lagomarsino, NMFS, 562–980–4016; or Victoria Cornish, NMFS, 301–713–2322.

SUPPLEMENTARY INFORMATION: The California/Oregon drift gillnet (CA/OR DGN) fishery which targets thresher shark and swordfish, is classified as a Category I fishery under section 118 of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*). A Category I fishery is a fishery that has frequent incidental mortality and serious injury of marine mammals. The majority of the fishing effort in the CA/OR DGN fishery occurs within 200 miles (320 km) offshore of California and Oregon. Under California state law, from May 1 through August 14, drift gillnets may not be used to take swordfish or thresher shark in ocean waters within 75 nautical miles of the California mainland coastline (California Fish and Game Code, § 8576). Swordfish may be taken within 75 nautical miles of the California mainland from August 15 to January 31; additional area restrictions also apply within this area. From February through April, drift gillnets may not be used.

The CA/OR DGN fishery has a historical incidental bycatch of several strategic marine mammal stocks including: Several beaked whale species, short-finned pilot whales, pygmy sperm whales, sperm whales, and humpback whales (Barlow *et al.*, 1995). A strategic stock is a stock: (1) For which the level of direct human-caused mortality exceeds the potential biological removal (PBR) level; (2) that is declining and is likely to be listed under the Endangered Species Act (ESA) in the foreseeable future; or (3) that is listed as a threatened or endangered species under the ESA.

Section 118 of the MMPA requires NMFS to develop and implement a take reduction plan to assist in the recovery or to prevent the depletion of each strategic stock that interacts with a Category I or II fishery. The immediate goal of a take reduction plan is to reduce, within 6 months of its implementation, the level of mortality and serious injury of strategic stocks incidentally taken in the course of commercial fishing operations to less than the PBR levels established for such stocks. Since the CA/OR DGN fishery is a Category I fishery that interacts with several strategic stocks, NMFS established the Pacific Offshore Cetacean Take Reduction Team (PCTRT) on February 12, 1996 (61 FR 5385), to prepare a draft take reduction plan. The PCTRT includes representatives of NMFS, the California Department of Fish and Game (CDFG), the Pacific States Marine Fisheries Commission, environmental organizations, academic and scientific organizations, and participants in the CA/OR DGN fishery. In selecting these team members, NMFS sought an equitable balance among representatives of resource user and non-user interests.

The PCTRT was tasked with developing a consensus plan for reducing the level of mortality and serious injury of strategic marine mammal stocks incidental to the CA/OR DGN fishery. The PCTRT met five times between February and June 1996 and submitted a consensus draft plan to NMFS on August 15, 1996 (draft PCTRP, 1996). The draft PCTRP included: (1) A review of the current information on the status of the affected strategic marine mammal stocks; (2) a description of the CA/OR DGN fishery; (3) an analysis of data from NMFS' CA/OR DGN fishery observer program from 1990–1995; (4) primary strategies to reduce takes of strategic marine mammal stocks; (5) contingency measures that would reduce fishing effort; and (6) other recommendations regarding voluntary measures to reduce takes, measures to enhance the effectiveness of the observer program, research on oceanographic/environmental variables, and other potential strategies considered and rejected by the team. The PCTRT recommended that three of the four primary strategies of the draft PCTRP (1996) be administered on a mandatory basis (strategies #1, #2, and #4) and that one be administered on a voluntary basis (strategy #3). NMFS reconvened the PCTRT in May 1997 and it provided NMFS with additional comments and recommendations on the proposed PCTRP and proposed rule to implement the plan (see PCTRT Recommendations from the 1997 Meeting section).

Because the implementation of the PCTRP would result in the regulation of the state-managed CA/OR DGN fishery, NMFS contacted both CDFG and the Oregon Department of Fish and Wildlife (ODFW) on how best to proceed with the Plan's implementation. CDFG and ODFW both deferred to the Federal government to issue regulations under the authority of the MMPA to implement the PCTRP. On February 14, 1997, NMFS proposed regulations under the MMPA (62 FR 6931) to implement three of the primary strategies recommended by the PCTRT (draft PCTRP, 1996). These strategies include the establishment of a minimum depth-of-fishing requirement (strategy #1), use of acoustic deterrent devices (pingers) (strategy #2), and mandatory skipper workshops (strategy #4). NMFS also proposed to implement primary strategy #3 on a voluntary basis, under which NMFS would encourage CDFG not to reissue lapsed permits, encourage ODFW to continue issuing not more than 10 permits per year and explore the development of a permit buyback program for both CDFG and ODFW permit holders. In the proposed rule, NMFS described how it intended to implement the other sections of the draft PCTRP.

In addition to publication in the **Federal Register**, NMFS issued a press release announcing the availability of the proposed rule and summarizing the

major issues contained in the proposed rule. Information in the press release was published in several California newspapers and broadcast on at least one radio station. Voluntary Skipper Education Workshops were held in several locations throughout California in June 1997, providing an additional opportunity to inform participants in the fishery about the proposed rule and PCTRP.

The final rule will govern fishing by all U.S. drift gillnet vessels operating in waters seaward of the coast of California or Oregon, including adjacent high seas waters. This final rule applies to U.S. drift gillnet vessels originating from ports outside California or Oregon (e.g., Alaska). NMFS has determined that implementation of this final rule is expected to reduce, within 6 months of its implementation, mortalities and serious injuries of all strategic stocks that are taken by the CA/OR drift gillnet fishery to below the PBR level for each stock.

Responses to Comments

NMFS received six written comments during the comment period for the proposed rule. Comments were received from fishers, environmental groups, the Pacific States Marine Fisheries Commission, and members of the general public. Key issues and concerns are summarized and responded to as follows:

Comments on the Depth of Fishing Requirement (Strategy #1)

In the proposed rule, NMFS proposed to establish a minimum depth-of-fishing requirement that would prohibit the use of extenders that are less than 36 ft (10.9 m). Extender lines (buoy lines) attach buoys (floats) to a drift gillnet's floatline and determine the depth in the water column at which the net is fished. Two commenters agreed with the establishment of a minimum 36 ft (10.9 m) depth-of-fishing requirement as a method to reduce incidental marine mammal mortality and serious injury. Two commenters felt that there must be a mechanism to enforce the extender provision. One commenter believed that since fishing at depths that are greater than 36 ft (10.9 m) results in a lower catch of target fish, vessel operators will fish shallower in the water when observers are not on the vessel. Consequently, future observer data may not be representative of the actual marine mammal take in the entire fishery.

Response: On those boats that are carrying marine mammal observers (e.g., expected to be approximately 20 percent of the fishing effort), information will collected by observers on whether there is compliance with the minimum depth-of-fishing requirement. However, NMFS agrees that this may not be sufficient to ensure compliance. Therefore, NMFS enforcement agents will conduct random checks and NMFS will work with state agents to monitor compliance. In addition, since the cost of a drift gillnet is approximately $10,000 and interactions with marine mammals often results in net damage or net loss, vessel operators will be motivated to make changes in their fishing gear or techniques to avoid marine mammal entanglement, and subsequently, net damage or loss. Furthermore, analysis of the best available data indicates that swordfish and thresher shark are equally likely to be caught at depths that are greater than 36 ft (10.9 m), even though drift gillnet fishers sometimes fish at shallower depths (NMFS unpublished data). Combined with other strategies, NMFS believes the minimum depth-of-fishing requirement will significantly contribute to reductions in cetacean bycatch, including strategic stocks in the CA/OR DGN fishery.

Comments on the Pinger Experiment and Requirement (Strategy #2)

Comment 1: One commenter agreed with NMFS that the preliminary results from the 1996/1997 CA/OR DGN fishery pinger experiment supports the use of pingers.

Response: NMFS agrees.

Comment 2: One commenter was concerned about the biological impact of pingers on cetaceans and recommended that they should not be used until scientific evidence shows that pingers are not harmful to any strategic stock.

Response: NMFS prepared an Environmental Assessment (EA) on the use of acoustic pingers to reduce marine mammal bycatch in commercial fisheries (NMFS, 1997a). NMFS concluded that the sound intensity levels of pingers will not cause physical injury or temporary threshold shifts in marine mammals. Furthermore, due to the limited sound range of pingers and the limited level of fishing effort in the CA/OR DGN fishery, ensonifying major portions of the ocean will not occur. Thus, the negative impact of pingers used by the CA/OR DGN fishery on marine mammals is likely to be negligible. Nevertheless, monitoring programs will evaluate changes in distribution to evaluate whether cetaceans are avoiding important habitat. NMFS will continue to evaluate the status of strategic marine mammal stocks that interact with the CA/OR DGN fishery on an annual basis. NMFS made similar determinations regarding the impact of pingers on marine mammals in the EA prepared for this final rule (NMFS, 1997b).

Comment 3: One commenter believed that pinger noise during the experiment may constitute ''harassment'' under the MMPA and ESA.

Response: Although scientific results clearly indicate that pingers significantly reduced harbor porpoise bycatch in the New England sink gillnet fishery (Reeves *et al.*, 1996) and cetacean bycatch in the CA/OR DGN fishery (see section on 1997 PCTRT Recommendations), scientists do not know why they worked (NMFS, 1997a). Several mechanisms are possible. For example, pingers may operate as acoustic alarms alerting animals to the presence of fishing gear on the assumption they will avoid the gear if made aware of its presence. Alternatively, the sounds emitted by pingers may repel marine mammals away from the gear. Another possibility is that the pingers disperse the prey upon which marine mammals forage and thus, affect marine mammal behavior indirectly.

The state of knowledge about marine mammal hearing abilities and behavior in response to various types of sound is limited (Reeves *et al.*, 1996). However, pingers were not originally designed to harass marine mammals. Pingers produce relatively weak sound pulses of 132 dB re 1 Pa at 1 m which attenuate to ambient noise levels at a distance of only 300 m (984.3 ft) from the source (NMFS, 1997a). In contrast, ''acoustic harassment devices'' were specifically designed to emit much louder acoustical pulses (e.g., 187–218 dB re 1 Pa at 1 m) strong enough to keep pinnipeds away from nets and aquaculture facilities (Richardson *et al.*, 1995; NMFS, 1997a).

It is questionable if the operation of pingers would constitute an ''act of pursuit, torment or annoyance'' under the definition of ''harassment'' in section 3 of the MMPA. Furthermore, pingers have no potential to injure a marine mammal. Regardless, even if the operation of pingers does constitute ''harassment'' under the MMPA, section 101(a)(4) of the MMPA allows the use of certain measures by the owners of fishing gear to deter marine mammals so long as such measures do not result in the death or serious injury of a marine mammal. NMFS recommends the use of pingers in the CA/OR DGN fishery as a specific measure that may be used to nonlethally deter marine mammals. Likewise, such takes are allowed under section 118 of the MMPA.

With respect to the ESA, there is no statutory definition for ''harassment'' and NMFS has not issued a regulatory definition for this term. In interpreting this term, NMFS examined a variety of factors, including the extent to which the activity disrupts normal behavioral patterns and whether it is likely to produce harm or injury. NMFS has concluded that there is no evidence available at this time that would suggest the use of pingers to deter marine mammals from interacting with fishing gear would constitute harassment under the ESA.

NMFS will continue to investigate the possible mechanisms of why pingers reduce cetacean entanglement in the CA/OR DGN fishery. If NMFS determines that the effect of sound emitted from pingers does constitute ''harassment'', it will take appropriate action, which may include action to modify the requirements for pinger use, to alter the specifications for pingers or to ensure any necessary authorizations are in place.

Comment 4: Two commenters cautioned that pingers may not be effective at reducing cetacean bycatch in the CA/OR DGN fishery due to the variety of cetaceans that are entangled.

Response: NMFS and the fishery conducted an experiment during the 1996/1997 fishing season in the CA/OR DGN fishery to test the efficacy of pingers at reducing cetacean entanglement. Results from this study indicate that the use of pingers is effective at significantly reducing cetacean bycatch in the fishery (see 1997 PCTRT Recommendations section). NMFS will continue to evaluate the long-term effectiveness of pingers at reducing strategic stock bycatch in the CA/OR DGN fishery.

Comment 5: One commenter stated that the proposed rule failed to explain clearly how NMFS would certify that pingers were NMFS approved or enforce the pinger specifications (e.g., intensity, frequency, etc.).

Response: NMFS agrees that the issue of pinger certification needs to be clarified. In the proposed rule, NMFS stipulated that only ''NMFS-approved pingers'' could be used in the fishery and that if requested, NMFS may authorize the use of non-NMFS-approved pingers for limited experimental purposes. This final rule stipulates specifications for pingers that are required to be used in the CA/OR DGN fishery under section 229.31(c)(1). Since all pingers used in the fishery must meet these specifications, all references to NMFS-approved pingers have been removed from the final rule. NMFS is not requiring manufacturers to have their pingers certified by an independent company that their pingers meet the pinger specifications of the final rule; independent companies are not necessarily more credible at testing the sound characteristics of pingers than the manufacturer. However, manufacturers of pingers will need to provide documentation that their pingers meet the specifications of the final rule. NMFS will monitor, periodically, whether the pingers used by the fishery meet the specifications under section 229.31(c)(1) to ensure compliance with this requirement. In the future, if experimental findings support the use of a pinger with different specifications, NMFS would establish new specifications by rulemaking, and also provide actual notice to drift gillnet vessel operators.

Comment 6: One commenter suggested that in the final rule NMFS publish: (1) The parameters of the drift gillnet pinger experiment; (2) the basis for the pinger spacing requirements and; (3) a requirement that all vessels carry four spare pingers. Furthermore, they recommended that NMFS conduct additional research to determine whether the spacing requirements for pingers are adequate.

Response: The experimental design for the 1996/1997 pinger experiment in the CA/OR DGN fishery was based primarily on the recommendations from the participants of an acoustic workshop (Reeves *et al.*, 1996). Based on these suggestions, the PCTRT drafted the pinger experimental protocol, circulated it for peer review, and made the appropriate changes to ensure that a scientifically credible experiment would be conducted. The details of the experimental protocol can be found in the draft PCTRP (1996) and is not repeated here.

The participants in the acoustic workshop (Reeves *et al.*, 1996), and the PCTRT, recommended that pingers be placed every 300 ft (91.44 m) on the leadline and floatline for experimental purposes in the CA/OR DGN fishery. This interval was suggested because it had been effective at reducing harbor porpoise bycatch in the New Hampshire sink gillnet fishery. In addition, drift gillnets are often set with the floatline above the ocean thermocline and with the leadline below it, especially sets targeting swordfish. Since thermoclines act as barriers to sound transmission, they also recommended that the pingers placed on both lines be staggered such that the horizontal distance between a pinger on the floatline and a pinger on the leadline is 150 ft (45.72 m). For a typical 6000 ft (1828.80 m) net, 21 pingers on the floatline and 20 pingers on the leadline would be needed (41 total pingers). The final rule requires this pinger configuration on the net. NMFS will continue to evaluate the long-term efficacy of pingers at reducing cetacean bycatch in the fishery and whether the spacing intervals require modification.

NMFS does not agree that CA/OR DGN fishery vessel owners should be required to maintain four pingers as spares, because the requirement that all pingers remain functioning and operational at all times during deployment provides adequate direction to vessel owners.

Comment 7: One commenter questioned the significance of the preliminary results from the 1996/1997 pinger experiment in the CA/OR DGN fishery because they believed the experiment was conducted only in August and may not be representative of the entire fishing season.

Response: NMFS would like to clarify that the 1996/1997 pinger experiment was conducted from September 1996–January 1997. Thus, the results from the experiment are based on the months in which the majority of fishing effort occurs.

Comment 8: One commenter was concerned with the possibility that marine mammals may become habituated to the sound of pingers.

Response: At this time, it is not possible to determine whether cetaceans will become habituated to the sounds emitted by pingers. However, since the CA/OR DGN fishery operates offshore, over a broad geographic area, and the sound range of pingers is limited, habituation would be less likely in this fishery compared to nearshore fisheries (NMFS 1997a). To the extent that pingers are thought to operate as an alarm mechanism, increased exposure to pingers may increase their effectiveness in reducing interactions depending on the learning behavior of cetaceans. NMFS will continue to monitor the status of cetaceans that interact with this fishery.

Comments on the Voluntary Program To Reduce the Number of Gillnet Permits (Strategy #3)

Comment 1: Several commenters agreed that the CDFG should be encouraged to deny reissuance of lapsed permits and that ODFW should be encouraged not to issue more than the current level of unlimited landings permits (strategy #3, part I). One commenter believed that this strategy was not likely to result in decreases in marine mammal mortality. One commenter supported the draft PCTRP's voluntary permit ''buy-back program'' to

reduce the number of drift gillnet permits (strategy #3, part II) as a method of reducing marine mammal mortality.

Response: The PCTRT recognized that the California drift gillnet fishery is not restricted from an expansion in fishing effort because a portion of CDFG drift gillnet permittees make only the minimum landings to keep valid permits. If these permit holders began fishing well beyond these minimum requirements, marine mammal entanglements likely would increase. To limit this potential expansion of fishing effort, the PCTRT recommended two approaches that would reduce the number of drift gillnet permits under strategy #3. First, information provided to the PCTRT indicated that currently CDFG does not reissue lapsed drift gillnet permits. For these reasons, the PCTRT recommended that CDFG be encouraged to continue not to reissue drift gillnet permits that have lapsed and that ODFW be encouraged to continue to issue not more than 10 unlimited landing permits. Second, the PCTRT recommended that the development of a permit buy-back program be explored. A buy-back program would focus on those fishers that hold drift gillnet permits from the State of California and who only fulfill the minimum requirements to maintain their permits.

Implementation of the recommendations to CDFG would affect only those permit holders who allow their CDFG drift gillnet permits to lapse. Implementation of the buyback program would only affect drift gillnet permit holders who were interested in being financially compensated for allowing their permits to lapse. Strategy #3 would not affect those drift gillnet fishers that annually maintain valid CDFG drift gillnet permits or who did not want to voluntarily participate in the buy-back program. This strategy is not a measure to put a ''cap on total fishing effort'' in the CA/OR DGN fishery (i.e., establish a maximum threshold on the number of sets each year). Implementation of strategy #3 is not likely to significantly decrease the current level of incidental marine mammal mortality by the fishery in the short-term, but is designed to limit the potential expansion of fishing effort and associated marine mammal mortality in the long-term.

As recommended by the Team, NMFS contacted both CDFG and ODFW regarding implementation of Strategy #3 of the Plan. Specifically, NMFS encouraged CDFG to continue its current practice of not reissuing lapsed drift gillnet permits and inquired whether CDFG was interested in participating in a permit buy-back program. CDFG agreed to continue implementing its current practice of not reissuing lapsed drift gillnet permits.

At this time, CDFG is unable to participate in any permit buy-back program. Although NMFS does not have funding to implement a permit buy-back program, section 118(j) of the MMPA allows NMFS to accept, solicit, receive, hold, administer and use gifts, devises and bequests to carry out the provisions of section 118, which includes the implementation of take reduction plans. NMFS will continue to explore the development of a buy-back program.

NMFS also contacted ODFW and encouraged the agency to continue to issue no more than 10 unlimited-landings drift gillnet landings permits. ODFW stated that it did not plan on asking the Oregon Fish and Wildlife Commission to increase the maximum number of landings permits. ODFW also stated that all vessels holding Oregon gillnet permits in 1997 are vessels that currently participate in the California DGN fishery.

Comment 2: One commenter agreed with the implementation of the buy-back program, although they recommended it should be coupled with other economic incentive programs (e.g., raising state landing taxes).

Response: The PCTRT considered increasing fees in the fishery. However, the PCTRT rejected this method as a primary strategy at this time, because it would require a change in California law, would be a financial hardship to some fishers, and may not necessarily reduce current fishing effort.

Comments on the Skipper Education Workshops (Strategy #4)

Comment: Several commenters agreed that mandatory education during Skipper Education Workshops would help facilitate the implementation of the PCTRP. One commenter suggested that NMFS issue documentation to vessel operators that attend workshops to verify their participation and require that this documentation be onboard their vessel when they are participating in the CA/OR DGN fishery.

Response: Documentation of workshop attendance does not need to be kept on vessels because NMFS will maintain a database of all skippers who participate in the workshops to verify workshop attendance by individual vessel operators. This database will be used for enforcement of the Skipper Education Workshop provision.

Comments on Contingency Measures Involving a Reduction in Fishing Effort

Comment: One commenter was concerned that the language used in the proposed rule describing the PCTRT's recommendations regarding ''contingency measures involving a reduction in fishing effort'' was not consistent with the draft PCTRP submitted by the team.

Response: NMFS agrees that inappropriate language regarding ''contingency measures'' was used in the proposed rule. The draft PCTRP included an evaluation of several measures to reduce fishing effort in the CA/OR DGN fishery as a potential method of reducing the incidental taking of strategic marine mammal stocks (section IV; draft PCTRP, 1996). Although none of the primary strategies included measures to reduce fishing effort, the team agreed to the following:

> If at the time the Take Reduction Team reconvenes, the TRP objectives have not been met, the TRT will evaluate and recommend methods to reduce fishing effort in the upcoming fishing season, unless there are other applicable measures which could reasonably be expected to reduce take levels to below PBR in the upcoming fishing season.

The PCTRT also recommended that NMFS reconvene the team every year prior to June 15 to monitor the implementation of the final PCTRP, until such time that NMFS determines that the objectives of the MMPA have been met.

NMFS reconvened the PCTRT May 29–30, 1997 (PCTRT, 1997), and intends to continue to reconvene the PCTRT on an annual basis (prior to June 15) until the long-term take reduction goals of the MMPA have been reached by the CA/OR DGN fishery. NMFS did not intend to propose any changes to the PCTRT's original recommendations regarding contingency measures in the proposed rule. NMFS concurs with the PCTRT's original recommendation that the objectives of these meetings are to review the best available information on the status of strategic stocks, the latest PBR and take estimates for marine mammals incidentally taken in the fishery, and the efficacy of measures implemented to reduce the incidental taking of these stocks. Furthermore, NMFS agrees that if at the time the team reconvenes, after the final plan has been adopted by NMFS, the goals of the MMPA have not been met, the TRT will evaluate and recommend methods to reduce fishing effort in the upcoming fishing season, unless there are other applicable measures which could reasonably be expected to reduce take levels to below PBR in the upcoming fishing season.

General Comments on the Proposed Rule

Comment 1: One commenter suggested that a reduction of marine mammal mortality of 50 percent could be achieved if the length of the net was reduced by 50 percent.

Response: NMFS agrees that reducing the size of the net could potentially decrease the number of marine mammals captured per set. However, it would also decrease the number of target species captured per set. Since this would encourage inefficient fishing, some fishers may compensate for the reduced catch rate by increasing the number of sets over the season. Thus, overall incidental marine mammal take may not change. Furthermore, although the TRT discussed several measures that would decrease fishing effort, including reducing net size, it did not recommend their implementation at this time.

Comment 2: One commenter recommended that a program be created to rescue whales caught in drift gillnets.

Response: Although similar programs have been developed on the east coast to disentangle large whales caught in fishing gear, only a small portion of the cetaceans caught in the CA/OR DGN fishery are alive when the net is pulled from the water. In addition, the fishery operates primarily offshore in locations where rescues would be infeasible.

Comment 3: One commenter cautioned that the implementation of the PCTRP is not likely to achieve the Zero Mortality Rate Goal (ZMRG) in 5 years.

Response: Section 118(f)(2) of the MMPA establishes ZMRG as a long-term goal of take reduction plans, taking into account the economics of the fishery, the availability of existing technology, and existing State or regional fishery management plans. NMFS has concluded that the primary strategies recommended by the PCTRT represent substantial progress toward achieving the ZMRG. Nonetheless, NMFS also recognizes that these strategies, by themselves, may not be sufficient to guarantee this goal will be achieved. For this reason, NMFS will reconvene the team at least once a year to monitor the implementation of the final TRP, and, if necessary, recommend measures for the fishery to achieve its ZMRG within the time period specified in the MMPA.

Comment 4: One commenter suggested that the proposed rule contradicted the draft PCTRP recommendation to encourage vessel owners to convert their nets to a mesh size of 20 inches during the Skipper Education Workshops, but not to convert their mesh to a twine size of #27.

Response: The PCTRT evaluated the relationship between mesh size and cetacean bycatch. Their analysis found that mesh size was not significantly related to entanglement of cetaceans although there was a trend towards greater mesh sizes entangling more cetaceans. The biological reasons for this trend are unknown. Nevertheless, the PCTRT recommended that all vessels in the CA/OR DGN fishery voluntarily convert to 20-inch (50.8 cm) net mesh size when replacing old nets or large panels of existing net and that information be collected to further evaluate the efficacy of using 20-inch (50.8 cm) mesh as a method for reducing cetacean bycatch (draft PCTRP, 1996). NMFS will encourage vessel operators to voluntarily convert to 20-inch mesh (50.8 cm) during its Skipper Education Workshops. If in the future more of the fleet uses this mesh size, the relationship between mesh size and cetacean bycatch may be better understood.

No significant correlations were found between specific twine sizes and higher cetacean entanglement (draft PCTRP, 1996). The PCTRT did not recommend that NMFS encourage vessel owners to convert their nets to a different twine size. However, NMFS will continue to evaluate the relationship of twine size and cetacean bycatch in order to evaluate twine size as a potential strategy to reduce cetacean bycatch.

Comment 5: One commenter recommended that NMFS undertake the necessary research to determine whether adjusting the percentage of slack in the net may reduce cetacean bycatch.

Response: The PCTRT evaluated the relationship between the percentage of slack in the net and cetacean bycatch. Because the PCTRT found only a borderline significance for the slack percentages of 30–40 and 45–60, the PCTRT did not recommend requiring specific net slacks as a primary strategy in the draft PCTRP. NMFS agrees with this recommendation and therefore, has not included it as a requirement in the final rule. However, NMFS will refine the collection of data on net slack in order to evaluate the utility of percent of net slack as a strategy to reduce cetacean bycatch.

Comment 6: One commenter stated that if the incidental take of marine mammals is reduced to zero, there would be no need to reduce fleet expansion.

Response: Theoretically, if marine mammal mortality and serious injury incidental to operations of the CA/OR DGN fishery is reduced to zero, there would be no need to limit the expansion of effort in the fishery unless that expansion precluded the fishery from achieving its take reduction goals under the MMPA. Nevertheless, the likelihood that marine mammal bycatch will be reduced to absolute zero is low. Thus, since fishing effort and marine mammal bycatch are significantly correlated, substantial increases in fishing effort would likely require additional take reduction strategies in order for the fishery to meet its take reduction goals under the MMPA.

Comment 7: One commenter recommended increasing the closed season and/or banning the use of drift gillnets in California.

Response: The PCTRT explored several measures to reduce fishing effort in the fishery, and associated marine mammal entanglement. However, at this time, the PCTRT and NMFS expect that the short-term goals of the MMPA can be met without reducing fishing effort, increasing the closed season, or banning the use of drift gillnets off California.

Comment 8: One commenter noted that there is a discrepancy between numbers used to refer to each primary strategy (e.g., strategy #1, #2, etc.) in the proposed rule and the draft PCTRP (1996).

Response: NMFS agrees and has changed the final rule's references to the plan strategies to be consistent with each strategy of the plan.

Comment 9: One commenter concluded that the draft PCTRP was inadequate to reduce marine mammal mortality in the CA/OR DGN fishery and urged NMFS to modify the plan to meet the requirements of the MMPA.

Response: NMFS disagrees. The PCTRT and NMFS expects the implementation of the PCTRP will achieve the short-term goals of the MMPA. NMFS will continue to review and evaluate the effectiveness of measures implemented under the plan to reduce cetacean entanglement. Furthermore, the Pacific Scientific Review Group recommended that ''* * * extreme management measures that may severely restrict or impact California driftnet fishing activities be postponed until analyses of data from pinger experiments and from current ship surveys for cetacean abundance are completed * * *'' (PSRG, 1997). Moreover, in addition to the four primary strategies recommended by the PCTRT, they also identified an additional 13 strategies that might reduce bycatch of strategic marine mammal stocks (draft PCTRP, 1996). These strategies were either rejected by the PCTRT or held in reserve for future

consideration. If the goals of section 118(f) of the MMPA have not been met once the final PCTRP has been implemented, these strategies may be reconsidered by the PCTRT and NMFS. NMFS will reconvene the team annually to monitor the implementation of the final plan and provide NMFS with recommendations as to whether additional measures are necessary to achieve the short-term and long-term goals of the MMPA.

1997 PCTRT Recommendations

On May 29–30, 1997, NMFS reconvened the PCTRT to review the final results from the 1996/1997 CA/OR DGN pinger experiment and evaluate the need for effort reduction and potential implementation mechanisms as recommended by the Team in the draft PCTRP (draft PCTRP, 1996). The Team also reviewed at the meeting the status of the implementation of the final Plan and final Rule to implement the Plan, Skipper Education Workshops, and the drift gillnet observer program. On July 18, 1997, the Team submitted to NMFS the following recommendations regarding the proposed plan and rule (PCTRT, 1997).

Depth of Fishing Requirement (Strategy #1)

In August 1996, the PCTRT recommended that NMFS establish a fleetwide 6-fathom minimum extender line (buoy line) requirement. At the May 1997 PCTRT meeting, the team concurred with NMFS's proposed rule requiring the use of extenders that are equal to or greater than 6 fathoms for all vessels in the CA/OR DGN fishery. This final rule prohibits the use of extenders that are less than 6 fathoms (36 ft; 10.9 m).

Pinger Experiment and Requirement (Strategy #2)

In August 1996, the PCTRT recommended that NMFS and the CA/OR DGN fishery initiate a pinger experiment during the 1996–1997 fishing season to evaluate the effectiveness of pingers at reducing incidental cetacean and strategic stock bycatch (Strategy #2; draft PCTRP, 1996). Moreover, the PCTRT recommended that if results from this experiment indicate that there is a downward trend in overall cetacean bycatch, NMFS should establish a mandatory fleetwide pinger requirement for all CA/OR DGN fishery vessels prior to the next fishing season (1997–1998) and continue to monitor the effectiveness of pingers at reducing bycatch.

Between September 1996 and January 1997, NMFS and the fishery implemented a single-blind experiment through NMFS' Drift Gillnet Observer Program as recommended by the PCTRT (draft PCTRP, 1996). This experiment used pingers with the same sound characteristics as the pingers used in the New England sink gillnet fishery experiment (e.g., broadband signal centered on 10 kHz with a source level of 132 dB re 1 Pa at 1 m) (PCTRP, 1996; NMFS, 1997a). Because preliminary results from this experiment indicated that the observed cetacean entanglement rate was almost four times greater for non-pinger sets than for those sets that used pingers, NMFS proposed that pingers be mandatory in its proposed rule to implement the PCTRP. However, NMFS stipulated that if final results from the experiment indicated that pingers were ineffective at reducing cetacean bycatch, the use of pingers would not be included in the final rule. NMFS also proposed to reconvene the PCTRT prior to publishing a final rule requiring the mandatory use of pingers in the CA/OR DGN fishery to solicit its input on whether pingers should be mandatory.

Preliminary final results from the pinger experiment indicate that cetacean entanglement and pinger use is statistically dependent (Chi-square test, $p=0.006$)(NMFS, unpublished data). Out of 420 observed sets during the pinger experiment, 25 sets were observed with cetacean entanglement; 4 of these sets had pingers and 21 did not have pingers. The odds of entanglement decrease from 0.099/set without pingers to 0.022/set with pingers or a decrease of over 75 percent.

Based on the dramatic results from the 1996/1997 pinger experiment, the Team recommended by consensus during its May 1997 meeting that the use of pingers be mandatory for all vessels in the CA/OR DGN fishery beginning in the 1997/1998 fishing season. Nevertheless, the team expressed concern about whether a sufficient supply of NMFS-approved pingers would be available at the start of the swordfish fishing season (August 15). At this time, NMFS is aware of only one manufacturer that produces a pinger consistent with the specifications in the final rule. This manufacturer is currently producing these pingers and they should be available by the effective date of this rule. In addition, information on the distribution of fishing effort in the CA/OR DGN fishery over the last few years indicates that the peak of fishing effort occurs after September 30 each year (CDFG unpublished data). Because cetacean entanglement is significantly correlated with fishing effort, the highest levels of incidental entanglement also occurs after September 30 (PCTRP, 1996). However, NMFS recognizes that vessel operators require sufficient notice to purchase pingers in advance of the date that pingers are required to be deployed. For these reasons, the pinger requirements described under section 229.31(c) will be effective for the 1997/1998 fishing season on October 30, 1997. During subsequent seasons (e.g., 1998/1999), pinger requirements will be mandatory during the entire fishing season.

Although the Team concurred with the pinger specifications and configurations in the proposed rule, they suggested that the final rule include a mechanism to allow for limited experimentation with alternative pinger specifications and configurations in the fishery. The Team recommended that any pinger experiment undergo peer review and the experiment should not detract from the NMFS's CA/OR DGN fishery observer program or the fishery's requirements to meet bycatch reduction goals of the MMPA. The Team also suggested that new manufactures of pingers have their pinger ''certified'' by an independent company that they meet NMFS' pinger specifications.

Under this final rule, pingers must be used on all vessels, during every set, and during the entire fishing season. A pinger is an acoustic deterrent device which, when immersed in water, broadcasts a sound frequency range of approximately 10 kHz at 132 dB re 1 micropascal at 1 m with a pulse duration of 300 milliseconds and a pulse rate of 4 seconds. This rule also allows for limited experimentation in the fishery to test the effectiveness of pingers with alternative specifications and alternative pinger configurations on the net. Experimental protocols will undergo peer review to ensure scientific credibility. If better information on the hearing sensitivity of cetaceans incidentally taken in the CA/OR DGN fishery or if experimental results indicate that different pinger specifications/configurations would be more effective at reducing cetacean bycatch, NMFS may require that different pingers be used in the fishery. At that time, NMFS would publish proposed pinger specifications and/or pinger configurations and provide opportunity for public comment. For the reasons described previously (see Responses to Comments section), the final rule does not require new manufactures of pingers to be ''certified'' by an independent company

that their pingers meet the NMFS specifications under section 229.31(c)(1).

In order to better enforce the pinger requirement, the PCTRT recommended that NMFS require any driftnet vessel with swordfish or shark onboard to have pingers. Although NMFS agrees that drift gillnet vessels that are at sea should be required to have pingers onboard, it believes that pingers should be on the drift gillnet vessel at all times, even when no shark or swordfish are on the boat. Regardless of whether drift gillnet sets catch swordfish or shark, these sets may still incidentally entangle cetaceans. For these reasons, the final rule stipulates that anytime a CA/OR DGN fishery vessel is at sea with a multifilament drift gillnet onboard, the vessel must carry a sufficient number of pingers to meet the configuration requirements set forth under section 229.31(c)(3).

Voluntary Program To Reduce the Number of Gillnet Permits (Strategy #3)

In August 1996, the PCTRT recommended two approaches for limiting the potential expansion of fishing effort by permit holders in California and Oregon (Strategy #3, draft PCTRP 1996). At its May 1997 meeting, the Team continued to support its original recommendation under Strategy #3, but recommended that the language in the preamble be more consistent with the draft Plan. For example, in the preamble to the proposed rule NMFS states that it would encourage ODFW to continue issuing the same number of permits as were issued in 1996. However, the draft plan states that ODFW should be encouraged to issue a ''maximum of 10 permits each year.'' NMFS agrees and further clarifies that it was the intent of this recommendation that ODFW issue no more than 10 permits each year. Furthermore, the preamble states that nearly a third of the drift gillnet permittees annually satisfy only the minimum CDFG requirements to keep their permits valid. The Team wanted NMFS to clarify that the draft Plan states that almost a third of CDFG permittees are relatively inactive, fishing on an extremely limited basis and only, apparently, to maintain their CDFG drift gillnet permit. NMFS concurs.

Skipper Education Workshops (Strategy #4)

In August 1996, the PCTRT recommended that NMFS conduct mandatory skipper workshops on the components of the PCTRP, together with expert skipper panels, to further generate and consider potential, additional take reduction strategies (draft PCTRP, 1996). At its May 1997 meeting, the team concurred with the proposed rule's requirement that all vessel operators be required to attend a skipper workshop before initiating fishing each fishing season. However, to facilitate maximum compliance with the requirement during 1997, they recommended the language in the final rule indicate that for the 1997/1998 fishing season, skippers must have attended a workshop after the date of the last workshop to be offered this season (e.g., September 1997) before they continue fishing in 1997/1998. The language on subsequent year workshop requirements should remain as stated in the proposed rule. The Team included additional recommendations on the content of the workshops and recommended that NMFS not issue ''certificates of attendance'' to skippers that attend workshops, rather enforcement of the requirement should be conducted with workshop rosters.

As recommended by the Team, NMFS conducted five skipper education workshops during June 3–10, 1997, in the following California locations: La Jolla, Long Beach, Morro Bay, Monterey, and Santa Rosa. Eighty-five fishers attended these voluntary workshops at no cost to the fishers. At the workshops, a presentation on the development and status of the PCTRP was provided. A demonstration on pingers was presented at the meeting along with a question/answer period. During the second part of the workshop, current fishing strategies employed by fishers to avoid marine mammal entanglement were discussed. This information will be provided to the Team at its next meeting as background for preparing additional take reduction strategies, if necessary. Workshop participants were also provided with a comprehensive guide to the identification of marine mammals to provide fishers with more information on the biology and behavior of marine mammals to assist their efforts in reducing bycatch. These guides will also improve the accuracy of species identification indicated on the mortality/serious injury reports fishers must submit to NMFS under its Marine Mammal Authorization Program (MMAP). NMFS expects to hold two additional workshops in September 1997 in Long Beach, CA, and Portland, OR. Vessel operators who attended June 1997 Skipper Education Workshops will not be required to attend an additional workshop before the 1997/1998 fishing season.

After notification by NMFS, this final rule requires all CA/OR DGN vessel operators to have attended one Skipper Education Workshop after all workshops have been convened by NMFS in September 1997. CA/OR DGN vessel operators are required to attend Skipper Education Workshops at annual intervals thereafter, unless that requirement is waived by NMFS. NMFS will provide sufficient advance notice to vessel operators by mail prior to convening workshops.

Contingency Measures Involving a Reduction in Fishing Effort

The PCTRT strongly encouraged NMFS to modify the language in the preamble to make it consistent with the language in the draft Plan. NMFS agrees (see Responses to Comments section).

Other Team Recommendations

Mesh Size

Although no significant statistical correlation with cetacean entanglement was found, the PCTRT continues to support its recommendation that vessel owners should be encouraged to convert to 20 inch (50.8 cm) mesh when replacing old nets or panels, since the results indicate a trend in reduction of marine mammal bycatch. The PCTRT will continue to examine observer data to better understand the relationship between mesh size, inter-related net characteristics (e.g., twine size), and cetacean entanglement. NMFS agrees and recommended that fishers convert to 20 inch (50.8 cm) mesh when replacing nets or panels during NMFS'' June 1997 Skipper Education Workshops and will suggest the conversion during future workshops.

Observer Program

In August 1996, the PCTRT recommended several measures to enhance the effectiveness of NMFS'' observer program, including: (1) Achieving 20 percent observer coverage; (2) ensuring that the observer program is targeting all possible DGN vessels, including vessels that cannot carry an observer; and (3) ensuring that the observer program data collection be expanded to include several additional data variables (i.e., net and environmental characteristics) (draft PCTRP, 1996). At its May 1997 meeting, the PCTRT continued to express concerns regarding the level of observer coverage and strongly recommended that NMFS achieve 20 percent observer coverage. The PCTRT emphasized that the observer program should re-evaluate its determinations of whether a vessel is ''unobservable'' and should make an effort to observe the smaller boats that cannot accommodate an observer (via independent observation platforms).

NMFS should cross-reference CDFG permittee lists with MMAP information to ensure that all fishers who participate in the fishery are included in the program. The PCTRT also recommended that NMFS develop a reporting mechanism on observer data forms for expediting the enforcement of the requirements of the final rule because failure to comply with take reduction strategies could jeopardize the effort to reduce cetacean entanglement. All elements in the draft Plan regarding observer reporting forms should be included in the observer reporting forms for the next fishing season (1997/1998) and beyond (e.g., surface water temperature and cloud cover). The Team recommended that observers periodically check to determine if pingers are functioning.

Since NMFS received the draft PCTRP (1996) in August 1996, it has implemented several of the suggestions from the PCTRT regarding the observer program. For example, the Southwest Region, NMFS, has reevaluated its previous determinations as to whether vessels are unobservable and has reviewed the CDFG permittee list. The Southwest Region has also incorporated the PCTRT's recommended changes to the observer data forms and observers will check whether pingers on observed sets are functioning. Furthermore, the goal of the CA/OR DGN fishery observer program is to observe 20 percent of the annual fishing effort and the program will continue to strive to achieve this coverage within the constraints of available funding. At this time, NMFS does not have the funding to operate an independent observer platform.

1998 Team Meeting

The Team recommended that NMFS reconvene the Team in March 1998, preferably after the meeting of the Pacific Scientific Review Group. This would allow the PCTRT sufficient opportunity to review key information on the status of strategic stocks and integrate this information into its ongoing evaluation of the efficacy of Plan strategies. NMFS agrees and intends to reconvene the PCTRT in March 1998 to monitor the implementation of the final PCTRP.

Other Comments

NMFS received information after the close of the proposed rule's comment period, during the Skipper Education Workshops in June 1997, that suggested that a small portion of the CA/OR DGN fleet (e.g., approximately 10 vessels) uses fishing strategies or gear that may not require pingers to be placed on both the floatlines and leadlines. Specifically, this sector of the fleet: (1) Targets only thresher shark; (2) fishes in shallow water near the coast (e.g., 3–40 miles (4.83–64.36 km) from shore); (3) uses a smaller net (e.g., 600 fathoms (3600 ft or 1097 m) long, 45–80 meshes deep); (4) does not fish on a thermocline; (5) uses smaller boats (e.g., 30–40 ft (9.12–12.19 m) long); and (6) makes short trips (1–2 days). As a result, the commenter believes that they should be reclassified as a different fishery or only be required to place pingers on the floatline.

Under section 118 of the MMPA, NMFS is required to reexamine, and after notice and opportunity for public comment, the classification of commercial fisheries on at least an annual basis. On May 27, 1997, NMFS published a proposed List of Fisheries for 1998 (62 FR 28657) and expects the final List of Fisheries to be published within a few months. NMFS will reexamine the categorization and definition of the CA/OR DGN fishery in 1998 when it annually reexamines its classification of fisheries. Furthermore, NMFS will request that the PCTRT at its next meeting evaluate whether certain vessels targeting only thresher shark should be classified as another fishery and/or have different requirements under the PCTRP (March 1998). At this time, NMFS is not modifying its final rule to establish separate requirements for vessels targeting thresher shark.

NMFS' Changes to the Draft Plan, 1997 PCTRT Recommendations, and Changes to the Proposed Rule to Implement the Plan.

NMFS adopts the draft plan as submitted by the PCTRT (PCTRP, 1996) and recommendations from the 1997 PCTRT meeting (PCTRT, 1997), except for the following minor changes. NMFS has determined that implementation of the take reduction plan, as modified, and implementation of this final rule is expected to reduce, within 6 months of its implementation, mortalities and serious injuries of all strategic stocks that are taken by the CA/OR drift gillnet fishery to below the PBR level for each stock.

The PCTRT recommended that if the results from a pinger experiment indicate pingers are effective at reducing cetacean bycatch, then the use of pingers should be mandatory. In contrast, before final results from the 1996/1997 pinger experiment in the CA/OR DGN fishery were available, NMFS proposed the mandatory use of pingers in the proposed rule to implement the PCTRP. This final rule requires the use of pingers in the fishery.

The PCTRT recommended during its 1997 meeting that NMFS require any driftnet vessel with swordfish or shark on board to have pingers. Under the proposed rule and this final rule, pingers are required to be on the vessel at all times when the vessel is at sea, even when no shark or swordfish are on the boat.

The team recommended that pingers be required in the fishery by August 15, 1997. The proposed rule did not specify a certain date that pingers would be required. The final rule requires the use of pingers by vessels in the CA/OR DGN fishery to be effective for the 1997/1998 fishing season 30 days after filing of this final rule for public inspection at the Office of the Federal Register. During subsequent seasons (e.g., 1998/1999), pinger requirements will be mandatory during the entire fishing season.

The draft PCTRP (1996) and proposed rule stipulated that pingers must be attached on both the floatline and leadline and spaced no more than 300 ft (91.44 m) apart, in order to insure that the pingers were broadcasting sound over the entire area of the net. During the pinger experiment, pingers were attached to the floatlines and leadlines with approximately 1 and 6 ft (0.30 and 1.82 m) lanyards, respectively. Results from this experiment indicate that attaching pingers directly to buoy lines (i.e., extenders) may be a more efficient attachment method because it would facilitate pinger attachment. Pingers attached in this manner would not require individual attachment and removal to and from the floatline during each set, because this would automatically occur during routine extender attachment/removal. For example, if extenders were attached to the net at 100 ft (30.48 m) intervals, one pinger could be attached to every third extender and the 300 ft (91.44 m) spacing requirement would be maintained. For these reasons, the final rule authorizes the placement of pingers on extenders as long as the 300 ft (91.44 m) spacing requirement is maintained near the floatline and pingers are no more than 3 ft above the floatline. In addition, this final rule authorizes pingers to be attached to the leadline with lanyards that are up to 6 ft (1.83 m) in length.

Deployment of pingers during the 1996/1997 pinger experiment demonstrated that pinger performance is dependent on following manufacturer's operating instructions and minimizing exposure of battery packs to saltwater. For example, during the first few weeks of the pinger experiment, silicon grease was not applied to O-rings prior to pinger placement which resulted in a limited number of pingers leaking and becoming nonfunctional. Also, because

the pingers used in the experiment were not designed with on/off switches, the experimental protocol included the removal of battery packs after each set to preserve battery life. This procedure greatly increased the probability that the pinger battery packs would be exposed to saltwater and malfunction. However, NMFS found that battery life is much longer than originally estimated and does not foresee the need to remove the batteries after every set. Reducing battery exposure to saltwater will substantially decrease pinger malfunction. For these reasons, NMFS recommends that if drift gillnet fishers use pingers that do not have on/off switches, fishers follow manufacturer's deployment instructions closely and minimizing the frequency of battery pack removal (i.e., just keep them pinging for the entire trip) to reduce its potential exposure to seawater and possible pinger malfunction.

The PCTRT recommended during its 1997 meeting that NMFS require any manufacturer of pingers to provide independent certification that a new prototype meets the specifications under § 229.31(c)(1). The PCTRT made this recommendation because it thought the definition of the term ''NMFS-approved pinger'' was unclear in the proposed rule. Although the proposed rule described the sound specifications for pingers, NMFS agrees that the term ''NMFS-approved'' was unclear. Nevertheless, NMFS does not agree that manufacturers should be required to have an ''independent company'' certify that new prototype pingers meet the pinger specifications under § 229.31(c)(1); most manufacturers have the equipment and expertise to test pinger sound characteristics. Of course, manufactures of new pinger prototypes will need to provide documentation that their pingers meet the specifications of the final rule. For these reasons, any reference to the term ''NMFS-approved'' has been removed from the final rule; in addition, the final rule does not require that manufacturers of new prototype pingers have an ''independent company'' certify that their pingers meet the specification under § 229.31(c)(1).

Classification

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. No comments were received during the public comment period regarding this certification. As a result, no final regulatory flexibility analysis has been prepared.

The Assistant Administrator for Fisheries, NOAA (AA) has determined, based on an EA prepared under the National Environmental Policy Act, that implementation of these regulations would not have a significant impact on the human environment. As a result of this determination, an environmental impact statement is not required. A copy of the EA prepared for this rule is available upon request (see **ADDRESSES**).

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

References

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NMFS. 1997a. Draft Environmental Assessment: Use of Acoustic Pingers as a Management Measure in Commercial Fisheries to Reduce Marine Mammal Bycatch. NMFS, Office Of Protected Resources, Silver Spring, MD.

NMFS. 1997b. Environmental Assessment: Final Regulations to Implement the Pacific Offshore Cetacean Take Reduction Plan, Under Section 118 of the Marine Mammal Protection Act. August 1997.

PCTRP. 1996. Final Draft, Pacific Offshore Cetacean Take Reduction Plan. Draft plan submitted to the National Marine Fisheries Service and prepared by the Pacific Cetacean Take Reduction Team. August 1995. 75 p.

PCTRT. 1997. 1997 Recommendations Report: Pacific Offshore Cetacean Take Reduction Team. July 1997. 5 p.

PSRG. 1997. Recommendations of the Pacific Scientific Review Group from the May 1997 meeting. Unpublished document.

Reeves, R.R., R.J. Hofman, G.K. Silber, D. Wilkinson. 1996. Acoustic Deterrence of Harmful Marine Mammal-Fishery Interactions: Proceedings of a Workshop held in Seattle, Washington, 20–22 March 1996. NOAA Technical Memorandum, NMFS–OPR–10. 70 p.

List of Subjects in 50 CFR Part 229

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

Dated: September 16, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries.

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

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

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

Authority: 16 U.S.C. 1361 *et seq.*

2. In subpart C, § 229.31 is added to read as follows:

§ 229.31 Pacific Offshore Cetacean Take Reduction Plan.

(a) *Purpose and scope.* The purpose of this section is to implement the Pacific Offshore Cetacean Take Reduction Plan. Paragraphs (b) through (d) of this section apply to all U.S. drift gillnet fishing vessels operating in waters seaward of the coast of California or Oregon, including adjacent high seas waters. For purposes of this section, the fishing season is defined as beginning May 1 and ending on January 31 of the following year.

(b) *Extenders.* Extenders (buoy lines) of at least 6 fathoms (36 ft; 10.9 m) must be used on all sets.

(c) *Pingers.* (1) For the purposes of this paragraph (c), a pinger is an acoustic deterrent device which, when immersed in water, broadcasts a 10 kHz (± 2 kHz) sound at 132 dB (± 4 dB) re 1 micropascal at 1 m, lasting 300 milliseconds (+ 15 milliseconds), and repeating every 4 seconds (+ .2 seconds); and remains operational to a water depth of at least 100 fathoms (600 ft or 182.88 m).

(2) Pingers must be used on all vessels, during every set beginning October 30, 1997. While at sea, drift gillnet vessels with multifilament gillnets onboard must carry enough pingers to meet the configuration requirements set forth under paragraph (c)(3) of this section.

(3) Pingers must be attached on or near the floatline and on or near the leadline and spaced no more than 300 ft (90.9 m) apart. Pingers attached on extenders, or attached to the floatline with lanyards, must be within 3 ft (0.91 m) of the floatline. Pingers attached with lanyards to the leadline must be within 6 ft (1.82 m) of the leadline. Pingers on or near the floatline and on or near the leadline must be staggered, such that the horizontal distance between a pinger on or near the floatline and a pinger on the leadline is no more than 150 ft (45.5 m). Any materials used to weight pingers must not change its specifications set forth under paragraph (c)(1) of this section.

(4) The pingers must be operational and functioning at all times during deployment.

(5) If requested, NMFS may authorize the use of pingers with specifications or pinger configurations differing from those set forth in paragraphs (c)(1) and (c)(3) of this section for limited, experimental purposes within a single fishing season.

(d) *Skipper education workshops.* After notification from NMFS, vessel operators must attend a skipper education workshop before commencing fishing each fishing season. For the 1997/1998 fishing season, all vessel operators must have attended one skipper education workshop by October 30, 1997. NMFS may waive the requirement to attend these workshops by notice to all vessel operators.

[FR Doc. 97–26330 Filed 9–30–97; 4:50 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 961227373–6373–01; I.D. 092597A]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Changes

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces further adjustments to the Pacific Coast groundfish limited entry fisheries for the *Sebastes* complex and its components canary and yellowtail rockfish, the Dover sole-thornyhead-trawl sablefish (DTS) complex and its components Dover sole and trawl-caught sablefish, and announces the final 1997 cumulative trip limit period for trawl vessels in the ''B'' platoon. NMFS also announces an increase to the monthly cumulative limit for the open access nontrawl sablefish fishery north of 36° N. lat. (A similar change for the limited entry nontrawl sablefish fishery north of 36° N. lat. is included in a separate **Federal Register** action that announces the duration and limit of the limited entry sablefish mop-up fishery.) These restrictions are intended to keep landings as close as possible to the 1997 harvest guidelines and allocations for these species, and to provide management flexibility during the final months of the year.

DATES: Effective at 0001 hours local time (l.t.) October 1, 1997; except for the trip limit for trawl vessels operating in the B platoon, which will become effective at 0001 hours l.t. October 16, 1997. These changes remain in effect, unless modified, superseded or rescinded, until the effective date of the 1998 annual specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**. Comments will be accepted through October 20, 1997.

ADDRESSES: Submit comments to William Stelle, Jr., Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or William Hogarth, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140 or Rodney McInnis at 562–980–4040.

SUPPLEMENTARY INFORMATION: The following changes to current management measures are based on the best available information, and were recommended by the Pacific Fishery Management Council (Council), in consultation with the states of Washington, Oregon, and California, at its September 9–12, 1997, meeting in Portland, OR.

The Sebastes Complex. The *Sebastes* complex consists of all rockfish managed by the FMP except Pacific ocean perch (POP), widow rockfish, shortbelly rockfish, and thornyheads. The limited entry fishery for the *Sebastes* complex currently is managed under a 2-month cumulative trip limit of 30,000 lb (13,608 kg) north of Cape Mendocino (40°30' N. lat.) and 150,000 lb (68,039 kg) south of Cape Mendocino. Within these 2-month cumulative limits for the *Sebastes* complex, no more than 6,000 lb (2,722 kg) may be yellowtail rockfish north of Cape Mendocino, no more than 10,000 lb (4,534 kg) may be bocaccio south of Cape Mendocino, and no more than 14,000 lb (6,350 kg) may be canary rockfish coastwide.

The best available information at the September 1997 Council meeting indicated that both yellowtail rockfish and canary rockfish would be 18–19 percent below their respective harvest guidelines at the end of the year. Therefore, the Council recommended increasing the trip limits for these species, and converting those limits from 2-month to 1-month limits on October 1, 1997, so that the industry could receive immediate benefit from the higher limits. The new 1-month cumulative trip limits for the *Sebastes* complex are: 20,000 lb (9,072 kg) north of Cape Mendocino and 75,000 lb (33,975 kg) south of Cape Mendocino. Within these 1-month cumulative limits for the *Sebastes* complex, no more than 5,000 lb (2,268 kg) may be yellowtail rockfish north of Cape Mendocino, no more than 5,000 lb (2,268 kg) may be bocaccio south of Cape Mendocino, and no more than 10,000 lb (4,534 kg) may be canary rockfish coastwide.

As these changes are implemented in the middle of a 2-month cumulative trip limit period (September-October 1997), both the 2-month cumulative trip limits and the 60 percent monthly limits for the *Sebastes* complex and its components become obsolete after October 1. POP and widow rockfish are the only two species that remain under 2-month cumulative limits. (The DTS complex was converted to monthly limits on September 1, 1997 (62 FR 36228, July 7, 1997).)

Dover Sole, Thornyheads, and Trawl-Caught Sablefish (the DTS Complex). The limited entry fishery for the DTS complex and its components currently is managed under a 1-month cumulative trip limit of 28,500 lb (12,927 kg) north of Cape Mendocino and 50,000 lb (22,680 kg) south of Cape Mendocino. Within these 1-month cumulative limits, no more than 15,000 lb (6,804 kg) may be Dover sole north of Cape Mendocino, no more than 6,000 lb (2,722 kg) may be sablefish coastwide, and no more than 7,500 lb (3,402 kg) may be thornyheads coastwide. No more than 1,500 lb (680 kg) of the thornyheads may be shortspine thornyheads.

The best available information at the September 1997 Council meeting indicated that the harvest guidelines for Dover sole would be reached before the end of the year, and exceeded by 19 percent in the Columbia area and 7 percent coastwide if the rate of landings is not slowed. Landings of trawl-caught sablefish also were projected to exceed the limited entry trawl allocation by 9 percent by the end of the year.

Landings of both species of thornyheads are projected to be lower than their respective harvest guidelines. The two thornyhead species are often caught together. Landings of longspine thornyheads are projected to be 28 percent below its harvest guideline by the end of the year; but, trip limits for this species could not be increased without increasing the catch of shortspine thornyheads, which are expected to be 7 percent below its 1,380–mt harvest guideline but well above the 1,000–mt acceptable biological catch for this species. Because

the harvest guideline for shortspine thornyheads is close to its overfishing level, the Council did not recommend increasing the trip limits for either species of thornyheads.

Earlier in the year, the Council and NMFS notified the industry that the DTS fishery could be closed for several months in 1997. Some members of the industry prefer higher initial trip limits with closures, and others prefer reduced limits and a longer fishery. Closing the DTS fishery in November and December was considered by the Council at its September meeting. After hearing considerable testimony opposing such closures, the Council recommended drastically reduced trip limits to be effective on October 1, but acknowledged the fishery still could close in December, after the Council considers new landings projections at its November 1997 meeting. The new trip limits, which take effect October 1, are intended to curtail most target fishing on sablefish coastwide and on Dover sole in the Columbia area. However, they also may result in discards if the industry targets on these species or is unable to avoid them while fishing for Dover sole south of Cape Mendocino or for thornyheads coastwide. The Council also recommended that a 30,000–lb (13,608–kg) monthly cumulative limit be established for Dover sole south of Cape Mendocino. Previously, Dover sole could comprise as much as 36,500 lb (16,556 kg) of the DTS limit south of Cape Mendocino, the amount left over after subtracting the amounts of sablefish and thornyheads that were taken. The overall limits for the DTS complex, which are the sum of the limits of its components, are changed to reflect the changes to Dover sole and sablefish. These changes are intended to keep landings of the DTS complex and its components within the 1997 harvest guidelines and allocations without increasing discards.

The new limits for the DTS complex are 11,000 lb (4,990 kg) north of Cape Mendocino, and 39,500 lb (17,917 kg) south of Cape Mendocino. Within these limits, no more than 1,500 lb (680 kg) may be Dover sole north of Cape Mendocino and 30,000 lb (13,608 kg) south of Cape Mendocino; no more than 2,000 lb (907 kg) coastwide may be trawl-caught sablefish; and no more than 7,500 lb (3,402 kg) coastwide may be thornyheads. No more than 1,500 lb (680 kg) of the thornyheads may be shortspine thornyheads.

''B'' Platoon. NMFS also announces the last cumulative trip limit period in 1997 for the ''B'' platoon, those limited entry trawl vessels with a letter authorizing them to take their cumulative trip limits 2 weeks out of phase with the rest of the fleet. For vessels in the ''B'' platoon: the final 2-month cumulative trip limits for POP and widow rockfish apply to the 6-week period from November 16, 1997 through December 31, 1997 and there is no 60% monthly limit for this period; and the equivalent of two 1-month cumulative trip limits for the *Sebastes* complex and its components, and for the DTS complex and its components, may be landed during the 6-week period from November 16, 1997 through December 31, 1997.

Open Access Sablefish. Both the open access and limited entry sablefish fisheries north of 36°00' N. lat. are currently subject to a 300–lb (136 kg) daily trip limit, not to exceed 600 lb (272 kg) cumulative per month. At its September 1997 meeting, the Council was advised that landings in the open access sablefish fishery north of 36°00' N. lat. were lower than expected and could be increased. However, finding a method for doing so without attracting effort from the limited entry daily trip limit fishery was problematic. To avoid effort shifts, the Council recommended increasing the monthly cumulative limit for the open access fishery to 1,500 lb (680 kg) on October 1, during the limited entry mop-up fishery. For the same reason, the Council also recommended increasing the cumulative monthly limit on the daily trip limit portion of the limited entry fishery to 1,500 lb (680 kg) after the end of the mop-up season on October 15, 1997. (This change for the limited entry fishery is being announced in a separate **Federal Register** action, at the same time that the dates and trip limit for the limited entry mop-up fishery are announced.) These changes are intended to keep sablefish landings from the open access and limited entry daily trip limit fisheries within the levels intended to be taken by these two fisheries for the entire year.

NMFS Action

For the reasons stated above, NMFS concurs with the Council's recommendations and makes the following changes to the 1997 annual management measures (62 FR 700, January 6, 1997 as modified).

1. Paragraph A.(1)(c)(iii)(C) of section IV. is revised to read as follows:

A. *General Definitions and Provisions*

* * * * *

(1) * * *

(c) * * *

(iii) * * *

(C) Special provisions will be made for ''B'' platoon vessels later in the year so that the amount of fish made available in 1997 to both ''A'' and ''B'' vessels is the same. (For example, a vessel in the ''B'' platoon will have the same cumulative trip limit for the final period as a vessel in the ''A'' platoon, but the final period may be 2 weeks shorter so that both fishing periods end on the same date.) For trawl vessels in the ''B'' platoon, the 6-week period from November 16–December 31, 1997 replaces the last 2 months of the year. Therefore, one 2-month cumulative trip limit (POP, widow rockfish), and two 1-month cumulative trip limits (the *Sebastes* complex and its components, the DTS complex and its components) will apply to that 6-week period. Both 1-month cumulative trip limits for a species (or species complex) may be combined and landed at any time during the 6-week period.

* * * * *

2. Effective October 1, 1997 (October 16, 1997 for the ''B'' platoon), for yellowtail rockfish, canary rockfish, and the *Sebastes* complex, paragraphs C.(2)(a) and C.(3) of section IV. are revised, to read as follows:

C. *Sebastes Complex (including Bocaccio, Yellowtail, and Canary Rockfish)*

* * * * *

(2) *Limited entry fishery*. (a) *Cumulative trip limits*. (i) *North of Cape Mendocino*. The cumulative trip limit for the *Sebastes* complex taken and retained north of Cape Mendocino is 20,000 lb (9,072 kg) per vessel per 1-month period. Within this cumulative trip limit for the *Sebastes* complex, no more than 5,000 lb (2,268 kg) may be yellowtail rockfish taken and retained north of Cape Mendocino, and no more than 10,000 lb (4,534 kg) may be canary rockfish.

(ii) *South of Cape Mendocino*. The cumulative trip limit for the *Sebastes* complex taken and retained south of Cape Mendocino is 75,000 lb (33,975 kg) per vessel per 1-month period. Within this cumulative trip limit for the *Sebastes* complex, no more than 5,000 lb (2,268 kg) may be bocaccio taken and retained south of Cape Mendocino, and no more than 10,000 lb (4,534 kg) may be canary rockfish.

(iii) *Clarification*. The cumulative monthly trip limits for the *Sebastes* complex and its components are the maximum amount that may be taken and retained, possessed, or landed coastwide in a calendar month. A vessel is not entitled to double the cumulative trip limit if it operates both north and south of Cape Mendocino in a calendar

month. [xx same as added for DTS sept1]

* * * * *

(3) *Open access fishery*. See paragraph IV.I.

* * * * *

3. Effective October 1, 1997 (October 16, 1997 for the ''B'' platoon), for the DTS complex, paragraph E.(2)(b) (i) and (ii) and E. (3) of section IV. are revised, to read as follows:

E. *Sablefish and the DTS Complex (Dover Sole, Thornyheads, and Trawl-Caught Sablefish*)

* * * * *

(2) *Limited entry fishery*. * * *

(b) *Limited entry trip and size limits for the DTS complex*.

(i) *North of Cape Mendocino*. The cumulative trip limit for the DTS complex taken and retained north of Cape Mendocino is 11,000 lb (4,990 kg) per vessel per 1-month period. Within this cumulative trip limit, no more than 2,000 lb (907 kg) may be sablefish, no more than 1,500 lb (680 kg) may be Dover sole, and no more than 7,500 lb (3,402 kg) may be thornyheads. No more than 1,500 lb (680 kg) of the thornyheads may be shortspine thornyheads.

(ii) *South of Cape Mendocino*. The cumulative trip limit for the DTS complex taken and retained south of Cape Mendocino is 39,500 lb (17,917 kg) per vessel per 1-month period. Within this cumulative trip limit, no more than 2,000 lb (907 kg) may be sablefish, no more than 30,000 lb (13,608 kg) may be Dover sole, and no more than 7,500 lb (3,402 kg) may be thornyheads. No more than 1,500 lb (680 kg) of the thornyheads may be shortspine thornyheads.

* * * * *

(3) *Open access fishery*. See paragraph IV.I.

* * * * *

4. Effective October 1, 1997 for sablefish in the open access fishery, paragraph I.(2)(a) of section IV. is revised, to read as follows:

I. *Trip Limits in the Open Access Fishery* * * *

* * * * *

(2) *Sablefish*. (a) *North of 36°00' N. lat*. The cumulative trip limit for sablefish taken and retained north of 36°00' N. lat. is 1,500 lb (680 kg) per month. The daily trip limit for sablefish taken and retained north of 36°00' N. lat., which counts toward the cumulative limit, is 300 lb (136 kg). The 1,500–lb (680–kg) cumulative monthly limit does not apply to exempted trawl gear (used to fish for shrimp, prawn, sea cucumber, and California halibut) in the open access fishery.

* * * * *

Classification

These actions are authorized by the regulations implementing the Pacific Coast Groundfish Fishery Management Plan, which governs the groundfish fishery off Washington, Oregon, and California. The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the office of the Administrator, Northwest Region, NMFS (see ADDRESSES) during business hours. Because of the need for immediate action to slow the rate of harvest of the species discussed above, and because the public had an opportunity to comment on the action at the September 1997 Council meeting, NMFS has determined that good cause exists for this document to be published without affording a prior opportunity for public comment or a 30-day delayed effectiveness period. These actions are taken under the authority of 50 CFR 660.323(b)(1), and are exempt from review under E.O. 12866.

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

Dated: September 30, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–26331 Filed 9–30–97; 4:50 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 192
Friday, October 3, 1997

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 32

RIN 3150–AF76

License Applications for Certain Items Containing Byproduct Material; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; Correction.

SUMMARY: This document corrects a proposed rule appearing in the **Federal Register** on September 19, 1997 (62 FR 49173). The action is necessary to correct a publication date and cite.

FOR FURTHER INFORMATION CONTACT: Mary Thomas, Office of Nuclear Regulatory Research, on 301–415–6230.

SUPPLEMENTARY INFORMATION: On page 49173, in the second column, last paragraph, October 29, 1993 (58 FR 52670)'' should read ''October 18, 1993 (58 FR 53670).''

Dated at Rockville, Maryland, this 29th day of September, 1997.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 97–26270 Filed 10–2–97; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 545

[97–100]

RIN 1550–AB00

Electronic Operations

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Thrift Supervision (OTS) is proposing to streamline and update regulations relating to electronic operations. The proposal would amend OTS electronic-related regulations to address advances in technology, and to permit prudent innovation for the use of emerging technology by Federal savings associations. This NPR is issued pursuant to the Regulatory Reinvention Initiative of the Vice President's National Performance Review and section 303 of the Community Development and Regulatory Improvement Act of 1994.

DATES: Comments must be received on or before December 2, 1997.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 97–100. These submissions may be hand-delivered to 1700 G Street, NW., from 9:00 a.m. to 5:00 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755 or by e-mail public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments will be available for inspection at 1700 G Street, NW., from 9:00 a.m. until 4:00 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Valerie J. Lithotomos, Counsel (Banking and Finance), (202) 906–6439; Karen A. Osterloh, Assistant Chief Counsel, (202) 906–6639; Paul D. Glenn, Special Counsel, Chief Counsel's Office, (202) 906–6203; Paul J. Robin, Program Analyst, Compliance Policy, (202) 906–6648; or Paul R. Reymann, Policy Analyst, Supervision Policy, (202) 906–5645, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

On April 2, 1997, OTS published an advance notice of proposed rulemaking (ANPR) seeking comment on all aspects of banking affected by electronic operations.[1] OTS solicited comments on whether its existing regulations are sufficiently flexible to permit Federal savings associations to engage in appropriate electronic banking activities, consistent with safety and soundness and applicable statutes and regulations. OTS expressed concern that its current regulations do not adequately address product innovation made possible by advances in technology, and may impede prudent innovation by Federal savings associations.

OTS identified three existing regulations affecting a Federal thrift's ability to engage in electronic activities. Two of these regulations describe the type of facilities through which Federal thrifts may deliver banking services. 12 CFR 545.141 (Remote Service Units) (RSUs) and 12 CFR 545.142 (Home Banking Services). The third regulation, at 12 CFR 545.138, provides the general authority to engage in data processing activities and sell certain excess data processing capacity. OTS sought comment on how to update these regulations, first adopted in the early 1980s, to reflect current activities and use of technologies. OTS also sought comment on certain technological issues that its existing regulations do not address. These included issues related to stored-value cards, the application of the Community Reinvestment Act (CRA) to electronic banking, banking on the Internet, and other new products and delivery systems.

OTS received 19 comments from nine Federal savings associations, four trade associations, two technology firms, two individuals or groups of individuals, one Federal government agency, and a representative of two major credit card companies. The comments are discussed in further detail in the description of the proposed rule.

Commenters suggested two broad principles to guide OTS in drafting regulations on emerging electronic services:

- The public and insured depository institutions will be best served if statutory and regulatory restrictions are kept to a minimum. Commenters feared that the premature imposition of restrictive operational standards would impede the development of improved financial services.
- Savings associations should be permitted to compete effectively with other regulated financial institutions and unregulated firms offering financial and related services.

[1] 62 FR 15626 (April 2, 1997) (Notice of Proposed Rulemaking on Deposits and Advance Notice of Proposed Rulemaking on Electronic Banking.) A final rule on deposits will be published separately.

II. General Description of Proposed Rule

Consistent with the principles identified, OTS is proposing to issue a broad enabling regulation clarifying that Federal savings associations may engage in any activity through electronic means that it may conduct through more traditional delivery mechanisms. This approach will enhance the ability of Federal savings associations to serve as financial intermediaries. In addition, this approach will permit Federal savings associations to fully utilize the by-products or capacities generated in providing financial services through electronic means. The approach will also permit Federal thrifts to creatively provide access to financial services (subject, of course, to adequate security measures). This proposal is consistent with the principles established in the Administration's recent electronic commerce policy statement.[2]

The proposed rule would eliminate existing regulations that address electronic operations at § 545.138 (Data-processing Services), § 545.141 (Remote Services Units), and § 545.132 (Home Banking Services), and would add a new subpart B to part 545 to address electronic operations. New subpart B uses plain language drafting techniques consistent with National Performance Review instructions and new guidance in the **Federal Register** *Document Drafting Handbook* (January 1997 edition). The primary goal of plain language drafting is to facilitate the understanding of regulations. Plain language drafting emphasizes the use of informative headings (often written as a question), non-technical language (including the use of ''you'') and sentences in the active voice. The words ''I'' in a question and ''you'' in an answer, in the proposal, refer to a Federal savings association. OTS intends to use plain language drafting in other future regulatory projects to the extent possible.

The provisions of the new subpart are discussed below in the section-by-section analysis.

[2] *See* ''A Framework for Global Electronic Commerce'' (July 1, 1997). These principles are: (1) The private sector should lead; (2) Governments should avoid undue restrictions on electronic commerce; (3) Where governmental involvement is needed, its aim should be to support and enforce a predictable, minimalist, consistent and simple legal environment for commerce; (4) Governments should recognize the unique qualities of the Internet; and (5) Electronic commerce over the Internet should be facilitated on a global basis.

III. Section-by-Section Analysis

What Does This Subpart Do? (Proposed § 545.140)

Under the proposed rule, all current regulations addressing electronic operations will be consolidated in part 545, subpart B. This subpart describes how a Federal savings association may provide products and services through electronic means and facilities. *See* proposed § 545.140.

How May I Use Electronic Means and Facilities? (Proposed § 545.141)

As noted above, two existing OTS regulations describe the type of facilities through which Federal thrifts may deliver banking services electronically. Section 545.141 addresses RSUs (including automated teller machines (ATMs)). Section 545.142 addresses home banking services. Currently, Federal thrifts' authority to provide banking services through these authorities is restricted. For example, an RSU may not be used to open a savings account or a demand account, or to establish a loan account. See 12 CFR 545.141(b). Moreover, it is unclear whether § 545.142 would permit the opening of new accounts or the processing of credit applications as home banking services.

Commenters urged OTS to clarify and expand the activities permitted under these authorities to include a broad range of products and services, including opening deposit accounts and establishing loan accounts. Commenters argued that removing activity restrictions would serve the public interest by allowing thrifts to more effectively compete in financial services, and by enhancing the availability of financial services to the public. Commenters argued that removing the existing activity restrictions would be consistent with 12 U.S.C. 1464(b)(1)(F) (which authorizes Federal savings associations to establish RSUs) and congressional intent expressed in Section 2205 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (which eliminates the requirement that banks file branch applications for ATMs).

Consistent with OTS' goal of minimizing regulatory restrictions on electronic operations, proposed § 545.141 specifically permits Federal savings associations to use electronic means or facilities to perform any authorized function or provide any authorized product or service. Under the new subpart, electronic means or facilities include, but are not limited to automated teller machines, automated loan machines, personal computers, the Internet, the World Wide Web, telephones, and other similar electronic devices.[3] This authority now includes the opening of savings or demand accounts and the establishment of loan accounts—functions previously excluded from the definition of remote service unit—because the performance of these functions through electronic means may enhance the operating flexibility of Federal thrifts.

As part of this proposal, OTS is also revising its branch office regulation to clarify that electronic facilities do not constitute a branch office.[4]

When May I Sell the Electronic Capacities and By-Products That I Have Acquired or Developed (Proposed § 545.142)

Under current § 545.138, a savings association may engage in limited data processing and data transmission services, sell by-products incident to those services, and sell excess capacity. This authority, however, is subject to significant constraints. For example, under the current regulation, the authorized processing of data generally encompasses a recordkeeping function, and does not include making risk-based decisions through electronic means. Moreover, the current OTS regulation limits the ability of a Federal savings association to sell or market data processing and transmission services, software, and excess capacity.

Several commenters suggested that OTS should adopt a more flexible data processing regulation. They urged OTS to permit the fullest development and use of data processing technology. Commenters argued that savings associations should not be restricted, relative to other financial institutions, in providing new electronic services to customers. Accordingly, many commenters suggested that OTS should

[3] OTS will shortly provide guidance concerning consultation procedures to be followed when a Federal savings association permits customers to execute transactions by accessing the thrift's data base using the customer's equipment or other equipment that is not provided by the thrift.

[4] In the ANPR, OTS specifically asked for comment on whether automated loan machines (ALMs) should be considered an RSU, a branch office, or some other type of facility. ALMs may permit customers to apply for and immediately receive loans via an automated terminal. Commenters urged OTS to treat ALMs like RSUs, rather than branches. These commenters argued that this treatment would provide savings associations with the same flexible product delivery options as competing financial institutions. See OCC Interpretive Letter #772 (March 6, 1997) (RSUs, ATMs, and ALMs are not branches for the purposes of 12 U.S.C. 36). Under the proposed revisions to the OTS regulation, ALMs would be electronic facilities subject to Subpart B, and would not be branches.

provide data processing authority for thrifts that is as expansive as that for national banks. Several recommended that OTS use the interpretations and regulations recently issued by the Office of the Comptroller of the Currency (OCC) as a model for its regulation.[5] Commenters argued that consistent regulations will facilitate joint ventures between banks and thrifts and will further the goal of ensuring uniformity of regulation under section 303 of the Community Development and Regulatory Improvement Act. Only one commenter, a data processing and software company, argued that OTS should not encourage thrifts to expand their data processing operations or software sales activities.

Proposed § 545.142 is more permissive than the current data processing services rule in that it provides that a Federal savings association may market and sell electronic capacities and by-products to third parties. The only condition imposed is that the thrift must have acquired or developed these capacities and by-products in good faith as part of providing financial services. This is substantially identical to the condition imposed on national banks by the OCC.

How May I Participate With Others in the Use of Electronic Means and Facilities? (Proposed § 545.143)

Proposed § 545.143 would permit a savings association to participate with others to perform, provide or deliver activities, functions, products or services described in proposed §§ 545.141 and 545.142. A Federal savings association may participate with an entity that is not subject to examination by a Federal agency regulating financial institutions only if that entity has agreed, in writing, to permit OTS to examine its electronic means or facilities, to pay for any related OTS examination fees, and to make all relevant records in its possession, written or electronic, available to OTS for examination.

The provisions governing examination are not new requirements. Current § 545.138(f) provides that if a Federal savings association participates with others to establish or maintain a data processing office and the participating entity is not subject to examination by a Federal agency regulating financial institutions, the entity must agree, in writing, with OTS that it will permit and pay for the examination. Current § 545.141(f) also contains a similar requirement where a Federal savings association shares an RSU with another entity.

If the participation by a Federal savings association is through a service corporation, OTS' service corporation rules apply. See 12 CFR 559.4 (1997).

What Security Precautions Must I Take? (Proposed § 545.144)

In the ANPR, OTS asked whether it should mandate a specific level of encryption with regard to certain electronic activities including the Internet, or whether it should merely permit general safety and soundness principles to govern electronic operations.

Several commenters argued that security issues are manageable and should be regulated only as a part of the safety and soundness evaluation of each institution. Other commenters recommended specific security procedures such as restricting the use of reusable passwords as a means of authentication where the password would cross a network, or specifying a particular type (or types) of encryption for Internet transactions. One commenter suggested that all institutions should have written policies and procedures to address firewall and data security issues, and should regularly test to assure that violations are not occurring.

While OTS is extremely concerned that Federal savings associations establish appropriate security measures when they engage in electronic operations, the proposed rule does not codify static security requirements. Electronic security standards are undergoing constant revision and change.[6] OTS believes that it is impracticable to prescribe the security measures for the indefinite future that every thrift must implement when methods of electronic commerce and their attendant security measures are continually evolving.

Instead, proposed § 545.144 provides that a Federal savings association should adopt standards and policies that are designed to ensure secure operations. In addition, a Federal thrift must implement security measures adequate to prevent unauthorized access to its records and its customers' records, and to prevent financial fraud through the use of electronic means or facilities.[7] OTS expects Federal savings associations to establish security measures that are consistent with current industry standards, and to continually monitor and regularly update these security procedures to keep pace with changes to industry standards. For example, the association should maintain records documenting attempts to gain unauthorized access to its data base.

In addition, a Federal savings association must comply with the current security devices requirements of Part 568 if it provides an automated teller machine, an automated loan machine, or other similar electronic devices. These security requirements are based on current §§ 545.138(d) and 545.141(e).

IV. Emerging Technologies

The ANPR asked for commenter input on how other regulations, such as those implementing the CRA, might be affected as technology modifies how and where depository institutions provide services. OTS asked several specific questions relating to the application of the CRA to electronic banking activities.

Several commenters predicted that the current CRA requirements will become increasingly problematic as institutions offer more loans over the Internet. These commenters urged OTS to consult with the other banking agencies and develop interagency CRA guidelines to address the emerging technologies.[8] Other commenters urged the banking agencies to defer the issuance of any new CRA guidance until regulators and financial institutions gain more experience with electronic banking services and the existing CRA regulations.

To avoid unnecessary compliance costs on the industry, OTS intends to permit the new electronic technologies to develop within the existing framework of law and regulation. This framework includes consumer protection laws, such as the CRA regulations, the Electronic Funds

[5] *See* 12 CFR 7.1019 (1997). Under this OCC interpretation, ''(a) national bank may, in order to optimize the use of the bank's resources, market and sell to third parties electronic capacities acquired or developed by the bank in good faith for banking purposes.''

[6] For example, bit lengths used by the industry to authenticate the identity of users has increased over the past few years from 40 to 56 bits. Certain providers now use bit lengths in excess of 100 bits.

[7] In certain cases, OTS has required (and may require in the future on a case-by-case basis) specific security precautions. For example, OTS has required applicants to provide assurances of adequate security over the Internet, including adequate encryption and independent testing. See OTS Order No. 95–88, Security First Network Bank (May 8, 1995). In approving that application, OTS required, among other things, the institution to perform independent tests of the functionality and security of its operations before and after initial implementation.

[8] These commenters suggested various alternative means for satisfying CRA requirements. For example, commenters suggested that the banking agencies should give CRA credit for loans made via electronic means to low- or moderate-income borrowers who reside outside the institution's service area.

Transfer Act (Regulation E), safety and soundness regulations, and other applicable statutes and regulations. If additional consumer protection or other regulatory responses are necessary to respond to emerging technologies, OTS will take necessary steps in the future. To the extent that the regulatory response will require interagency action, OTS will coordinate its response with those of the other Federal banking agencies.

In the ANPR, OTS specifically requested comment on the appropriate regulatory response to various emerging technologies including stored-value cards. The term ''stored-value card'' covers a wide range of products. In general, these cards store information and monetary value electronically on a magnetic strip or computer chip, and can be used to purchase goods and services. There are significant differences in how various systems store monetary balances and transaction information, and how they authorize transactions. OTS regulations are currently silent on stored-value technology.[9]

The ANPR also raised several questions regarding Internet banking services. For example, OTS asked whether it should impose any restrictions or requirements on banking over the Internet or whether it should rely on general safety and soundness principles to govern a safe system of operation. The current OTS regulations are also silent on Internet operations.[10]

Except for encryption and security issues that are discussed above, commenters generally feared that premature regulation in this area would stifle development, impose unnecessary compliance costs that could deter investment by thrifts, and require extensive updating to keep abreast of market changes. Commenters generally concluded that it was neither necessary nor appropriate to establish new restrictions or requirements on these operations until fundamental issues involving these technologies are resolved.

The increasing emergence of new technologies underscores the importance of granting thrifts broad latitude to provide new services through electronic means and facilities as these means and facilities evolve. Rather than extensive regulation in these areas, OTS has chosen to permit thrifts to perform any authorized function or to provide any authorized product or service through electronic means or facilities including stored-value cards, the Internet or other emerging electronic technologies. As OTS gains additional experience with electronic technology, it may issue more specific guidance regulating particular elements of electronic operations. Until that time, a Federal savings association's exercise of this authority remains subject to existing safety and soundness requirements, consumer protection requirements, commercial law, and other applicable requirements.

V. Request for Comments

OTS invites comment on all aspects of the NPR. Commenters noted that several trade associations have organized committees and task forces to address electronic operations. OTS welcomes comment from these committees.

VI. Executive Order 12866

The Director of OTS has determined that this proposed rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

VII. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, OTS certifies that this proposed rule will not have a significant impact on a substantial number of small entities. The proposal lowers regulatory burdens on all savings associations, including small savings associations.

VIII. Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. As discussed in the preamble, this proposed rule reduces regulatory burden. OTS has determined that the proposed rule will not result in expenditures by state, local, or tribal governments or by the private sector of $100 million or more. Accordingly, this rulemaking is not subject to section 202 of the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Office of Thrift Supervision hereby proposes to amend part 545, chapter V, title 12, Code of Federal Regulations as set forth below:

PART 545—OPERATIONS

The authority citation for part 545 continue to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

2. Existing §§ 545.1 through 545.135 are designated as subpart A and the subpart heading is added to read as follows:

Subpart A—Operations

* * * * *

3. Section 545.92 is amended by revising paragraph (a) to read as follows:

§ 545.92 Branch offices.

(a) *General.* A branch office of a Federal savings association is any office other than its home office, agency office, administrative office, data processing office, or electronic facility under subpart B of this part.

* * * * *

§§ 545.138 through 545.142 [Removed]

4. Sections 545.138 through 545.142 are removed.

5. A new subpart B is added to part 545 to read as follows:

Subpart B—Electronic Operations

§ 545.140 What does this subpart do?
§ 545.141 How may I use electronic means and facilities?
§ 545.142 When may I sell electronic capacities and by-products that I have acquired or developed?
§ 545.143 How may I participate with others in the use of electronic means and facilities?
§ 545.144 What security precautions must I take?

§ 545.140 What does this subpart do?

This subpart describes how a Federal savings association (''you'') may provide products and services through electronic means and facilities.

[9] However, OTS has concluded that a Federal savings association may market and sell one type of stored-value under the incidental powers doctrine. See OTS Opinion Chief Counsel (August 21, 1996) (prepaid telephone cards).

[10] OTS, however, approved the nation's first Internet bank in 1995. More recently, OTS issued an opinion that concluded that a Federal savings association, through a service corporation or an operating subsidiary, may offer its customers banking services via an Internet connection to the savings association's home banking system, and afford access to the Internet for non-banking purposes to customers and others living in the savings association's service area. See Letter Opinion Deputy Chief Counsel (April 14, 1997).

§ 545.141 How may I use electronic means and facilities?

You may use electronic means or facilities to perform any authorized function, or provide any authorized product or service. Electronic means or facilities include, but are not limited to automated teller machines, automated loan machines, personal computers, the Internet, the World Wide Web, telephones, and other similar electronic devices.

§ 545.142 When may I sell electronic capacities and by-products that I have acquired or developed?

You may market and sell electronic capacities and by-products to third-parties if you acquired or developed these capacities and by-products in good faith as part of providing financial services.

§ 545.143 How may I participate with others in the use of electronic means and facilities?

You may participate with others to perform, provide, or deliver through electronic means and facilities any activity, function, product, or service described under §§ 545.141 and 545.142. If the participating entity is not subject to examination by a Federal agency regulating financial institutions, you may participate with that entity only if it has agreed in writing with the OTS that it will:

(a) Permit the examination of its electronic means or facilities, as the OTS deems necessary;

(b) Pay for any related OTS examination fees; and

(c) Make all relevant records in its possession, written or electronic, available to the OTS for examination.

§ 545.144 What security precautions must I take?

If you use electronic means and facilities under this subpart, you should adopt standards and policies that are designed to ensure secure operations. You must implement security measures adequate to prevent:

(a) Unauthorized access to your records and your customers' records; and

(b) Financial fraud through the use of electronic means or facilities. If you provide an automated teller machine, an automated loan machine, or other similar electronic devices, you must comply with the security devices requirements of part 568 of this chapter.

Dated: September 26, 1997.

By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

[FR Doc. 97–26104 Filed 10–2–97; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF DEFENSE

Defense Special Weapons Agency

32 CFR Part 318

[DSWA Instruction 5400.11B]

Defense Special Weapons Agency Privacy Program

AGENCY: Defense Special Weapons Agency, DOD.

ACTION: Proposed rule.

SUMMARY: The Defense Special Weapons Agency (DSWA) is proposing to add two sections to its procedural rule for the DSWA Privacy Program. The two sections are entitled Disclosure of record to persons other than the individual to whom it pertains and Fees. The addition of these two sections helps an individual to better understand the DSWA Privacy Program.

DATES: Comments must be received on or before December 2, 1997.

ADDRESSES: Send comments regarding this proposed rule to the General Counsel, Defense Special Weapons Agency, 6801 Telegraph Road, Alexandria, VA 22310–3398.

FOR FURTHER INFORMATION CONTACT: Mrs. Sandy Barker at (703) 325–7681.

SUPPLEMENTARY INFORMATION:

Executive Order 12866. It has been determined that this Privacy Act proposed rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of $100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866 (1993).

Regulatory Flexibility Act. It has been determined that this Privacy Act proposed rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Paperwork Reduction Act. It has been determined that the Privacy Act proposed rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

The Defense Special Weapons Agency (DSWA) is proposing to add two sections to its procedural rule for the DSWA Privacy Program. The two sections are entitled Disclosure of record to persons other than the individual to whom it pertains and Fees. The addition of these two sections helps an individual to better understand the DSWA Privacy Program.

List of Subjects in 32 CFR Part 318

Privacy.

Accordingly, the Defense Special Weapons Agency amends 32 CFR part 318 as follows:

PART 318–DEFENSE SPECIAL WEAPONS AGENCY PRIVACY PROGRAM-[AMENDED]

1. The authoritiy citation for 32 CFR part 318 continues to read as follows:

AUTHORITY: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

§ 318.9 [Redesignated as § 318.11]

2. Section 318.9 is redesignated as 318.11.

3. Sections 318.9 and 318.10 are added to read as follows:

§ 318.9 Disclosure of record to persons other than the individual to whom it pertains.

(a) *General.* No record contained in a system of records maintained by DSWA shall be disclosed by any means to any person or agency within or outside the Department of Defense without the request or consent of the subject of the record, except as described in 32 CFR part 310.41, Appendix C to part 310, and/or a Defense Special Weapons Agency system of records notice.

(b) *Accounting of disclosures.* Except for disclosures made to members of the DoD in connection with their official duties, and disclosures required by the Freedom of Information Act, an accounting will be kept of all disclosures of records maintained in DSWA system of records.

(1) Accounting entries will normally be kept on a DSWA form, which will be maintained in the record file jacket, or in a document that is part of the record.

(2) Accounting entries will record the date, nature and purpose of each disclosure, and the name and address of

the person or agency to whom the disclosure is made.

(3) Accounting records will be maintained for at least 5 years after the last disclosure, of for the life of the record, whichever is longer.

(4) Subjects of DSWA records will be given access to associated accounting records upon request, except for those disclosures made to law enforcement activites when the law enforcement activity has requested that the disclosure not be made, and/or as exempted under section 318.11 of this part.

§ 318.10 Fees

Individuals may request copies for retention of any documents to which they are granted access in DSWA records pertaining to them. Requesters will not be charged for the first copy of any records provided; however, duplicate copies will require a charge to cover costs of reproduction. Such charges will be computed in accordance with DoD 5400.11–R.

Dated: September 29, 1997.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–26202 Filed 10–2–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

RIN 1090–AA63

Department Hearings and Appeals Procedures

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This action extends the comment period an additional 60 days on the Department of the Interior's Office of Hearings and Appeals' proposal to amend its rules to provide that, except as otherwise provided by law or other regulation, a decision will be stayed, if it is appealed, until there is a dispositive decision on the appeal.

DATES: Comments are due to the agency on or before December 2, 1997.

ADDRESSES: Send written comments to Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, VA 22203. Comments received will be available for inspection during regular business hours (9 a.m. to 5 p.m.) in the Office of the Director, Office of Hearings and Appeals, 11th Floor, 4015 Wilson Blvd., Arlington, VA. Persons wishing to inspect comments are requested to call in advance at 703–235–3810 to make an appointment.

FOR FURTHER INFORMATION CONTACT: James L. Byrnes, Chief Administrative Judge, Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, VA 22203. Telephone: 703–235–3750.

SUPPLEMENTARY INFORMATION: On August 19, 1997, the Department of the Interior proposed to amend the regulation contained at 43 CFR 4.21 (August 28, 1997, 62 FR 45606.) Comments to this proposed rule were to be received on or before September 29, 1997.

In a letter dated September 4, 1997, from the National Mining Association (NMA) to the Director of the Office of Hearings and Appeals (OHA), U.S. Department of the Interior, the NMA requested a 60-day extension of the comment period for this proposed amendment because the existing comment period did not allow adequate opportunity for comment, and it needed more time to present the views of its member companies. Also, in a letter dated September 12, 1997, from the Rocky Mountain Oil and Gas Association (RMOGA) to the Director, OHA, that organization requested a 60-day extension of the comment period. The RMOGA stated that the current 30-day comment period would not allow the industry adequate time to carefully analyze the proposed rule to determine the potential effects, if any, on oil and gas activities on public lands.

The OHA has determined that an extension of time to obtain the comments on the proposed rule from NMA and RMOGA is warranted and therefore, the requested extension is granted. This notice announces that 60-day extension of the comment period.

Dated: September 24, 1997.

Brooks B. Yeager,

Acting Assistant Secretary—Policy, Management and Budget.

[FR Doc. 97–26200 Filed 10–2–97; 8:45 am]

BILLING CODE 4310–RK–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7230]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to

meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet. (NGVD)	
				Existing	Modified
Arizona	Yavapai County (Unincorporated Areas).	Wet Beaver Creek	Approximately 8,800 feet downstream of Montezuma Avenue.	*3,360	*3,360
			Approximately 5,000 feet downstream of Montezuma Avenue.	*3,391	*3,392
			Approximately 2,350 feet downstream of Montezuma Avenue.	*3,414	*3,414
		Russell Wash	At confluence with Wet Beaver Creek	*3,387	*3,388
			Just downstream of Lake Shore Drive	*3,414	*3,412
			Approximately 1,600 feet upstream of Montezuma Avenue.	*3,464	*3,466
Maps are available for inspection at the Yavapai County Flood Control District, 255 East Gurley Street, Prescott, Arizona.					
Send comments to The Honorable Gheral Brownlow, Chairperson, Yavapai County Board of Supervisors, 1015 Fair Street, Room 310, Prescott, Arizona 86301.					
California	Sierra County and Incorporated Areas.	Smithneck Creek	Approximately 2,200 feet downstream of Main Street.	None	*4,928
			Approximately 100 feet upstream of Bear Valley Road.	None	*5,317
Maps are available for inspection at the Sierra County Department of Planning, Sierra County Courthouse Annex, Downieville, California.					
Send comments to The Honorable Richard Luchessi, Chairperson, Sierra County Board of Supervisors, P.O. Box D, Downieville, California 95936.					
Send comments to The Honorable Milton Gottardi, Mayor, City of Loyalton, P.O. Box 128, Loyalton, California 96118.					
Territory of Guam		Pacific Ocean	Along the shoreline, approximately 1,900 feet southeast of the intersection of Chagamin Lago Avenue and Pale Duenas Street.	*25	*26
			Along the shoreline, approximately 4,500 feet west of the intersection of Cruz Avenue and Parcinas Street.	None	*10
Maps are available for inspection at the Public Works Department, 542 North Marine Drive, Building A, Tammuing, Guam.					
Send comments to The Honorable Carl T.C. Gutierrez, Governor, Territory of Guam, R.J. Bordallo Complex, Agana, Guam 96910.					
Montana	Billings (City) Yellowstone County.	Alkali Creek	At the City of Billings downstream-most corporate limits, approximately 1,100 feet downstream of Main Street.	*3,130	*3,129
			Approximately 4,000 feet upstream of Blonco Court.	None	*3,244

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. * Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the City of Billings Building Department, 510 North 29th, Billings, Montana. Send comments to The Honorable Charles F. Tooley, Mayor, City of Billings, P.O. Box 1178, Billings, Montana 59103.					
Nevada	Nye County (Unincorporated Areas).	Slime Wash	Approximately 2,890 feet downstream of Depot Road.	None	*5,887
			Approximately 960 feet upstream of U.S. Highway 6.	None	*6,147
Maps are available for inspection at the Nye County Planning Department, 1114 Globemallow Lane, Tonopah, Nevada. Send comments to The Honorable Richard Carver, Chairperson, Nye County Board of Commissioners, P.O. Box 153, Tonopah, Nevada 89049.					
Oregon	Deschutes County and Incorporated Areas.	Deschutes River (At Sunriver).	Approximately 4 miles downstream of General Patch Bridge.	*4,161	*4,161
			At General Patch Bridge	None	*4,164
			Approximately 1.7 miles upstream of General Patch Bridge.	None	*4,166
Maps are available for inspection at the Deschutes County Community Development Department, 1130 Northwest Harriman, Bend, Oregon. Send comments to The Honorable Nancy Pope Schlangen, Chairperson, Deschutes County Board of Commissioners, 1130 Northwest Harriman, Bend, Oregon 97701.					

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

Dated: September 25, 1997.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 97–26283 Filed 10–2–97; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–205, RM–9161]

Radio Broadcasting Services; Perry, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Frank Vela proposing the allotment of Channel 228A to Perry, Florida, as that community's second local FM broadcast service. There is a site restriction .8 kilometers (.5 miles) east of the community at coordinates 30–07–00 and 83–34–26.

DATES: Comments must be filed on or before November 17, 1997, and reply comments on or before December 2, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Frank Vela, 8740 W. Varricchio Lane, Crystal River, Florida 34428.

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. 97–205, adopted September 17, 1997, and released September 26, 1997. 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., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

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.

John A. Karousos,

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

[FR Doc. 97–26250 Filed 10–2–97; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 95–184; MM Docket No. 92–260; DA 97–2073]

Telecommunications Services Inside Wiring; Cable Home Wiring

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: The Commission extended the deadline from October 2, 1997 to October 6, 1997 for filing reply comments in response to the Further Notice of Proposed Rulemaking in CS Docket No. 95–184 and MM Docket No. 92–260, FCC 97–304 (62 FR 46453 September 3, 1997) (''Further NPRM'').

DATES: Reply comments must be submitted on or before October 6, 1997.

ADDRESSES: Reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Washington, DC 20554. Reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal

Communications Commission, 1919 M Street, NW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rick Chessen, Cable Services Bureau (202) 418–7200.

SUPPLEMENTARY INFORMATION: The full text of the document is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Order

1. On August 28, 1997, the Commission released a Further Notice of Proposed Rulemaking (''Further Notice'') in CS Docket No. 95–184 and MM Docket No. 92–260. The Further Notice sought comment on, among other things, a proposal regarding the disposition of cable inside wiring in multiple dwelling unit buildings.

2. The Further Notice requested that interested parties file comments by September 25, 1997 and reply comments by October 2, 1997. In establishing a reply comment deadline of October 2, 1997, the Commission inadvertently required that reply comments be filed during a religious holiday. We will extend the deadline for filing reply comments in response to the Further Notice to October 6, 1997.

3. Accordingly, IT IS ORDERED that the deadline for filing reply comments in connection with the Further Notice is extended from October 2, 1997 to October 6, 1997. This action is taken pursuant to section 4(j) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(j) and 155(c), and authority delegated thereunder pursuant to §§ 0.5(c), 0.101 and 0.321 of the Commission's rules, 47 CFR 0.5(c), 0.101 and 0.321.

List of Subjects in 47 CFR Part 76

Cable Television.

Federal Communications Commission.

Meredith J. Jones,

Chief, Cable Services Bureau.

[FR Doc. 97–26416 Filed 10–2–97; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 62, No. 192
Friday, October 3, 1997

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 Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS) intention to request an extension for a currently approved information collection in support of the Section 502 Rural Housing Demonstration Program.

DATES: Comments on this notice must be received by December 2, 1997 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Gloria L. Denson, Loan Specialist, Single Family Housing Processing Division, RHS, U. S. Department of Agriculture, STOP 0783, 1400 Independence Avenue, S.W., Washington, DC 20250, Telephone (202) 720–1487.

SUPPLEMENTARY INFORMATION:

Title: Section 502 Rural Housing Demonstration Program.

OMB Number: 0575–0114.

Expiration Date of Approval: January 31, 1998.

Type of Request: Extension of a currently approved information collection.

Abstract: Under Section 506(b), RHS may provide loans for innovative housing units and systems which do not meet existing published standards, rules, regulations, or policies. The intended effect is to increase the availability of affordable rural housing for low-income families, through innovative designs and systems.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 80 hours to complete the questionnaire including additional material, specifications and blueprints.

Respondents: Business or other for-profit institutions.

Estimated Number of Respondents: 15.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 12,000 hours.

Copies of this information collection can be obtained from Tracy Gillin, Regulations and Paperwork Management Branch, at (202) 690–1065.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS' 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 Tracy Gillin, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0743, 1400 Independence Avenue, S.W., Washington, DC 20250–0743. 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: September 26, 1997.

Jan E. Shadburn,

Administrator, Rural Housing Service.

[FR Doc. 97–26215 Filed 10–2–97; 8:45 am]

BILLING CODE 3410–XV–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 3, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Knives, Miscellaneous Kitchen
7340–00–197–1271
7340–00–197–1274
7340–00–205–3335
7340–00–223–7771
7340–00–488–7950
7340–00–680–2758
NPA: Suburban Adult Services, Inc., Sardinia, New York

Bag, Contamination
8105–01–352–1390
8105–01–352–1391
NPA: Portland Habilitation Center, Inc., Portland, Oregon

Services

Carpet Replacement, National Gallery of Art, 6th & Constitution Avenue, NW, Washington, DC
NPA: National Association of Concerned Veterans, Washington, DC

Janitorial/Custodial

U.S. Army Reserve Center, Moffett Field, California
NPA: VTF Services, Palo Alto, California

Operation of Postal Service Center, Luke Air Force Base, Arizona
NPA: Arizona Industries for the Blind, Phoenix, Arizona

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action does not appear to have a severe economic impact on future contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Cover, Mattress
7210–00–241–9718
7210–00–067–7969

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–26327 Filed 10–2–97; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletion from the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a service previously furnished by such agencies.

EFFECTIVE DATE: November 3, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On February 14, June 27, July 25, August 1 and 15, 1997, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (62 FR 6946, 34686, 40049, 41339 and 43698) of proposed additions to and deletion from the Procurement List:

Additions

The Following Comments Pertain to Laundry/Dry Cleaning Service, Quantico, VA

Comments were received from the current contractor in response to a Committee request for sales data. The contractor indicated that addition of this service to the Procurement List would have a severe impact on the subsidiary which is performing the service but would not result in the economic collapse of the parent company. The contractor also claimed that the addition would have a severe impact on two subcontractors involved in performing the service, and would require the contractor to terminate several employees.

The Committee looks at impact on the entire corporate structure of a contractor when it makes its assessment of the impact a Procurement List addition will have, not just the subsidiary that performs the service. In this case, that impact is far below the level which the Committee considers to be severe adverse impact.

The contractor indicated that its activities in the contract are limited to pickup and delivery of laundry and dry cleaning and performing adminstrative functions, while the actual laundering and dry cleaning operations are provided, respectively, by two subcontractors. The contractor provided data for the two subcontractors to indicate that impact of the addition on them would be severe.

The nonprofit agency will be performing all the functions of the current contractor and its laundry subcontractor. It will be subcontracting the dry cleaning to the current dry cleaning subcontractor initially, and that contractor will continue to have the opportunity to bid on subcontracts for dry cleaning, so the addition will not have a severe adverse impact on that subcontractor. The percentage of sales which the current laundry subcontractor will lose because of the Procurement List addition does not rise to the level which the Committee normally considers to be severe adverse impact.

The unemployment rate for people with severe disabilities exceeds 65 percent, which is far above the rate for most other people in this country. Consequently, the Committee believes that any loss of employment by the current contractor's employees is outweighed by the jobs which will be created for people with severe disabilities. In addition, given the scope of the project, the Committee does not believe that the number of employees mentioned by the current contractor will be displaced as a direct result of the Committee's action.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a

substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Office and Miscellaneous Supplies

(Requirements for Fairchild Air Force Base, Washington)

Services

Grounds Maintenance, Base Hospital, Buildings 5520, 5521 & 5522, Edwards Air Force Base, California

Janitorial/Custodial

VA Outpatient Clinic, Las Vegas, Nevada

Janitorial/Custodial

Federal Building, 209 Broadway, New York, New York

Laundry/Dry Cleaning

U.S. Marine Corps Base, Quantico, Virginia

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service deleted from the Procurement List.

The following service is hereby deleted from the Procurement List: Document Destruction, Internal Revenue Service, Cincinnati Service Center, 200 West Fourth Street, Covington, Kentucky.

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–26328 Filed 10–2–97; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, October 10, 1997, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of September 5, 1997 and September 22, 1997
III. Announcements
IV. Staff Director's Report
V. Advisory Committee Reports
  Utah: ''Employment Discrimination in Utah''
  Wisconsin: ''The Hmong in Green Bay: Refugees in a New Land''
VI. Commissioner Higginbotham's Proposal Concerning Issuance of Reports
VII. Asian American Complaint and Petition
VIII. Management Information System
IX. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Stephanie Y. Moore,

General Counsel.

[FR Doc. 97–26436 Filed 10–1–97; 1:01 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

The 1998 Study of Privacy Attitudes (SPA)

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 December 2, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms 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) should be directed to Randall Neugebauer, Bureau of the Census, Room 3587–3 (Room SFC–2 1001 after October 10, 1997), Washington, DC 20233, (301) 457–3952.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is interested in privacy issues for several reasons. Most notable is the steady decline in response rates to the Census Bureau's mailed questionnaire in recent decennial censuses, which may reflect the growing apathy toward and mistrust of the Federal government. With the recent growth and popularity of the Internet and world wide web, the issues of access to individual data and lack of data security have come to the forefront, adding to the notion that individual privacy is eroding away. A clear understanding of the public's beliefs regarding the Census Bureau and its practices may help decennial census planners offset the trend in declining responses rates, address new methods to acquire data, improve our ability to communicate privacy and confidentiality messages, and improve our ability to predict and effectively respond to negative publicity. The purpose of the 1998 Study of Privacy Attitudes (SPA) is to assess the public's attitudes at two mutually exclusive levels—one being national in scope and the other, two Census 2000 Dress Rehearsal (C2DR) sites.

The national study of privacy attitudes is a repeat of a survey conducted in 1995 by the Joint Program in Statistical Methods (JPSM) of the University of Maryland and the 1996 Study of Public Attitudes Toward Administrative Records Use (SPARU). The goals for conducting a national study of privacy attitudes in 1998 are:

—Determine the public's opinion of the Federal government and the Census Bureau in general, the Census Bureau's privacy and confidentiality policies, and the extent to which the Census Bureau adheres to its own privacy guidelines.
—Assess change in the public's attitudes on privacy-related issues using results from the 1995 JPSM, 1996 SPARU, and the 1998 SPA.
—Determine the public's opinion of the Census Bureau's expanded use of administrative records and possible interest in collecting SSNs in the future and the notion of an ''administrative records census.'' [As an alternative methodology for 2010, an administrative records census design will be experimented with during Census 2000.]
—Determine the public's opinion of the Census Bureau adopting and communicating fair information use principles.

The C2DR component of the 1998 SPA will compare privacy beliefs in areas prior to and after being ''sensitized'' to the census. The C2DR component will target a sample of households in the Sacramento, California and Columbia, South Carolina C2DR sites. Comparing results between the pre- and post-measurement samples will help determine if becoming sensitized to a census (through the paid advertizing campaign and other promotion and outreach programs) has a significant effect on privacy attitudes. The objectives of the C2DR component are noted above, but also includes:

—Based on a pre- and post-measurement of sampled households in the dress rehearsal sites, assess variability in the public's attitudes on privacy-related issues.

Understanding how the public defines privacy and how the public understands the Census Bureau's confidentiality language and practices is important information as privacy-related principles and policy are developed. Two broad observations stem from comparing the 1995 JPSM and 1996 SPARU: first, there was little change in attitudes towards data sharing and secondly, in 1996 there was less trust in government, greater concerns about privacy, and a greater feeling of helplessness in politically effecting change. The surveys of the 1998 SPA will add significant results to what we have already learned.

II. Method of Collection

A contractor will conduct the national survey with telephone interviewing using an automated survey instrument and a list-assisted random digit dialing (RDD) sampling design. The RDD methodology will incorporate a number of peripheral survey techniques that have shown to raise response rates. Given concerns of the Office of Management and Budget (OMB) with the trend of declining response rates with and bias in general of RDD surveys, the Census Bureau assessed (by contract) the effectiveness of response rate remedies, the appropriateness of applying RDD methodology in collecting privacy attitudinal data, and the nature and extent of bias from under coverage and nonresponse. By applying results and recommendations from the research to the 1998 SPA, the Census Bureau will collect good data with a maximal response rate and minimal bias that maintains comparability with the 1995 JPSM and 1996 SPARU. The pre- and post-surveys of the C2DR component will be administered by telephone to a random sample of households from the Census Bureau's master address file and will entail some degree of personal visit interviews as well.

III. Data

OMB Number: Not available.
Form Numbers: The automated survey instrument will not have a form number.
Type of Review: Emergency submission.
Affected Public: Individuals or households.
Estimated Number of Respondents: 3,000.
Estimated Time Per Response: 15 minutes.
Estimated Total Annual Burden Hours: 750.
Estimated Total Annual Cost: The only cost to the respondents in participating is that of their time.
Respondent's Obligation: Voluntary.
Legal Authority: Title 13 United States Code, Section 193.

IV. Request 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 also will become a matter of public record.

Dated: September 29, 1997.

Wilson D. Haigler, Jr.,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–26208 Filed 10–2–97; 8:45am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 921]

Grant of Authority for Subzone Status; Coastal Mobile Refining Company; (Oil Refinery) Mobile County, AL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the City of Mobile, Alabama, grantee of Foreign-Trade Zone 82, for authority to establish special-purpose subzone status at the oil refinery complex of Coastal Mobile Refining Company, located in Mobile County, Alabama, was filed by the Board on February 12, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 8–97, 62 FR 8422, 2/25/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 82F) at the oil refinery complex of Coastal Mobile Refining Company, located in Mobile County, Alabama, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR 146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.1000 and # 2709.00.2000 which are used in the production of asphalt and certain intermediate fuel products (examiners report, Appendix C);

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 25th day of September 1997.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–26314 Filed 10–2–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 922]

Expansion of Foreign-Trade Zone 121 Albany, NY, Area and Approval for Manufacturing Authority (Eyeglass Frames)

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, an application from the Capital District Regional Planning Commission, grantee of Foreign-Trade Zone 121, Albany, New York, area, for authority to expand FTZ 121 to include an additional site in the Albany, New York, area, and for authority on behalf of Liberty Optical Manufacturing Company to manufacture eyeglass frames under FTZ procedures within FTZ 121, was filed by the Board on September 3, 1996 (FTZ Docket 68–96, 61 FR 48665, 9/16/96);

Whereas, notice inviting public comment was given in **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 121 and for authority to manufacture eyeglass frames under FTZ procedures is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to a condition limiting the manufacturing authority to an initial five-year period, subject to extension upon review.

Signed at Washington, DC, this 25th day of September 1997.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–26315 Filed 10–2–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 920]

Grant of Authority for Subzone Status; Phillips Petroleum Company (Oil Refinery) Brazoria County, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Port of Freeport, grantee of Foreign-Trade Zone 149, for authority to establish special-purpose subzone status at the oil refinery complex of Phillips Petroleum Company, located in Brazoria County, Texas, was filed by the Board on January 2, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 1–97, 62 FR 2646, 1/17/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest if approval is subject to the conditions listed below;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 149C) at the oil refinery complex of Phillips Petroleum Company, located in Brazoria County, Texas, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28, and subject to the following conditions:

1. Foreign status (19 CFR 146.41, 146.42) products consumed as fuel for the refinery shall be subject to the applicable duty rate.

2. Privileged foreign status (19 CFR § 146.41) shall be elected on all foreign merchandise admitted to the subzone, except that non-privileged foreign (NPF) status (19 CFR § 146.42) may be elected on refinery inputs covered under HTSUS Subheadings #2709.00.1000–#2710.00.1050 and #2710.00.2500 which are used in the production of:

—Petrochemical feedstocks and refinery by-products (examiners report, Appendix C);
—products for export; and,
—products eligible for entry under HTSUS #9808.00.30 and 9808.00.40 (U.S. Government purchases).

3. The authority with regard to the NPF option is initially granted until September 30, 2000, subject to extension.

Signed at Washington, DC, this 25th day of September 1997.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–26313 Filed 10–2–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 923]

Expansion of Foreign-Trade Zone 80 San Antonio, Texas, Area

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, an application from the City of San Antonio, Texas, grantee of Foreign-Trade Zone No. 80, for authority to expand its general-purpose zone in the San Antonio, Texas, area, within the San Antonio Customs port of entry, was filed by the Foreign-Trade Zones (FTZ) Board on December 2, 1996 (Docket 82–96, 61 FR 66652, 12/18/96);

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the Act and the regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The grantee is authorized to expand its zone as requested in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 25th day of September 1997.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–26316 Filed 10–2–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S.-Turkey Business Development Council: Membership

ACTION: Notice of membership opportunity.

SUMMARY: As part of its Big Emerging Market Strategy for Turkey, the U.S. Department of Commerce is establishing a Business Development Council (BDC) in cooperation with the Turkish Government. This notice updates the **Federal Register** notice published November 22, 1996, (61 FR 60261) previously announcing membership opportunities in the U.S.-Turkey BDC.

The U.S. Department of Commerce seeks nominations of outstanding individuals to serve on the U.S. section of the BDC as representatives of their particular industry sector. The purpose of the BDC will be to provide a forum through which U.S. and Turkish private sector representatives can engage in constructive exchanges of information on commercial matters, and in which governments can exchange information, solve problems, and more effectively work together on a number of issues of mutual concern including the following:

—Identifying commercial opportunities, impediments and issues of concern to the U.S. and Turkish business communities;
—Addressing obstacles to trade and investment;
—Improving the dissemination of information on U.S.-Turkey market opportunities;
—Developing sectoral or project-oriented approaches to expand business opportunities;
—Implementing trade/business development and promotion programs, including trade missions, exhibits, seminars, and other events; and
—Identifying further steps to facilitate and encourage the development of commercial expansion and cooperation between the two countries.

The inaugural meeting of the BDC is expected to take place in early 1998 in Ankara, Turkey with government and private sector members from both countries in attendance.

Obligations

It is anticipated that U.S. private sector members will be appointed for a two year term and will serve at the discretion of the U.S. Secretary of Commerce and as representatives of the U.S. business community. They are expected to participate fully in defining the agenda for the Council and in implementing its work program. They are fully responsible for travel, living and personal expenses associated with their participation on the Council, and may be responsible for a pro rata share of administrative and communications costs of the Council.

Criteria

The Council will be composed of two sections, a U.S. section and a Turkish section. The U.S. Section will be chaired by the Under Secretary for International Trade of the Department of Commerce, or designee, and will include approximately 20 members from the U.S. private sector.

In order to be eligible for membership in the U.S. section, potential candidates must be:

—U.S. citizens or permanent U.S. residents;
—CEOs or other senior management level employees of a U.S. company or organization involved in export with and/or investment in Turkey; and
—Not a registered foreign agent under the Foreign Agent Registration Act of 1938, as amended (FARA).

In reviewing eligible candidates, the Department of Commerce will consider such selection factors as:

—Depth of experience in the Turkish market;
—Export/investment experience;
—Industry or service sector represented;
—Company size or, if an organization, size and number of member companies;
—Contribution to diversity based on company size, location, demographics, and traditional underrepresentation in business; and
—Stated commitment to actively participate in BDC activities and meetings.

To be considered for membership, please provide the following: name and title of individual proposed for consideration; name and address of the company or organization sponsoring each individual; company's or organization's product or service line; size of the company or, if an organization, the size and number of member companies; export experience/foreign investment experience; a brief statement (not more than 2 pages) of why each candidate should be considered for membership on the Council; the particular segment of the business community each candidate would represent; and a personal resume.

DEADLINE: In order to receive full consideration, requests must be received no later than November 3, 1997.

ADDRESSES: Please send your requests for consideration to Ms. Maria Dorsett, Turkey Desk Officer, Office of European Union and Regional Affairs, by fax on 202/482–2897 or by mail at Room 3036, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Maria Dorsett of the Office of European Union and Regional Affairs, Room 3036, U.S. Department of Commerce, Washington, D.C. 20230; telephone: 202/482–6008.

Authority: Act of February 14, 1903, c. 552, as amended, 15 U.S.C. 1501 et seq., 32 Stat. 825; Reorganization Plan No. 3 of 1979, 19 U.S.C. 2171 Note, 93 Stat. 1381.

Dated: September 30, 1997.

Franklin J. Vargo,

Acting Assistant Secretary for Market Access and Compliance.

[FR Doc. 97–26317 Filed 10–2–97; 8:45 am]

BILLING CODE 3510–DA–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Visa Requirements for Textile and Clothing Products in the Second Stage of Integration Into the World Trade Organization

September 29, 1997.

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:

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); the Uruguay Round Agreements Act.

The Uruguay Round Agreement on Textiles and Clothing provides for the integration of textile and clothing into GATT 1994. The second stage of the integration will commence on January 1, 1998 (see 60 FR 21075, published on May 1, 1995).

The Committee for the Implementation of Textile Agreements has determined that it is necessary to maintain coverage of the currently applicable visa systems for the products to be integrated in the second stage of the integration. Therefore, an export visa issued by the government of the country of origin will continue to be required for products integrated on and after January 1, 1998, before entry is permitted into the United States.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–26244 Filed 10–2–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Certification on Conversion of Military Positions to Civilian Positions

AGENCY: Department of Defense, Under Secretary of Defense for Personnel and Readiness.

ACTION: Notice.

SUMMARY: This notice is being published in accordance with the National Defense Authorization Act for FY 1997. This Act requires that the Department of Defense provide notification upon its certification to Congress that 3,000 military positions were converted to civilian positions during FY 1996. The Certification was submitted to the Congress on September 22, 1997. Further details concerning the conversion may be obtained by contacting the Office of the Director, Requirements, Department of Defense.

FOR FURTHER INFORMATION CONTACT: Mr. John Davey, 703–614–5133.

Dated: September 29, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–26201 Filed 10–2–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Submarine of the Future

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Submarine of the Future will meet in closed session on October 10, at TRW, One Federal Systems Park, Fairfax, Virginia; on October 27–28, at Science Applications International Corporation, 8301 Greensboro Drive, McLean, Virginia; and on November 24, 1997, at Knolls Atomic Power Laboratory, Schenectady, New York. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, these meetings are scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will assess the nation's need for attack submarines in the 21st century.

In accordance with Section 10(d) of the Federal advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(1) (1994), and that accordingly these meetings will be closed to the public.

Dated: September 30, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–26341 Filed 10–2–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Fall 1997 Conference Meeting of the Defense Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense, Advisory Committee on Women in the Services.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming semiannual conference of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the Fall 1997 DACOWITS Conference is to assist the Secretary of Defense on matters relating to women in the Services. Conference sessions will be held daily and will be open to the public, unless otherwise noted below.

DATES: October 29-November 2, 1997.

ADDRESSES: Hyatt Regency Tampa, Two Tampa City Center, Tampa FL 33602; telephone: (813) 225–1234.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Kay Troutt, USAF, or CDR Deborah R. Goodwin, USN, DACOWITS and Military Women Matters, OASD (Force Management Policy), 4000 Defense Pentagon, Room 3D769, Washington, DC 20301–4000; telephone (703) 697–2122.

SUPPLEMENTARY INFORMATION: The following rules will govern the participation by members of the public at the conference:

(1) Members of the public will not be permitted to attend the OSD Reception and Dinner and Conference Field Trip.

(2) The Opening Session, General Session, all subcommittee sessions and the Voting Session will be open to the public.

(3) Interested persons may submit a written statement for consideration by the Committee and/or make an oral

presentation of such during the conference.

(4) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify the point of contact listed above no later than October 17, 1997.

(5) Length and number of oral presentations to be made will depend on the number of requests received from members of the public.

(6) Oral presentations by members of the public will be permitted only on Sunday, November 2, 1997, before the full Committee.

(7) Each person desiring to make an oral presentation must provide the DACOWITS office with one (1) copy of the presentation by October 17, 1997 and bring 175 copies of any material that is intended for distribution at the conference.

(8) Persons submitting a written statement for inclusion in the minutes of the conference must submit to the DACOWITS staff one (1) copy of the statement by the close of the conference on Sunday, November 2, 1997.

(9) Other new items from members of the public may be presented in writing to any DACOWITS member for transmittal to the DACOWITS Chair or Military Director, DACOWITS and Military Women Matters, for consideration.

(10) Members of the public will not be permitted to enter oral discussions conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.

(11) After the official participants have asked questions and/or made comments to the scheduled speakers, members of the public will be permitted to ask questions if recognized by the Chair and if time allows.

(12) Non-social agenda events that are not open to the public are for administrative matters unrelated to substantive advice provided to the Department of Defense and do not involve DACOWITS deliberations or decision-making issues before the Committee. Conference sessions will be conducted according to the following agenda:

Wednesday, October 29, 1997

Conference Registration
Field Trip (DACOWITS Members and Senior Military Representatives Only)
Subcommittee Rules and Procedures Meeting (DACOWITS Members Only)
Military Representatives Meeting (Senior Military Representatives Only)
Executive Committee Rules and Procedures Meeting (DACOWITS Members Only)
OSD Social (Paid Registered Conference Participants Only)

Thursday, October 30, 1997

Opening Session and General Session (Open to Public)
Luncheon (Paid Registered Conference Participants Only)
Subcommittee Session (Open to Public)

Friday, October 31, 1997

Subcommittee Session (Open to Public)
Luncheon (Paid Registered Conference Participants Only)
Executive Committee Rules and Procedures Meeting (DACOWITS Members Only)
OSD Reception and Dinner (Invited Guests Only)

Saturday, November 1, 1997

Subcommittee Sessions (Open to Public)
Tri-committee Review (Open to Public)
Executive Committee Rules and Procedures Meeting (DACOWITS Members Only)
Strategic Planning Meeting (DACOWITS Members Only)

Sunday, November 2, 1997

Final Review (Open to Public)
Voting Session (Open to Public)

Dated: September 30, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–26340 Filed 10–2–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DOD.

ACTION: Notice to Amend a System of Records

SUMMARY: The Office of the Secretary of Defense proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The amendments are needed to update the current notice.

DATES: The amendment will be effective on November 3, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Section, Directives and Records Division, Washington Headquarter Services, Correspondence and Directives, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 695–0970 or DSN 225–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety.

Dated: September 29, 1997.

L. M. BYNUM,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DHA 07

SYSTEM NAME:

Defense Medical Information System (DMIS) *(January 30, 1996, 61 FR 3006).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Replace Primary location with 'Primary location: Directorate of Information Management, Building 1422, Fort Detrick, MD 21702–5000 with region-specific information being kept at each Office of the Assistant Secretary of Defense (Health Affairs) designated regional medical location. A complete listing of all regional addresses may be obtained from the system manager.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Uniformed services medical beneficiaries enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) who receive medical care at one or more of DoD's medical treatment facilities (MTFs), or one or more of the Uniformed Services Treatment Facilities (USTFs), or who have care provided under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE programs.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Electronic files contain patient ID, date of birth, gender, sponsor status (active duty or retired), relationship to sponsor,

pay grade of sponsor, state or country, zip code, health care dates and services, provider, service status, health status, billed amount, allowed amount, amount paid by beneficiary, amount applied to deductible, and amount paid by government.'

* * * * *

SAFEGUARDS:

Delete first paragraph and replace with 'Automated records are maintained in controlled areas accessible only to authorized personnel. Entry to these areas is restricted to personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of a cipher lock. Back-up data maintained at each location is stored in a locked room.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'Disposition pending. Records will not be destroyed until disposition has been established.'

* * * * *

DHA 07

SYSTEM NAME:

Defense Medical Information System (DMIS).

SYSTEM LOCATION:

Primary location: Directorate of Information Management, Building 1422, Fort Detrick, MD 21702–5000 with Region-specific information being kept at each Office of the Assistant Secretary of Defense (Health Affairs) designated regional medical location. A complete listing of all regional addresses may be obtained from the system manager.

Secondary location: Service Medical Treatment Facility Medical Centers and Hospitals, and Uniformed Services Treatment Facilities. For a complete listing of all facility addresses write to the system manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Uniformed services medical beneficiaries enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) who receive medical care at one or more of DoD's medical treatment facilities (MTFs), or one or more of the Uniformed Services Treatment Facilities (USTFs), or who have care provided under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Electronic files contain patient ID, date of birth, gender, sponsor status (active duty or retired), relationship to sponsor, pay grade of sponsor, state or country, zip code, health care dates and services, provider, service status, health status, billed amount, allowed amount, amount paid by beneficiary, amount applied to deductible, and amount paid by government.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulation; 10 U.S.C., Chapter 55; and E.O. 9397 (SSN).

PURPOSE(S):

DMIS collects data from multiple DoD electronic medical systems and processes and integrates the data in a manner that permits health management policy analysts to study, evaluate, and recommend changes to DoD health care programs. Analysis of beneficiary utilization of military medical and other program resources is possible using DMIS. Statistical and trend analysis permits changes in response to health care demand and treatment patterns. The system permits the projection of future Medical Health Services System (MHSS) beneficiary population, utilization requirements, and program costs to enable health care management concepts and programs to be responsive and up to date.

The detailed patient level data at the foundation of DMIS permits analysis of virtually any aspect of the military health care system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Health Care Finance Administration for conducting demographic and financial analytical studies.

To the Congressional Budget Office for projecting costs and workloads associated with DoD Medical benefits.

To the Department of Veterans Affairs (DVA) for coordinating cost sharing activities between the DoD and DVA.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on optical and magnetic media.

RETRIEVABILITY:

Records may be retrieved by individual's Social Security Number, sponsor's Social Security Number, Beneficiary ID (sponsor's ID, patient's name, patient's DOB, and family member prefix or DEERS dependent suffix).

SAFEGUARDS:

Automated records are maintained in controlled areas accessible only to authorized personnel. Entry to these areas is restricted to personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of a cipher lock. Back-up data maintained at each location is stored in a locked room.

Access to DMIS records is restricted to individuals who require the data in the performance of official duties. Access is controlled through use of passwords.

RETENTION AND DISPOSAL:

Disposition pending. Records will not be destroyed until disposition has been established.

SYSTEM MANAGER(S) AND ADDRESS:

Corporate Executive Information System Program Office, Six Skyline Place, Suite 595, 5109 Leesburg Pike, Falls Church, VA 22041–3201.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Corporate Executive Information System Program Office, Six Skyline Place, Suite 595, 5109 Leesburg Pike, Falls Church, VA 22041–3201.

Requests should contain the full names of the beneficiary and sponsor, sponsor Social Security Number, sponsor service, beneficiary date of birth, beneficiary sex, treatment facility(ies), and fiscal year(s) of interest.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written requests to Corporate Executive Information System Program Office, Six Skyline Place, Suite 595, 5109 Leesburg Pike, Falls Church, VA 22041–3201.

Requests should contain the full names of the beneficiary and sponsor, sponsor Social Security Number, sponsor service, beneficiary date of birth, beneficiary sex, treatment facility(ies) that have provided care, and fiscal year(s) of interest.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing

initial agency determinations are contained in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual data records that are assembled to form the DMIS data base are submitted by the Military Departments, the Defense Enrollment Eligibility Reporting System, the Office of the Civilian Health and Medical Program for the Uniformed Services, the Uniformed Service Treatment Facility Managed Care System, and the Health Care Finance Administration.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97–26204 Filed 10–2–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice to Alter a System of Records

SUMMARY: The Department of the Army proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. The alteration adds a new category of individuals covered and a routine use to an existing Army system of records identified as A0040-57a DASG, Armed Forces Repository of Specimen Samples for the Identification of Remains.

DATES: This action will be effective without further notice on November 3, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, U.S. Army Total Personnel Command, ATTN: TAPC-PDR-P, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The complete inventory of Department of the Army record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed altered system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on September 23, 1997, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (61 FR 6427, February 20, 1996).

Dated: September 29, 1997.

L.M. BynumM,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0040–57a DASG

SYSTEM NAME:

DoD DNA Registry *(June 14, 1995, 60 FR 31287).*

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Armed Forces Repository of Specimen Samples for the Identification of Remains.'

SYSTEM LOCATION:

Delete both paragraphs and replace with 'Armed Forces Repository of Specimen Samples for the Identification of Remains, Armed Forces Institute of Pathology, 16050 Industrial Drive, Gaithersburg, MD 20877–1414.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add 'and contractor' after 'DoD Civilian'.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 131; 10 U.S.C. 3013, Secretary of Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; E.O. 9397 (SSN); Deputy Secretary of Defense memorandum dated December 16, 1991; and Assistant Secretary of Defense (Health Affairs) memoranda dated January 5, 1993, March 9, 1994, April 2, 1996, and October 11, 1996.'

PURPOSE(S):

Add to entry 'The data collected and stored will not be analyzed until needed for the identification of human remains.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add a new paragraph as follows 'To proper authority, as compelled by other applicable law, in a case in which **all** of the following conditions are present:

(1) The responsible DoD official has received a proper judicial order or judicial authorization;

(2) The specimen sample is needed for the investigation or prosecution of a crime punishable by one year or more of confinement;

(3) No reasonable alternative means for obtaining a specimen for DNA profile analysis is available; and

(4) The use is approved by the Assistant Secretary of Defense for Heath Affairs.'

* * * * *

A0040–57a DASG

SYSTEM NAME:

Armed Forces Repository of Specimen Samples for the Identification of Remains.

SYSTEM LOCATION:

Armed Forces Repository of Specimen Samples for the Identification of Remains, Armed Forces Institute of Pathology, 16050 Industrial Drive, Gaithersburg, MD 20877–1414.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense military personnel (active and reserve).

Civilian family members of Department of Defense military personnel (active and reserve) who voluntarily provide specimens for DNA typing for purpose of identifying the human remains of family members.

DoD civilian and contractor personnel deploying with the armed forces.

Other individuals may also be included in this system when the Armed Forces Institute of Pathology (AFIP) is requested by Federal, state, local and foreign authorities to identify human remains.

CATEGORIES OF RECORDS IN THE SYSTEM:

Specimen collections from which a DNA typing can be obtained (oral swabs, blood and blood stains, bone, and tissue), and the DNA typing results. Accession number, specimen locator information, collection date, place of collection, individual's name, Social Security Number, right index fingerprint, signature, branch of service, sex, race and ethnic origin, address, place and date of birth, and relevant kindred information, past and present.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 131; 10 U.S.C. 3013, Secretary of Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; E.O. 9397 (SSN); Deputy Secretary of Defense memorandum dated December 16, 1991;

and Assistant Secretary of Defense (Health Affairs) memoranda dated January 5, 1993, March 9, 1994, April 2, 1996, and October 11, 1996.

PURPOSE(S):

Information in this system of records will be used for the identification of human remains. The data collected and stored will not be analyzed until needed for the identification of human remains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal, state, local and foreign authorities when the Armed Forces Institute of Pathology (AFIP) is requested to identify human remains.

To a proper authority, as compelled by other applicable law, in a case in which **all** of the following conditions are present:

(1) The responsible DoD official has received a proper judicial order or judicial authorization;

(2) The specimen sample is needed for the investigation or prosecution of a crime punishable by one year or more of confinement;

(3) No reasonable alternative means for obtaining a specimen for DNA profile analysis is available; and

(4) The use is approved by the Assistant Secretary of Defense for Heath Affairs.

The Army's 'Blanket Routine Uses' *do not* apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored manually and electronically.

RETRIEVABILITY:

By individual's surname, sponsor's Social Security Number, date of birth, and specimen reference or AFIP accession number.

SAFEGUARDS:

Access to the Armed Forces Institute of Pathology is controlled. Computerized records are maintained in controlled areas accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. All personnel whose duties require access to, or processing and maintenance of personnel information are trained in the proper safeguarding and use of the information. Any DNA typing information obtained will be handled as confidential medical information.

RETENTION AND DISPOSAL:

Records are maintained 50 years(pending final approval of this reduced retention period by the National Archives and Records Administration), and then destroyed by shredding or incineration.

Statistical data used for research and educational projects are destroyed after end of project.

Military personnel, their civilian family members, or others may request early destruction of their individual remains identification specimen samples following the conclusion of the donor's complete military service or other applicable relationship to DoD. For this purpose, complete military service is not limited to active duty service; it includes all service as a member of the Selected Reserves, Individual Ready Reserve, Standby Reserve or Retired Reserve.

In the case of DoD civilians and contractor personnel, early destruction is allowed when the donor is no longer deployed by DoD in a geographic area which requires the maintenance of such samples. Upon receipt of such requests, the samples will be destroyed within 180 days, and notification of the destruction sent to the donor.

Requests for early destruction may be sent to the Repository Administrator, Armed Forces Repository of Specimen Samples for the Identification of Remains, Armed Forces Institute of Pathology, Washington, DC 20306–6000.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Information Officer, Office of the Surgeon General, U.S. Army Medical Command, ATTN: MCIM, 2050 Worth Road, Suite 13, Fort Sam Houston, TX 78234–6013.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Administrator, Repository and Research Services, ATTN: Armed Forces Repository of Specimen Samples for the Identification of Remains, Armed Forces Institute of Pathology, Walter Reed Army Medical Center, Washington, DC 20306–6000.

Requesting individual must submit full name, Social Security Number and date of birth of military member and branch of military service, if applicable, or accession/reference number assigned by the Armed Forces Institute of Pathology, if known. For requests made in person, identification such as military ID card or valid driver's license is required.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves or deceased family members contained in this system should address written inquiries to the Administrator, Repository and Research Services, ATTN: Armed Forces Repository of Specimen Samples for the Identification of Remains, Armed Forces Institute of Pathology, Armed Forces Institute of Pathology, Walter Reed Army Medical Center, Washington, DC 20306–6000.

Requesting individual must submit full name, Social Security Number and date of birth of military member and branch of military service, if applicable, or accession/reference number assigned by the Armed Forces Institute of Pathology, if known.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, family member, diagnostic test, other available administrative or medical records obtained from civilian or military sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97–26203 Filed 10–02–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

DEPARTMENT OF THE DEFENSE

Department of the Army

Corps of Engineers

Draft Environmental Impact Report/ Environmental Impact Statement (DEIR/DEIS) for the Hamilton City Pumping Plant Fish Screen Improvement Project, Central Valley, CA

AGENCIES: Bureau of Reclamation, Department of the Interior and the Army Corps of Engineers, Department of Defense.

ACTION: Notice of availability.

SUMMARY: The Bureau of Reclamation (Reclamation), the Army Corps of

Engineers (Corps), the Glenn-Colusa Irrigation District (GCID), and the California Department of Fish and Game (CDFG) propose to construct the Hamilton City Pumping Plant Fish Improvement Screen Project. The project is in response to concerns over impacts to salmon and other fish species from water diversion operations at the Hamilton City Pumping Plant. Two public workshops to present material on the alternatives and to answer questions and a public hearing to receive comments from interested organizations and individuals on the environmental impacts of the project will be held.

DATES: Public comments on the DEIR/DEIS should be submitted on or before November 17, 1997. The public workshops will be held at the following locations:

- November 4, 1997, 1:00 p.m., Granzella's Inn, 391 6th Street, Williams, California
- November 4, 1997, 7:00 p.m., Hamilton High School, Highway 32 and Canal Street, Hamilton City, California

ADDRESSES: Requests for copies of the DEIR/DEIS and comments on the DEIR/DEIS should be submitted to the Fish Screen Improvement Project, Draft EIR/EIS Comments, 455 Capitol Mall, Suite 600, Sacramento, California 95814, Attention: Rick Lind; telephone (916) 325–4050.

Copies of the DEIR/DEIS are also available for public inspection and review at the following locations:

1. Bureau of Reclamation, Room E–1704, 2800 Cottage Way, Sacramento, CA 95825–1898; (916) 979–5100.
2. Bureau of Reclamation, Northern California Area Office, Attention: NCAO–320, 16349 Shasta Dam Blvd, Shasta Lake, CA 96019–8400; (916) 275–1554.
3. Surface Water Resources, Inc., 455 Capitol Mall, Suite 600, Sacramento, CA 95814; (916) 325–4050.
4. Bureau of Reclamation, Willows Construction Office, Attention: W–200, 1140 West Wood Street, Willows, CA 95988–0988; (916) 934–7066.
5. Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW, Main Interior Building, Washington DC 20240–0001.
6. Library, Bureau of Reclamation, 6th Avenue and Kipling, Room 167, Building 67, Denver Federal Center, Denver, CO 80225–0007.
7. University of California-Berkeley, Water Resources Center Archives, 410 O'Brien Hall, Berkeley, CA 94720–1718.
8. California State University-Chico, Government Publications Center, Meriam Library, Chico, CA 95929–0295.
9. Butte County Library, Publications, 1820 Mitchell Ave, Oroville, CA 95966–5333.
10. Shasta County Public Library, Redding Main Branch, 1855 Shasta Street, Redding, CA 96001–0418.
11. U.S. Army Corps of Engineers, 1325 J Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: For additional information, please contact Ms. Lauren Carly, Reclamation, (916) 934–7066; Mr. Matt Davis, Corps, (916) 557–6708; Ms. Sandra Dunn, GCID, (916) 446–7979; or Mr. Nick Villa, CDFG, (916) 358–2943.

SUPPLEMENTARY INFORMATION: Reclamation, the Corps, GCID and CDFG have prepared the DEIR/DEIS to analyzes the no-action alternative as well as three action alternatives. The action alternatives would minimize loss of all fish species in the vicinity of the pumping plant diversion while maximizing GCID's capability to divert the full quantity of water it is entitled to divert to meet its water supply delivery obligations. The agency preferred alternative would include an extension of the existing fish screen, internal fish bypasses, improvements to the intake and bypass channel, and a gradient facility.

Dated: September 26, 1997.

Kirk C. Rodgers,

Deputy Regional Director.

Dated: September 25, 1997.

Brandon C. Muncy,

Major, Deputy District Engineer—Civil Works.

[FR Doc. 97–26295 Filed 10–2–97; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Public Hearings for a Draft Clean Air Act Conformity Determination and Draft Environmental Impact Statement for Realignment of F/A–18 Aircraft and Operational Functions From Naval Air Station Cecil Field, Florida to Other East Coast Installations

SUMMARY: Pursuant to Section 102(2) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), and the Clean Air Act, General Conformity Rule (40 CFR Part 93), the Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) and Draft Clean Air Act Conformity Determination to evaluate the realignment of F/A–18 aircraft and operational functions from Naval Air Station (NAS) Cecil Field, Florida to other Navy and Marine Corps air stations on the east coast of the United States. In accordance with these laws and regulations, this notice announces the dates and locations of public hearings.

The realignment of F/A–18 aircraft and associated functions from NAS Cecil Field is mandated by the Defense Base Closure and Realignment Act (Pub. L. 101–510, title XXIX) in accordance with the Congressionally approved recommendation of the 1995 Defense Base Closure and Realignment Commission. The DEIS considers five alternatives for realignment of 11 F/A–18 fleet squadrons (132 aircraft) and the fleet replacement squadron (FRS) (48 aircraft).

East coast installations that meet operational criteria and are considered as possible receiving sites for F/A–18 aircraft includes NAS Oceana, Virginia; Marine Corps Air Station (MCAS) Beaufort, South Carolina; and MCAS Cherry Point, North Carolina. The preferred alternative is to single-site the F/A–18 aircraft at NAS Oceana, which has the largest capacity to accommodate the aircraft. Other alternatives that separate the F/A–18 aircraft between two of the bases are considered. The level of new construction required at each base to accommodate the aircraft is related to the number of aircraft to be transferred under each alternative. Each alternative is assessed in the DEIS with regard to its effects on the natural and built environments.

The DEIS has been distributed to various Federal, state, and local agencies, as well as other interested individuals and organizations. In addition, copies of the DEIS have been distributed to the following libraries for public review: Virginia Beach Central Library, 4100 Virginia Beach Boulevard, Virginia Beach, Virginia; Great Neck Library, 1251 Bayne Drive, Virginia Beach, Virginia; Chesapeake Central Library, 298 Cedar Road, Chesapeake, Virginia; Craven County Library, 300 Miller Boulevard, Havelock, North Carolina; Beaufort County Library, 311 Scott Street, Beaufort, South Carolina; Dare County Library, 700 North U.S. 64/264, Manteo, North Carolina; Pamlico County Library, 603 Main Street, Bayboro, North Carolina; Ida Hilton Library, 1105 North Way, Darien, Georgia. A limited number of single copies of the DEIS and Draft CAA Conformity Determination are available upon request by contacting Mr. Dan Cecchini at (757) 322–4891.

ADDRESSES: Public hearings will be held during the month of October for those individuals who would like to provide oral comments on the DEIS or the Draft CAA Conformity Determination. An open information session will precede the scheduled public hearing at each of the locations listed below and will allow individuals to review the data presented in the DEIS. Navy representatives will be available during the information session to answer questions and/or clarify information related to the DEIS. The open information session is scheduled from 3:30 p.m. to 7:00 p.m., followed by the public hearing from 7:30 p.m. to 10:00 p.m. Public hearings have been scheduled at the following times and locations: Monday, October 20, 1997, Technical College of the Low Country, Building 12, Main Auditorium, 921 Ribaut Road, Beaufort, South Carolina; Tuesday, October 21, 1997, Havelock Middle School, 102 High School Drive, Havelock, North Carolina; Wednesday, October 22, 1997, Pamlico County Courthouse, 202 Main Street, Bayboro, North Carolina; Thursday, October 23, 1997, North Carolina Aquarium on Roanoke Island, Airport Road, Manteo, North Carolina; Monday, October 27, 1997, Virginia Beach Pavilion Convention Center Auditorium, 1000 19th Street, Virginia Beach, Virginia; Tuesday, October 28, 1997, Butts Road Intermediate School, 1571 Mt. Pleasant Road, Chesapeake, Virginia.

Federal, state and local agencies and interested parties are invited and urged to be present or represented at the hearing. Oral statements will be heard and transcribed by a stenographer; however, to ensure the accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on the DEIS and Draft CAA Conformity Determination and will be responded to in the Final Environmental Impact Statement (FEIS). Equal weight will be given to both oral and written statements.

In the interest of available time and to ensure all who wish to give an oral statement have the opportunity to do so, each speaker will be asked to limit comments to three (3) minutes. If a longer statement is to be presented, it should be summarized at the public hearing and submitted in writing either at the hearing or mailed or faxed to Mr. Dan Cecchini at: Commander, Atlantic Division, Naval Facilities Engineering Command, Attn: Mr. J. Dan Cecchini (Code 2032DC), 1510 Gilbert Street, Norfolk, Virginia 23511; Fax: (757) 322–4894. All written comments postmarked by November 18, 1997, will become a part of the official public record and will be responded to in the FEIS.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this notice may be obtained by contacting Mr. Cecchini or one of the following individuals: Mr. Fred Pierson, Community Planning Liaison Officer, NAS Oceana, (757) 433–3158; LtCol Blackiston, Community Planning Liaison Officer, MCAS Cherry Point, (919) 466–4196; LtCol Keverline, Community Planning Liaison Officer, MCAS Beaufort, (803) 522–7390, or Capt Mason, Public Affairs Officer, MCAS Beaufort, (803) 522–7201.

Dated: September 29, 1997.

Darse E. Crandall,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–26211 Filed 10–2–97; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics, (ACES)

AGENCY: Department of Education.

ACTION: Notice of partially closed meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meetings of the Advisory Council on Education Statistics (ACES). Notice of these meetings are required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: October 9–10, 1997.

TIMES: October 9, 1997—Full Council, 8:30 a.m.–11:30 a.m., (open); 11:30 to 1:15 p.m., (closed); Management Committee, 1:30 p.m.–5:00 p.m., (open); Statistics Committee, 1:30 p.m.–5:00 p.m. (open), Strategy/Policy 1:30 p.m.–5:00 p.m. (open). October 10, 1997—Full Council 12 noon to 3:00 p.m. (open); Statistics Committee, 8:30 a.m.–12:00 noon (open); Strategy/Policy Committee, 8:30 a.m. to 12 noon (closed); and Management Committee, 8:30 a.m. to 12:00 noon (open).

LOCATION: The Phoenix Park Hotel, 520 North Capitol Street, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Barbara Marenus, National Center for Education Statistics, 555 New Jersey Ave. NW., Room 400j, Washington, DC 20208–5530. Telephone (202) 219–1828.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under Section 406(c)(1) of the Education Amendments of 1974, Public Law 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. In addition, ACES is required to advise the Commissioner of NCES and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of Education Progress (NAEP). The meetings of the Council are open to the public.

The proposed agenda for the full Council includes the following:

- A status report from the NCES Commissioner on major Center initiatives;
- New member swearing -in;
- The presentation of Committee reports;
- A discussion on the development of an NCES periodical;
- A discussion of strategic issues in technology facing NCES; and
- A status report on the NAEP redesign and the development of a new request for proposal (RFP) for NAEP.

Since the full Council's discussion on the implementation of the NAEP redesign includes reporting on plans for an upcoming procurement, this session must be closed to the public. The premature release of this information would result in the disclosure of information that would be likely to significantly frustrate implementation of the agency's proposed action. Such matters are protected by exemption (9)(B) of Section 552b (c) of title 5 U.S.C.

Individual meetings of the three ACES subcommittees will focus on specific topics:

- The agenda for the Management Committee includes discussion on the results from the 1996 Customer Service Survey and plans for the 1997 survey, plans for the development of partnerships with external organizations, and a discussion of ''capacity building'' activities for NCES.
- The agenda for the Statistics Committee focuses on the development of a research agenda on the NAEP achievement level setting process.
- The agenda for the Strategy/Policy Committee includes discussion of NCES procurement initiatives for 1999 and beyond, a new NCES database for budgeting and planning, and a discussion of design options for the redesign of the Schools and Staffing

Survey. Because the discussion will include information on planned procurements, this session must be closed to the public. The public disclosure of this information would be likely to significantly frustrate the implementation of planned agency action if conducted in open session. Such matters are protected by exemption (9)(B) of Section 552b (c) of Title 5 U.S.C.

A summary of the activities and related matters, which are informative to the public and consistent with the policy of Title 5 U.S.C. 552b, will be available to the public within 14 days after the meetings. Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, NW, room 400J, Washington, DC 20208–7575.

Ricky Takai,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 97–26199 Filed 10–2–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Restricted Eligibility in Support of Advanced Coal Research at U.S. Colleges and Universities

AGENCY: Federal Energy Technology Center (FETC), Pittsburgh, Department of Energy (DOE).

ACTION: Issuance of financial assistance solicitation.

SUMMARY: The FETC announces that pursuant to 10 CFR 600.8(a)(2), and in support of advanced coal research to U.S. colleges and universities, it intends to conduct a competitive Program Solicitation and award financial assistance grants to qualified recipients. Proposals will be subjected to a comparative merit review by a Peer Review/DOE technical panel, and awards will be made to a limited number of proposers on the basis of the scientific merit of the proposals, application of relevant program policy factors, and the availability of funds.

DATES: The Program Solicitation is expected to be ready for release by October 15, 1997. Applications must be prepared and submitted in accordance with the instructions and forms in the Program Solicitation and must be received by the Department of Energy by November 26, 1997. Upon receipt of the solicitation document, check for any changes (i.e. closing date of solicitation) and/or amendments, if any, prior to proposal submission.

FOR FURTHER INFORMATION CONTACT: Ms. Debra A. Duncan, U.S. Department of Energy, Federal Energy Technology Center, P.O. Box 10940 (MS 921–143), Pittsburgh, PA 15236–0940; (Telephone: 412–892–5700; Facsimile: 412–892–6216; E-Mail: duncan@fetc.doe.gov).

ADDRESSES: The solicitation will be posted on the internet at FETC's Home Page (http://www.fetc.doe.gov/business/solicit/solicit.html). The solicitation will also be available, upon request, in Wordperfect 5.1 format on 35″ double-sided/high-density disk. Requests can be made via letter, facsimile, or by E-mail. Telephone requests will not be accepted for any format version of the solicitation.

SUPPLEMENTARY INFORMATION: Through Program Solicitation DE-PS26–98FT98200.000, the DOE is interested in applications from U.S. colleges and universities (and university-affiliated research centers submitting applications through their respective universities). Applications will be selected to complement and enhance research being conducted in related Fossil Energy (FE) programs. Applications may be submitted individually (i.e., by only one college/university) or jointly (i.e., by ''teams'' made up of: (1) three or more colleges/universities, or (2) two or more colleges/universities and at least one industrial partner. Collaboration, in the form of joint proposals, is *encouraged* but not required.

Eligibility

Applications under this solicitation may be accepted in two subprogram areas: (1) University Coal Research (UCR) Core Program, and (2) University Coal Research Innovative Concepts Program. Applications must address coal research in one of the solicitation key focus areas in the Core Program or as outlined in the Innovative Concepts Program.

Background

A concept called ''Vision 21'' is being developed as part of the Coal and Power Systems Strategic Plan which will provide DOE's Fossil Energy organization with a clear focus and mission and will be central to the course of fossil energy research. Vision 21 is, in essence, the idea of a modular co-production facility that is designed for facile capture of CO_2. The concept does not define a single, optimum configuration but rather allows for a series of plant configurations, based on common modules, capable of co-producing power, fuels, chemicals, and other high value products with avoidance or sequestration of CO_2 and with low emissions of SO_2, NO_X , and particulates. It is envisioned that their modular construction will permit the plants to be tailored to fit a geographic location and specific market area by selection of the appropriate combination of modules. The modules will be scaled to operate together and may be available in several size ranges. In summary, the distinguishing features of the definitive Vision 21 fleet would be (1) the capability of producing low cost electricity at efficiencies over 60%; (2) near-zero pollutants, i.e., one-tenth of New Source Performance Standards for criteria pollutants; (3) no net CO_2 emissions; (4) fuel flexibility (coal plus other opportunity fuels); (5) co-production of higher value commodities; and (6) modular design that permits customizing a plant to a given market area.

For purposes of this solicitation, the feedstock may be coal or any carbonaceous material in combination with coal. Gas or biomass could be combined with the coal to reduce or offset fossil carbon emissions in stages of development where CO_2 was not completely sequestered. Petroleum coke could be used near refineries and municipal waste could also be a fraction of any feed. These Vision 21 plants would answer the needs of a deregulated power industry in that they would provide the ability to supply distributed power while producing high value products. The flexibility to shift product distribution with market forces would make the fledgling plants more robust in a competitive market. The capability to readily capture a concentrated CO_2 stream will be an added benefit should a ''carbon tax'' be levied and would allow market forces to determine whether carbon is sequestered or taxed-on-release. The Power/Fuels/ Chemicals industry will produce environmentally responsible power, fuels, and chemicals that will be the basis for a secure energy future. The high efficiency of the new power systems will allow more efficient use of indigenous resources and further reduce CO_2 emissions. Developments in breakthrough technologies, such as the high temperature hydrogen separation membrane and advanced oxygen production, will be spinoffs that will be beneficial to many industries. The work in three-phase slurry reactors is universally applicable to chemical and petroleum industries, and development of advanced Diesel fuels will increase gas mileage by 50% or more while reducing particulates and CO_2

emissions. Advanced research into areas of proposed regulation and into newly regulated materials, such as $PM_{2.5}$ and mercury, will provide the knowledge base necessary for judicious application of the law. A module will be included in the Vision 21 slate when it has been physically demonstrated at full-scale. Data from these demonstrations will permit ready simulation of any permutation of modules in a ''virtual demonstration'' of a plant configuration. At some point, it will be possible to provide the market and feedstock information for a geographic area and receive a prioritized list of plant configurations based on demonstrated modules. This virtual demonstration will provide significant economies when siting, designing, and constructing Vision 21 plants. Research should be continuous in all areas of fuels, chemicals, and carbon materials production and power generation to include environmental mitigation technologies and facile CO_2 capture. As developments in some technologies are slowed by barriers, those technologies may be moved back into a more advanced research mode. No area should be completely abandoned. The advantage of the Vision concept is that, for example, if one gasifier technology is slowed, another will be developed in parallel. If a technology is not able to be economically developed, it will not stop the progress of Vision 21, but will only change configuration options. The UCR program is moving in the direction of Vision 21 and will be providing the longer range research needs asociated with Vision 21 in addition to continuing to support our present program areas. As you may infer, Vision 21 is not exclusive of our present work, but is rather a concept that provides a longer term focus and direction to our research programs.

UCR Core Program

The DOE is interested in innovative and fundamental research pertinent to coal conversion and utilization limited to six (6) focus areas under the UCR Core Program. The focus areas are listed in descending order of programmatic priority. The DOE intends to fund at least one proposal in each focus area; however, high quality proposals in a higher ranked focus area may be given more consideration during the selection process. The areas sought in the focus areas are not intended to be all-encompassing, and it is specifically emphasized that other subjects for coal research that fall within their scope will receive the same evaluation and consideration for support as the examples cited.

UCR Core Program Focus Areas

Mercury Detection and Control

Concern over mercury emissions from power plant stack gas has increased since the 1990 Amendments to the Clean Air Act, where mercury was included in the list of 189 hazardous air pollutants. Mercury is present in most coals at trace levels and, during gasification or combustion processes, is partitioned between the ash, particulate (fly ash), and gas phases. Any mercury in the ash or particulate is readily measured and controlled, but the behavior of vapor phase mercury is problematic. Significant quantities of mercury leave the gasification or combustion zone in the vapor phase as elemental mercury, mercuric chloride, or some other volatile mercury compound, and no known single technique can effectively remove all forms of mercury. The initial distribution between the elemental and oxidized mercury varies with the plant, coal, and conditions. As the entrained vapor travels down the thermal and chemical gradients of subsequent gas processing, be it for gasification or combustion, the valence states and forms of the mercury change, yet again, as the various mercury species react with oxidizing gases, such as chlorine, added gas treatment reagents, and compounds sorbed on them. In addition, fly ash, unburned carbon, and other particulate components of the gas stream may interact or catalyze reactions of the mercury compounds.

It has become apparent that the system is significantly more complex than previously imagined and that to measure and control mercury in these gas streams, a basic understanding of the chemistry of mercury under the range of thermal and chemical conditions found in gasification and combustion processes is necessary.

Grant applications are sought for fundamental investigations into the measurement and the removal of mercury and mercury compounds in coal fired power plant flue gases and coal gasifier internal process streams. In particular, the proposals should focus on one or both of the following aspects: (1) Defining and understanding the mechanisms involved with mercury transformation during combustion and gasification, focusing on the identification of the rate-controlling steps (i.e., transport, equilibria, and kinetics), and (2) Defining and understanding the mechanisms involved with mercury transformations during post combustion/gasification conditions (i.e., gas and particle phase interactions) resulting in the absorption of mercury and conversion of one form of mercury to another. This would include defining and understanding the physical and chemical interactions of flue gas constituents (vapor and particle) on the absorption of mercury while injecting novel sorbents.

Novelty of approach, coupled with the likelihood of providing useful measurements and fundamental data must be demonstrated in the successful application. Proposals based on incremental additions to the current data base are not encouraged.

Novel Catalysts for Advanced Diesel Fuels

With the renewed interest in synthetic diesel fuels derived from Fischer-Tropsch (F–T) reaction of Syngas and the concomitant research into oxygenated diesel fuels, such as ethers and acetals, there is a need for new catalysts that are more selective, operate under milder conditions, and economically produce stable, high-cetane-number diesel fuels and additives. These would be produced either in a stand alone facility or, more likely, as part of a coal-fed Vision 21 co-production plant. The drive to produce diesel specification fuels is the result of increased sales of light trucks, vans, and sport/utility vehicles that now account for over 50% of the market. These vehicles, much less fuel efficient than modern sedans, will probably be forced to use diesel engines to meet Corporate Average Fuel Economy requirements. The engines will behave operationally and environmentally like modern spark ignition engines and use fuels that are compatible with the present distribution infrastructure to ease the conversion to the new fuels.

Grant applications are sought for investigations into the area of new catalysts for selective, economic, and environmentally acceptable oxygenated and high-cetane-number diesel fuels. The fuels produced must be compression ignitable and may not include methanol. The work should lead to novel catalysts to produce such fuels or a better basic understanding of catalytic production of diesel fuels.

Advanced Air Separation Technologies

An Integrated Gasification Combined Cycle (IGCC) system is a likely modular component of a Vision 21 co-production plant. In an IGCC system, coal and other carbonaceous feedstocks are partially combusted at elevated temperatures and pressures to produce synthesis gas, a mixture of carbon monoxide and hydrogen. The synthesis gas must be cleaned of sulfur compounds and particulates before use. IGCC technology

is ideally suited for the coproduction of electricity and high quality transportation fuel or a host of high-value chemicals to meet specific market needs. For the production of electricity, the gasifier can use either air or pure oxygen for the partial combustion reactions. However, for coproduction of power and fuels/chemicals, oxygen is required to reduce the quantity of inert materials in downstream process units. The coproduction option offers the potential for early introduction of IGCC technologies in the United States through integration with existing manufacturing facilities and will lead directly to Vision 21 plants. Through the continued development of improved technologies, DOE hopes to further reduce the capital cost of IGCC facilities to below $1,000 per kilowatt, achieve high overall plant efficiencies, produce environmentally superior transportation fuels that are cost competitive with those produced from petroleum, and to reduce carbon dioxide emissions.

Grant applications are sought to develop advanced air separation techniques that have potential for substantial reductions in capital and operating costs compared with commercial cryogenic air separation technologies and result in improved overall process efficiencies for Vision 21 modules such as IGCC with co-production of fuels and chemicals.

The proposed technologies can either focus on the production of pure oxygen or enriched air (e.g., 65–85% oxygen in nitrogen). Such technologies are not further defined but could include advanced molecular sieve membranes, advanced absorption technologies or oxygen transport membranes. The proposed concept need not be a standalone technology and those that require integration into specific processes to achieve the desired cost and efficiency improvements are acceptable.

Direct Coal Liquefaction

Direct coal liquefaction includes technologies for converting coal or mixtures of coal with petroleum resids, waste materials (plastics, rubber), or biomass (wood, paper) to liquid products suitable for further refining for ultimate use as transportation fuels. Application of these technologies has been delayed by the need to reduce costs of both the initial conversion processes and the downstream processes for the upgrading of the liquid products. Better knowledge of chemical reactions pertinent to the conversion of coal and the prevention of the formation of refractory products would benefit the design of process strategies and to reduce cost of direct liquefaction. Knowledge that would enable the more efficient use of hydrogen would improve the overall thermal efficiency and reduce the net emissions of CO_2 from the conversion process. A key requirement for improving the science underlying the technology of the initial conversion of coal, or its co-processing mixtures, is a better understanding of the complex chemistry of the conversion steps. These steps involve combinations of thermal cracking and hydrogenation, usually with a dispersed or supported catalyst. Another problem lie in the hydrotreatment of the liquids produced by the initial steps. This downstream catalytic upgrading involves extensive hydrogenation in order ultimately to produce a fuel that will meet performance and environmental standards. Reduction of the cost and hydrogen consumption in these upgrading steps requires raising the performance of catalytic hydrotreating processes. Such improvements would be made easier if better knowledge of the target molecules for hydrodesulfurization and hydrodenitrogenation were available.

Grant applications are being sought to understand these mechanisms better, or to develop ways to overcome these barriers to advancing this technology.

CO_2 Capture and Sequestration

Future advanced power generation systems, such as Vision 21, will be designed to eliminate any CO_2 emissions from the plant. The high energy penalties and high costs associated with removing CO_2 from the flue gas of a fossil fuel-fired power plant represent major impediments to future use of CO_2 sequestration. Novel methods for capture and sequestration of CO_2 that sharply reduce these energy penalties and costs must be investigated. Promising approaches could include the development of new scrubbing solvents or sorbents, or the development of advanced sequestration techniques that are compatible with the Vision 21 concept. Since, in the sequestration schemes for CO_2, transport could be a major economic and practical concern, proposed ideas may also be related to the ease of transporting CO_2 to a storage site. Proposed methods of CO_2 disposal could include but not be limited to new ideas on using oil and gas reservoirs, the deep oceans, deep confined aquifers, and mineral carbonates.

Grant applications are sought to investigate areas of novel methods of CO2 capture and sequestration that are technically, economically, and ecologically feasible. The proposed work should be consistent with the Vision 21 concept, novel in nature, and may include, but must not be limited to a review of prior research related to this focus area.

Advanced Diagnostics and Modeling Techniques for Three-Phase Slurry Reactors (Bubble Columns)

The Fischer-Tropsch (F–T) synthesis reaction represents an important route to convert coal-derived synthesis gas to hydrocarbon fuels and will be a module for the Vision 21 plants. Slurry phase Fischer-Tropsch processing is considered a potentially more economic scheme to convert synthesis gas into liquid fuels, largely due to its relatively simple reactor design, improved thermal efficiency, and ability to process CO-rich synthesis gas. The application of the three-phase slurry reactor system to coal liquefaction and the chemical process industry has recently received considerable attention. A reliable model will be invaluable for the design, scale-up, and efficient operation of the three-phase slurry reactors. To develop such a model, the hydrodynamic parameters and the complex chemistry of the F–T reaction must be fully understood. ''Hydrodynamics'' includes the rate of mass transfer between the gas and the liquid, gas bubble size, gas, liquid, and solids holdup, and gas, liquid, and solids axial and radical distributions, velocity distribution and flow regimes. Measurement of these parameters must be made under reaction conditions, such as high temperature and pressure, and with the presence of a reaction liquid medium and high gas and solids holdup. It is expected that advanced diagnostic techniques will be required to conduct the measurements under the reaction conditions.

The completed model must be able to predict the holdup of all phases (gas, liquid, and solids), temperature and pressure profiles, and concentration profiles for individual reactants and products.

Grant applications are sought for investigations of the advanced diagnostic techniques for the measurement of hydrodynamic parameters under Fischer-Tropsch reaction conditions. Novelty and innovation coupled with the likely prospect of providing new insight on these long standing problems must be demonstrated in the successful application. Proposals based on extensions of traditional methods or past results are discouraged.

Grant applications are sought for investigations of the development of models for the three-phase slurry reactor. The model must incorporate the

hydrodynamic parameters and reaction kinetics. Novelty and innovation coupled with the likely prospect of providing new insight on these long standing problems must be demonstrated in the successful application.

UCR Innovative Concepts Program

As the twenty-first century approaches, the challenges facing coal and the electric utility industry continue to grow. Environmental issues such as pollutant control, both criteria and trace, waste minimization, and the co-firing of coal with biomass, waste, or alternative fuels will remain important. The need for increased efficiency, improved reliability, and lower costs will be felt as an aging utility industry faces deregulation. Advanced power systems, such as a Vision 21 plant, and environmental systems will come into play as older plants are retired and utilities explore new ways to meet the growing demand for electricity.

The DOE is interested in innovative research in the coal conversion and utilization areas that will be required if coal is to continue to play a dominant role in the generation of electric power. Technical topics like the ones that follow, will need to be answered but are not intended to be all-encompassing. It is specifically emphasized that other subjects for coal research will receive the same evaluation and consideration for support as the examples cited.

UCR Innovative Concepts Program Technical Topic(s)

Fine Particulate Matter

Fine particulate matter is defined as material with an aerodynamic-equivalent diameter of 2.5 microns or less and is generally represented as $PM_{2.5}$ It represents a broad class of substances dispersed through the atmosphere and originates from a variety of sources. These particles, which have been associated with adverse human health effects, are generally divided into two classes, Primary and Secondary. Primary particles are emitted directly as such, as fly ash, soot, dust, or sea salt. Secondary particles are formed in the atmosphere mainly from gas phase precursors such as SO_2, NO_X, and VOC to produce particles such as sulfuric acid, ammonium nitrate, and ammonium bisulfate. Recently, the Environmental Protection Agency promulgated a new $PM_{2.5}$ National Ambient Air Quality Standards. These standards will affect the operation of much of our industrial base, including fossil fueled power and industrial plants. In light of the regulations, it will be important to capture and identify particles as to composition and probable sources and would greatly affect the industries controlled and the levels of controls required.

Grant applications are sought for proposals to investigate innovative methods for the quantitative capture and chemical analysis of air borne $PM_{2.5}$ particles with the goal of source apportionment.

Additionally, grant applications are sought for methods that allow on-line measurement or control at sources such as fossil fueled power and industrial plants.

Materials—Development of Innovative Protective Surface Oxide Coatings

Protection from corrosion and environmental effects arising from damaging reactions with gases and condensed products is required to exploit the potential of advanced high-temperature materials designed to improve energy efficiency fully and reduce deleterious environmental impact (e.g., to achieve the performance goals of the Vision 21 powerplants). The resistance to such reactions is best afforded by the formation of stable surface oxides that are slow growing, compact, and adherent to the substrate or by the deposition of coatings that contain or develop oxides with similar characteristics. However, the ability of brittle ceramic films and coatings to protect the material on which they are formed or deposited has long been problematical, particularly for applications involving numerous or severe high temperature thermal cycles or very aggressive environments. This lack of mechanical reliability severely limits the performance or durability of alloys and ceramics in many high-temperature utility and powerplant applications and places severe restrictions on deployment of such materials. The beneficial effects of certain alloying additions on the growth and adherence of protective oxide scales on metallic substrates are well known, but satisfactory broad understandings of the mechanisms by which scale properties and coating integrity (i.e., corrosion resistance) are improved by compositional, microstructural, and processing modifications are lacking.

Grant applications are sought for expanding the scientific and technological approaches to improving stable surface oxides for corrosion protection in high-temperature oxidizing environments. The needs are associated with developing innovative oxide coatings and characterizing oxide-metal interfaces and stress effects on scale growth as part of DOE's efforts to establish a sound technical basis for the formulation of specific compositions and synthesis routes for producing materials with tough, adherent, stable, slow growing oxide scales or coatings that exhibit the improved elevated temperature environmental resistance crucial to the success of many of FE's advanced systems.

In-Situ Removal of Contaminants From High-Temperature Fuel Cells

The product gas from advanced coal gasification systems contains numerous contaminants that are unacceptable for the present designs of high-temperature molten carbonate and solid oxide fuel cells (MCFCs and SOFCs, respectively). In a Vision 21 Plant, as in all coal gasification and combustion processes, there is a tradeoff between gas cleanup and downstream process durability. The desired long-term operation (40,000 hours) of current MCFCs and SOFCs can be significantly reduced by even trace amounts of these contaminants. These contaminants include particulates (e.g., coal fines and ash), sulfur compounds (e.g., H_2S and COS), halides (e.g., HCl and HF), nitrogen compounds (e.g., NH_3 and HCN), and trace metal species (e.g., As, Pb, Hg, Cd, Sn). The effects of these contaminants include plugging of gas passages, corrosion of fuel cell components, and voltage losses due to various mechanisms, including physical absorption, chemisorption, or chemical reaction with fuel cell materials. Tolerance limits can be below 1 ppm, and the effects vary in severity but all are detrimental to fuel cell performance. It is unlikely that the next generation of gas cleanup and gas separation processes in the Vision 21 scenario will provide gas purity sufficient for long-term operation of MCFCs and SOFCs manufactured with current materials and fabrication techniques. If coal-based systems, such as Vision 21, are to take advantage of the high efficiency and other benefits of high-temperature fuel cells, methods for in-situ removal of contaminants will greatly increase the resiliency of these devices and would be applicable to any level of electrode materials technology.

Grant applications are sought for proposals to investigate innovative methods for cost-effective, in-situ removal of deposits, including ash, carbon, and trace metals, from MCFC and SOFC surfaces. The proposed work may include, but must not be limited to a review of prior research related to this focus area.

Prevention of Catalyst Carryover in Three Phase Reactors

There is renewed interest in F–T derived diesel fuels, produced in a stand alone facility or as part of a coal-fed Vision 21 co-production plant. To maximize the percentage of diesel fuel obtained, the catalyst would be designed to allow diesel range products to be the second largest portion of the product, while maximizing the production of wax. The wax would be further hydrocracked to diesel fuel in a separate step. Assuming that a three-phase slurry reactor would be chosen for the F–T process, there exists the problem of separating the wax from the molten catalyst-wax slurry as its level rises. The wax, of carbon number 20 to 70, is both the product and the slurry medium.

Grant applications are sought to develop operations, processes, or reactor configurations that maintain the necessary catalyst inventory in the reactor.

Advanced Power Generation Cycles

One of the most effective ways to reduce CO_2 and other emissions from coal-fired powerplants and to achieve the targets for the Vision 21 plant is to significantly increase the efficiency of power plants. New cycles are intended for combined cycle applications, that could increase the efficiency of powerplants to well over 45%.

Grant applications are being solicited for investigation and study of new cycles for power generation. Specific areas of study may include high temperature (~1,000F), high pressure (~2,400 psi) ammonia/water vapor/liquid thermodynamic properties at various volume ratios, validation of efficiency projects, alternative approaches to complex combined cycle evaluations for better matching of conventional and advanced technology processes, economics, and identification of barriers (corrosion and new materials investigations, heat transfer coefficients in two liquid mixtures for application in falling film heat exchangers), to commercialization. Any novel topping and bottoming cycles may be offered.

Liquids From Coal

The many advantages of using and handling liquid fuels and chemical feedstocks has driven research to produce these materials from low-cost, abundant coal. During most of this century, many processes have been developed and a few of these were commercialized at some point. With the advent of Vision 21 and the co-production concept, opportunities may now exist for identification and development of novel liquefaction processes that would fit the modular design criterion and permit ready sequestration of CO_2.

Grant applications are being solicited for investigation and study of new methods to produce value-added liquids from coal consistent with the Vision 21 concept.

Awards

DOE anticipates awarding financial assistance grants for each project selected. Approximately $2.7 million will be available for the Program Solicitation. An estimated $2.2 million is budgeted for the UCR Core Program and should provide funding for approximately one to three (1–3) financial assistance awards in each of the six focused areas of research. The maximum DOE funding for individual colleges/universities applications in the UCR Core Program varies according to the length of the proposed performance period as follows:

Performance period	Maximum funding
0–12 months	$80,000
13–24 months	140,000
25–60 months	200,000

The maximum DOE funding for UCR Core Program joint applications is $400,000 requiring a performance period of 36 months.

Approximately $0.5 million is budgeted for the UCR Innovative Concepts Program and should provide support for approximately ten (10) financial assistance awards. The maximum DOE funding for UCR Innovative Concepts Program awards is $50,000 with 12-month performance periods.

Issued in Pittsburgh, Pennsylvania on September 25, 1997.

Richard D. Rogus,

Contracting Officer, Acquisition and Assistance Division.

[FR Doc. 97–26276 Filed 10–02–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[Docket No. FE C&E 97–02—Certification Notice—155]

Denver City Energy Associates, L.P.; Notice of Filing of Coal Capability Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of filing.

SUMMARY: On September 23, 1997, Denver City Energy Associates, L.P. submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Coal & Power Im/Ex, Fossil Energy, Room 3F–056, FE–27, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of the proposed new baseload powerplant has filed a self-certification in acccordance with section 201(d).

Owner: Denver City Energy Associates, L.P.

Operator: Denver City Energy Associates, L.P.

Location: Amarillo, Texas.

Plant Configuration: combined-cycle.

Capacity: 489 megawatts.

Fuel: Natural gas.

Purchasing Entities: Golden Spread Electric Generating Cooperative, Inc. (GSE).

In-Service Date: Simple-cycle mode—Winter of 1998–99 Combined-cycle mode—Summer of 1999.

Issued in Washington, D.C., September 29, 1997.

Anthony J. Como,

Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 97–26279 Filed 10–2–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket No. LEHR–SF–597]

Certification of the Radiological Condition of Four Buildings at the Laboratory for Energy-Related Health Research, Davis, California

AGENCY: U.S. Department of Energy, Office of Environmental Restoration.

ACTION: Notice of certification.

SUMMARY: The Department of Energy (DOE) has completed radiological surveys and taken remedial action to decontaminate and decommission four buildings located at the Laboratory for Energy-Related Health Research (LEHR) facility in Davis, California. This property previously was found to contain radioactive materials from activities carried out for the Atomic Energy Commission and the Energy Research and Development Administration (AEC/ERDA), predecessor agencies to DOE. Although DOE owns the majority of the buildings and equipment at the LEHR site (including these four buildings), the University of California owns the land.

FOR FURTHER INFORMATION CONTACT: Don Williams, Program Manager, Office of Northwestern Area Programs, Office of Environmental Restoration (EM–44), U.S. Department of Energy, Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION: DOE has implemented environmental restoration projects at LEHR as part of DOE's Environmental Restoration Program. One objective of the program is to identify and clean up or otherwise control facilities where residual radioactive contamination remains from activities carried out under contract to AEC or ERDA during the early years of the Nation's atomic energy program.

LEHR is comprised of a number of buildings and structures located within a 15-acre parcel of land leased from the University of California, Davis. The facility was operated by the University of California between 1956 and 1988 to conduct animal research to determine the effects of radionuclides, primarily strontium-90 and radium-226, on tissue, organs, and bone. Several buildings and land areas became radiologically contaminated as a result of facility operations and site activities. A LEHR area that has been designated for cleanup under the DOE Environmental Restoration Program includes the two Animal Hospital Laboratories, the Specimen Storage building, and the Cobalt-60 building. These buildings have been decontaminated and have been independently verified to meet established cleanup criteria and standards; they are, therefore, now available for release without radiological restrictions as established in DOE Order 5400.5.

The Animal Hospital Laboratories are single story, wood-framed buildings with stucco exteriors. Animal Hospital No. 1 housed built-in cage rooms and contained nine laboratories for conducting animal research using strontium-90. Animal Hospital No. 2 was used for surgery, radiography, and radium-226 studies. Plumbing and ventilation systems associated with the animal cages were contaminated as a result of the studies. The Specimen Storage building is a single story structure constructed with concrete blocks. This building was used to store radioactive and non-radioactive research samples. The Cobalt-60 building is a single story, poured concrete, composite roof structure. This building housed a cobalt-60 irradiation source and was equipped with a control room and animal exposure room. The 390-curie cobalt-60 source was removed in January 1993 and made available for reuse at another facility. Following the removal of the cobalt-60 source, the exposure room was used to store lead bricks, a radiological glovebox, bagged electrical motors, and miscellaneous radioactive sources.

To allow the release of these buildings for use without radiological restrictions, all radioactive material and contamination was removed from the buildings. In general, passive decontamination techniques, such as high-efficiency particulate air vacuuming, damp cloth wiping, and hand washing/scrubbing, were applied first. When the contaminants were more tightly bound to the surface material, such as fiberglass and epoxy coated cages, more aggressive decontamination methods were applied. These methods included surface removal by chipping and grinding. When decontamination of cages was no longer cost-effective, the remaining contaminated material was removed, volume reduced, and shipped offsite for disposal as low-level radiological waste.

After the decontamination project was completed, a comprehensive final survey of the building interiors was performed to demonstrate compliance with standards for release without radiological restrictions. The Environmental Survey and Site Assessment Program of the Oak Ridge Institute for Science and Education performed independent verification of the decontamination project in 1996. Post-decontamination surveys have demonstrated that the four buildings are in compliance with DOE decontamination criteria and standards for release without radiological restrictions. DOE intends to comply with applicable Federal, State, and local requirements which relate to property transfer.

Final DOE costs for the decontamination of the four buildings were $4,000,000, including the final survey and waste disposal.

All personnel working on the decontamination and decommissioning project were monitored for both external and internal dose exposure. Over the five year duration of the project, two workers received a total of 10 mrem each, which is well below applicable radiological standards establishing a dose limit of 100 mrem/yr. to the general public under DOE Order 5400.5 or 5 rem/yr. for workers under 10 CFR Part 835.

The certification docket will be available for review between 9:00 a.m. and 4:00 p.m., Monday through Friday (except Federal holidays), in the U.S. DOE Public Reading Room located in Room 1E–190 of the Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. Copies of the certification docket will also be available at the following locations: DOE Public Document Room, U.S. DOE, Oakland Operations Office, the Federal Building, 1301 Clay Street, Oakland, California; University of California-Davis Shields Library, Reference Desk, Davis, California; and Davis Public Library, Reference Desk, 315 East 14th Street, Davis, California.

DOE has issued the following statement of certification:

Statement of Certification: Laboratory for Energy-Related Health Research, Animal Hospital No. 1, Animal Hospital No. 2, Specimen Storage Building, and the Cobalt-60 Building

The U.S. Department of Energy, Oakland Operations Office, Environmental Restoration Division, has reviewed and analyzed the radiological data obtained following decontamination and decommissioning of Animal Hospital No. 1, Animal Hospital No. 2, Specimen Storage building, and the Cobalt-60 building at the Laboratory for Energy-Related Health Research. Based on analysis of all data collected and the results of independent verification, DOE certifies that the following properties are in compliance with DOE radiological decontamination criteria and standards as established in DOE Order 5400.5. This certification of compliance provides assurance that future use of the properties will result in no radiological

exposure above applicable guidelines established to protect members of the general public or site occupants. Accordingly, the properties specified below are released from DOE's Environmental Restoration Program.

Property owned by the University of California:

Animal Hospital No. 1 (H–219), Animal Hospital No. 2 (H–218), Specimen Storage building (H–216), and the Cobalt-60 building (H–290) located at the Laboratory for Energy-Related Health Research at Davis, Solano County, California in the southeast quarter of Section 21, Township 8 North, Range 2 East, Mount Diablo Base and Meridian.

Issued in Washington, D.C. on September 22, 1997.

James J. Fiore,

Acting Deputy Assistant Secretary for Environmental Restoration.

Statement of Certification: Laboratory for Energy-Related Health Research, Animal Hospital No. 1, Animal Hospital No. 2, Specimen Storage Building, and the Cobalt-60 Building

The U.S. Department of Energy, Oakland Operations Office, Environmental Restoration Division, has reviewed and analyzed the radiological data obtained following decontamination and decommissioning of Animal Hospital No. 1, Animal Hospital No. 2, Specimen Storage Building, and the Cobalt-60 Building at the Laboratory for Energy-Related Health Research. Based on analysis of all data collected and the results of independent verification, DOE certifies that the following property is in compliance with DOE radiological decontamination criteria and standards as established in DOE Order 5400.5. This certification of compliance provides assurance that future use of the property will result in no radiological exposure above applicable guidelines established to protect members of the general public or site occupants.

Property owned by the University of California:

Animal Hospital No. 1 (H–219), Animal Hospital No. 2 (H–218), Specimen Storage Building (H–216), and the Cobalt-60 Building (H–290) located at the Laboratory for Energy-Related Health Research at Davis, Solano County, California, in the southeast quarter of Section 21, Township 8 North, Range 2 East, Mount Diablo Base and Meridian.

Dated: July 22, 1997.

Roger Liddle,

Director, Environmental Restoration Division, Oakland Operations Office, U.S. Department of Energy.

[FR Doc. 97–26278 Filed 10–2–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–765–000]

ANR Pipeline Company; Notice of Application

September 29, 1997.

Take notice than on September 22, 1997, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP97–765–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to construct and operate mainline looping and measurement facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR states that the proposed 11.4 miles of 30-inch mainline looping, located upstream of ANR's existing Kewaskum, Wisconsin, compressor station, and new meter station, located on ANR's existing Racine lateral pipeline, are designed to increase transmission capacity by 116 MMcf per day and thereby enable ANR to provide additional firm transportation service to subscribing shippers in the Wisconsin market area of ANR's system.

ANR states that it held an open season wherein a number of shippers expressed an interest in receiving firm transportation service on ANR, from various existing and proposed pipeline interconnection points located within the vicinity of the newly emerging Chicago gas hub, to delivery points located within the State of Wisconsin. ANR states that those shippers have received approval of their requests for service and some have entered into precedent agreements with ANR for new services that will utilize all of the new capacity proposed herein.

ANR states that it will provide the service under Part 284 of the Commission's regulations and charge the subscribing shippers rates that do not exceed the currently effective Mainline Area rates for firm services under its existing Second Revised Volume No. 1 of its FERC Gas Tariff.

ANR estimates the construction cost of the proposed facilities to be $23.6 million, which will be financed from internally generated funds.

ANR requests a Preliminary Determination on non-environmental issues by January 1, 1998, with final approval by June 15, 1998, so that the proposed facilities can be placed in service by the 1998/1999 heating season.

ANR requests that the Commission issue a predetermination that rolled-in rates are appropriate for the proposed facilities, maintaining that rate impact on existing customers will be no greater than 0.5 percent. ANR further maintains that installation of looping on its mainline trunk facilities will enhance stability and security of firm service, in addition to providing increased outage protection, for all shippers utilizing that portion of ANR's system.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before October 20, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protest 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.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, and intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process.

Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenors status.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for ANR to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26227 Filed 10–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–535–000]

MIGC, Inc., Notice of Proposed Changes in FERC Gas Tariff

September 29, 1997.

Take notice that on September 24, 1997, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 37, with an effective date of November 1, 1997.

MIGC states that the filing is being filed pursuant to Subpart C of Part 154 of the Federal Energy Regulatory Commission's Regulations Under the Natural Gas Act and Order No. 636–C issued February 27, 1997 at Docket Nos. RM91–11–006 and RM87–34–072 (Order No. 636–C)

MIGC states that this tariff sheet revises the Right-of-First Refusal provision to provide for a five year maximum term for bid evaluations.

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 Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois Cashell,

Secretary.

[FR Doc. 97–26226 Filed 10–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–526–001]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 29, 1997.

Take notice that on September 24, 1997, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Third Revised Sheet No. 9, with a proposed effective date of October 12, 1997.

MRT states that the purpose of this filing is to adjust and reduce the Account No. 191 amounts MRT requested authority to direct bill its former Rate Schedule CD–1 and SGS–1 customers as a result of additional prior period adjustments to MRT's Account No. 191 balance to remove that percentage of costs attributable to MRT's non-jurisdictional direct industrial sales during the relevant period.

MRT states that copies of its filing have been mailed to all of its customers, including all former Rate Schedule CD–1 and STS–1 customers, and the State Commissions of Arkansas, Illinois, and Missouri.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26225 Filed 10–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4494–000]

PacificCorp; Notice of Filing

September 29, 1997.

Take notice that PacifiCorp on September 4, 1997, tendered for filing a Notice of Termination of Service Agreement No. 6 to PacifiCorp's FERC Electric Tariff, Original Volume No. 5.

Copies of this filing were supplied to the City of Anaheim, the Washington, Utilities and Transportation Commission and the Public Utility Commission of Oregon.

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 385.214). All such motions or protests should be filed on or before October 10, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26228 Filed 10–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–60–008

Tennessee Gas Pipeline Company; Notice of Compliance Filing

September 29, 1997.

Take notice that on September 25, 1997, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Sub Original Sheet No. 665 and Sub Original Sheet No. 675, with an effective date of June 1, 1997.

Tennessee states that the tariff sheets are being filed in compliance with the Commission's September 15, 1997 Order on Order No. 587 Compliance Filing in the above-referenced docket (September 15 Order). Tennessee Gas Pipeline Company, 80 FERC 61,311 (1997). Tennessee states that these tariff sheets set forth revisions to Tennessee's pro forma Electronic Data Interchange (EDI) Trading Partner Agreement (TPA) as directed by the September 15 Order. In accordance with the September 15 Order, Tennessee requests that these tariff sheets be deemed effective June 1, 1997.

Tennessee further states that copies of the filing have been mailed to all intervening parties in the above-referenced dockets.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Copies of this filing are on file with the Commission and available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26229 Filed 10–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC97–57–000, et al.]

Hermiston Generating Company, L.P., et al.; Electric Rate and Corporate Regulation Filings

September 26, 1997.

Take notice that the following filings have been made with the Commission:

1. Hermiston Generating Company, L.P.

[Docket No. EC97–57–000]

Take notice that Hermiston Generating Company, L.P. (''Hermiston'') on September 19, 1997, tendered for filing a request that the Commission approve a disposition of facilities under Section 203 of the Federal Power Act in connection with a proposed sale of the indirect interest held in Hermiston by Bechtel Enterprises, Inc. to a subsidiary of PG&E Corporation.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. USGen Power Services, Inc.

[Docket No. EC97–58–000]

Take notice that USGen Power Services, L.P., (''USGenPS'') on September 19, 1997, tendered for filing a Petition that the Commission approve a disposition of facilities and grant any other authorization the Commission may deem to be required under Section 203 of the Federal Power Act in connection with a proposed redemption of the partnership interest in USGenPS of the Cottonwood Power Corporation by USGenPS.

Comment date: November 18, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Qst Energy Trading Inc. v. Central Illinois Public Service Company and Union Electric Company

[Docket No. EL97–43–000]

Take notice that on September 18, 1997, pursuant to Section 306 of the Federal Power Act, 16 U.S.C. 825e, and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (''Commission''), 18 CFR 385.206, QST Energy Trading, Inc. (''QST'') tendered for filing a Supplemental Verified Complaint against Central Illinois Public Service Company (''CIPS'') and Union Electric Company (''UE''). In the original Complaint filed on June 25, 1997, QST alleged that CIPS and UE, which is operating CIPS' transmission system, refused to provide QST with monthly firm transmission service to deliver firm energy and capacity which was being sold by CIPS, despite Available Transmission Capability shown on the MAIN OASIS; violated Section 37 of the Commission's Rules related to posting and providing transmission information; and failed to provide timely notice of transmission availability.

The Supplemental Complaint concerns a series of additional acts by CIPS/UE: CIPS' refusal to provide QST with data pursuant to Section 37.6(b)(ii) due to the pendency of a Complaint; CIPS' and UE's continued late notification of the availability of transmission service; continuing violation by CIPS/UE of posting requirements under Section 37.6; CIPS/UE's faulty calculation of ATC; and CIPS/UE's anti-competitive refusal to make CIPS' transmission system available for use by a marketer like QST.

QST argues that these actions require an immediate response by the Commission of ordering an audit of CIPS/UE's actions this summer in relation to its compliance with Section 37.6 and its denials of service to QST.

QST has asked that CIPS and UE be ordered to comply with Section 37.6 immediately; be required to join a regional ISO; the Commission find that no demand charges are due to be paid by QST on days when CIPS/UE denied or failed to provide timely transmission service; determine whether damages or penalties are due to be paid by CIPS/UE, and such other relief as the Commission deems appropriate.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice. Answers to the Complaint shall be due on or before October 10, 1997.

4. Oklahoma Municipal Power Authority v. Public Service Company of Oklahoma and Central and South West Services, Inc.

[Docket No. EL97–59–000]

Take notice that on September 18, 1997, Oklahoma Municipal Power Authority tendered for filing a complaint against the Public Service Company of Oklahoma and Central and South West Services, Inc.

Comment date: October 27, 1997, in accordance with Standard Paragraph E at the end of this notice. Answers to the Complaint shall be due on or before October 27, 1997.

5. Delmarva Power & Light Company

[Docket No. EL97–60–000]

Take notice that on September 18, 1997, Delmarva Power & Light Company

filed a Petition for Limited Waiver of a provision of § 35.32 of the Commission's Regulations.

Comment date: October 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power & Light Company

[Docket No. ER97–3966–000]

Take notice that on September 9, 1997, Florida Power & Light Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. NRG Power Marketing Inc.

[Docket No. ER97–4281–000]

Take notice that on August 20, 1997, NRG Power Marketing Inc. (NRG Power) filed pursuant to 205 of the Federal Power Act, Part 35 of the Commission's Regulations, and the Commission's Rules of Practice and Procedure, an application requesting the Commission to: (1) Accept for filing NRG Power's Rate Schedule FERC No. 1, (2) grant NRG Power blanket authority to make market-based sales of energy and capacity under Rate Schedule FERC No. 1, and (3) grant NRG Power such waivers and blanket authorizations as have been granted by the Commission in the past to other power marketers, including, but not limited to, waiver of cost of service filing requirements of Subparts B and C of Part 35, waiver of accounting and reporting requirements, interlocking director filing requirements, and blanket approval of future issuances of securities or assumptions of obligations or liabilities. NRG Power has requested waiver of the 60-day notice requirement to allow NRG Power's Rate Schedule FERC No. 1 to become effective on September 1, 1997.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Electric Lite, Inc.

[Docket No. ER97–4427–000]

Take notice that on September 2, 1997, Electric Lite, Inc. (''Electric Lite'') petitioned the Commission for acceptance of Electric Lite Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Electric Lite intends to engage in wholesale electric power and energy purchases and sales as a marketer. Electric Lite is not in the business of generating or transmitting electric power.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. DPL Energy, Inc.

[Docket No. ER97–4499–000]

Take notice that on September 3, 1997, DPL Energy, Inc., tendered for filing to amend DPL Energy, Inc.'s market based sales tariff.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Montaup Electric Company

[Docket No. ER97–4500–000]

Take notice that on September 2, 1997, Montaup Electric Company (''Montaup'') filed a form of service agreement for firm point-to-point transmission service with itself from May 1, 1997 through July 13, 1997. The filing responds to the Commission's July 31, 1997 order in Allegheny Power Systems, Inc., et al., 80 FERC ¶ 61,143. Montaup requests waiver of the Commission's notice requirement to permit an effective date of May 1, 1997.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Boston Edison Company

[Docket No. ER97–4502–000]

Take notice that on September 4, 1997, Boston Edison Company (''Boston Edison''), tendered for filing a Service Agreement and Appendix A under Original Volume No. 6, Power Sales and Exchange Tariff (Tariff) for Northeast Energy Services, Inc. (NORESCO). Boston Edison requests that the Service Agreement become effective as of August 1, 1997.

Edison states that it has served a copy of this filing on NORESCO and the Massachusetts Department of Public Utilities.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Kentucky Utilities Company

[Docket No. ER97–4503–000]

Take notice that on September 4, 1997, Kentucky Utilities Company (KU), tendered for filing service agreements for Non-Firm Transmission Service between KU and NP Energy Inc., Wisconsin Electric Power Company and Coral Power L.L.C. KU also notified the Commission that its Transmission and Power Service Agreements with Coastal Electric Services Company are now with Engage Energy US, L.P.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Florida Power Corporation

[Docket No. ER97–4504–000]

Take notice that on September 4, 1997, Florida Power Corporation tendered for filing a service agreement providing for short-term service to LG&E Power Marketing, pursuant to Florida Power's Market-Based Wholesale Power Sales Tariff (''MR–1'') FERC Electric Tariff, Original Volume No. 8. Florida Power requests that the Commission waive its notice of filing requirements and allow the Service Agreement to become effective on September 5, 1997.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Virginia Electric and Power Company

[Docket No. ER97–4505–000]

Take notice that on September 4, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing executed Service Agreements between Virginia Electric and Power Company and (1) Tractebel Energy Marketing, Inc.; and (2) Entergy Power Marketing Corp under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994, as revised on December 31, 1996. Under the tendered Service Agreements Virginia Power agrees to provide services to (1) Tractebel Energy Marketing, Inc.; and (2) Entergy Power Marketing Corp under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Pacific Gas and Electric Company

[Docket No. ER97–4506–000]

Take notice that on September 4, 1997, Pacific Gas and Electric Company (PG&E), tendered for filing an agreement by and between PG&E and Sierra Pacific Power Company (Sierra) entitled, ''Service Agreement for Non-Firm Point-to-Point Transmission Service'' (Service Agreement).

PG&E proposes that the Service Agreement become effective on August 5, 1997. PG&E is requesting any necessary waivers.

Copies of this filing have been served upon the California Public Utilities Commission and Sierra.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Orange and Rockland Utilities, Inc.

[Docket No. ER97–4507–000]

Take notice that on September 4, 1997, Orange and Rockland Utilities, Inc. (''O&R''), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR Part 35, a service agreement under which O&R will provide capacity and/or energy to Entergy Power Marketing Corp. (''Entergy'').

O&R requests waiver of the notice requirement so that the service agreement with Entergy becomes effective as of September 15, 1997.

O&R has served copies of the filing on The New York State Public Service Commission and Entergy.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–4508–000]

Take notice that on September 5, 1997, Consolidated Edison Company of New York, Inc. (''Con Edison''), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Minnesota Power & Light Company (''MPL'').

Con Edison states that a copy of this filing has been served by mail upon MPL.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–4509–000]

Take notice that on September 5, 1997, Consolidated Edison Company of New York, Inc. (''Con Edison''), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Public Service Electric & Gas Company (''PSE&G'').

Con Edison states that a copy of this filing has been served by mail upon PSE&G.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Virginia Electric and Power Company

[Docket No. ER97–4510–000]

Take notice that on September 5, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Service with NP Energy, Inc., Constellation Power Source, Inc., CMS Marketing, Services and Trading, Con Agra Energy Services, Inc. and Williams Energy Services Company under the Open Access Transmission Tariff to Eligible Purchasers dated July 9, 1996. Under the tendered Service Agreement Virginia Power will provide non-firm point-to-point service to the Transmission Customers as agreed to by the parties under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. PECO Energy Company

[Docket No. ER97–4511–000]

Take notice that on September 5, 1997, PECO Energy Company (''PECO'') filed a Service Agreement dated August 10, 1997 with City of Springfield, Illinois, City Water, Light and Power (''CWL&P'') under PECO's FERC Electric Tariff Original Volume No. 1 (''Tariff''). The Service Agreement adds CWL&P as a customer under the Tariff.

PECO requests an effective date of August 10, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to CWL&P and to the Pennsylvania Public Utility Commission.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Florida Power Corporation

[Docket No. ER97–4512–000]

Take notice that on September 5, 1997, Florida Power Corporation (''FPC''), tendered for filing a contract for the provision of interchange service between itself and The Energy Authority, Inc. (''Energy Authority''). The contract provides for service under Schedule C, Economy Interchange Service, and OS, Opportunity Sales. FPC requests Commission waiver of the 60-day notice requirement in order to allow the contract to become effective as a rate schedule on September 6, 1997.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Cinergy Services, Inc.

[Docket No. ER97–4513–000]

Take notice that on September 5, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Power Sales Standard Tariff (the Tariff) entered into between Cinergy and the City of Wyandotte Department of Municipal Service (Wyandotte).

Cinergy and Wyandotte are requesting an effective date of August 11, 1997.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Great Bay Power Corporation

[Docket No. ER97–4515–000]

Take notice that on September 5, 1997, Great Bay Power Corporation (Great Bay), tendered for filing a service agreement between New Energy Ventures, Inc. and Great Bay for service under Great Bay's revised Tariff for Short Term Sales. This Tariff was accepted for filing by the Commission on May 17, 1996, in Docket No. ER96–726–000. The service agreement is proposed to be effective August 22, 1997.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Kansas City Power & Light Company

[Docket No. ER97–4516–000]

Take notice that on September 8, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated August 7, 1997, between KCPL and Tenaska Power Services Co. KCPL proposes an effective date of August 15, 1997, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order 888–A in Docket No. OA97–636.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Illinois Power Company

[Docket No. ER97–4518–000]

Take notice that on September 8, 1997, Illinois Power Company (''Illinois Power''), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Williams Energy Services Company will take transmission service pursuant to its open access transmission

tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 8, 1997.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Illinois Power Company

[Docket No. ER97–4519–000]

Take notice that on September 8, 1997, Illinois Power Company (''Illinois Power''), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which DuPont Power Marketing Company will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 25, 1997.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Illinois Power Company

[Docket No. ER97–4520–000]

Take notice that on September 8, 1997, Illinois Power Company (''Illinois Power''), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing non-firm transmission agreements under which Ohio Edison Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 26, 1997.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Public Service Electric and Gas Company

[Docket No. ER97–4521–000]

Take notice that on September 8, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Western Power Services, Inc. (''WPSI'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 11, 1997.

Copies of the filing have been served upon WPSI and the New Jersey Board of Public Utilities.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Public Service Electric and Gas Company

[Docket No. ER97–4522–000]

Take notice that on September 8, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to ProMark Energy, Inc. (''ProMark'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 11, 1997.

Copies of the filing have been served upon ProMark and the New Jersey Board of Public Utilities.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Public Service Electric and Gas Company

[Docket No. ER97–4523–000]

Take notice that on September 8, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Cleveland Electric Illuminating Company (''CEI'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 11, 1997.

Copies of the filing have been served upon CEI and the New Jersey Board of Public Utilities.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Public Service Electric and Gas Company

[Docket No. ER97–4524–000]

Take notice that on September 8, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to The Toledo Edison Company (''TEC'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 11, 1997.

Copies of the filing have been served upon TEC and the New Jersey Board of Public Utilities.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Public Service Electric and Gas Company

[Docket No. ER97–4525–000]

Take notice that on September 8, 1997, Public Service Electric and Gas Company (''PSE&G'') of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Atlantic Electric Company (''AE'') pursuant to the PSE&G Wholesale Power Market Based Sales Tariff, presently on file with the Commission.

PSE&G further requests waiver of the Commission's regulations such that the agreement can be made effective as of August 11, 1997.

Copies of the filing have been served upon AE and the New Jersey Board of Public Utilities.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Public Service Company of Colorado

[Docket No. ER97–4547–000]

Take notice that on September 8, 1997, Public Service Company of Colorado (''PSColorado'') submitted a Rate Schedule for Sale, Assignment, or Transfer of Transmission Rights (''Rate Schedule''). The Rate Schedule will allow PSColorado to resell transmission rights in accordance with Order Nos. 888 and 888–A.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26222 Filed 10–2–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG97–84–000, et al.]

Williams Generation Company-Hazelton, et al.; Electric Rate and Corporate Regulation Filings

September 25, 1997.

Take notice that the following filings have been made with the Commission:

1. Williams Generation Company—Hazelton

[Docket No. EG97–84–000]

On September 16, 1997, Williams Generation Company—Hazelton (WGCH), One Williams Center, Suite 4100, Tulsa, Oklahoma 74172 filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

WGCH is a wholly owned subsidiary of Williams Production Company and initially will own a combustion turbine generating plant with a capacity of approximately 75 MW located in Hazelton, Pennsylvania.

Comment date: October 10, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Western Resources, Inc.

[Docket No. ER97–4486–000]

Take notice that on September 3, 1997, Western Resources, Inc., tendered for filing a firm transmission agreement between Western Resources and Western Resources Generation Services. Western Resources states that the purpose of the agreement is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission. The agreement is proposed to become effective August 29, 1997.

Copies of the filing were served upon Western Resources Generation Services and the Kansas Corporation Commission.

Comment date: October 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Illinois Power Company

[Docket No. ER97–4487–000]

Take notice that on September 3, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Market Response Energy, Inc., will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 1, 1997.

Comment date: October 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Orange and Rockland Utilities, Inc.

[Docket No. ER97–4488–000]

Take notice that on September 3, 1997, Orange and Rockland Utilities, Inc.(Orange and Rockland), filed a Service Agreement between Orange and Rockland and Midcon Power Services Corp., (Customer). This Service Agreement specifies that Customer has agreed to the rates, terms and conditions of Orange and Rockland Open Access Transmission Tariff filed on July 9, 1996 in Docket No. OA96–210–000.

Orange and Rockland requests waiver of the Commission's sixty-day notice requirements and an effective date of September 11, 1997, for the Service Agreement. Orange and Rockland has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: October 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Cinergy Services, Inc.

[Docket No. ER97–4489–000]

Take notice that on September 3, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated August 1, 1997 between Cinergy, CG&E, PSI and Market Responsive Energy, Inc. (MREI).

The Interchange Agreement provides for the following service between Cinergy and MREI:

1. Exhibit A—Power Sales by MREI
2. Exhibit B—Power Sales by Cinergy

Cinergy and MREI have requested an effective date of one day after this initial filing of the Interchange Agreement.

Copies of the filing were served on Market Responsive Energy, Inc., the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: October 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Cinergy Services, Inc.

[Docket No. ER97–4490–000]

Take notice that on September 3, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated July 1, 1997 between Cinergy, CG&E, PSI and Delhi Energy Services, Inc. (DESI).

The Interchange Agreement provides for the following service between Cinergy and DESI:

1. Exhibit A—Power Sales by DESI
2. Exhibit B—Power Sales by Cinergy

Cinergy and DESI have requested an effective date of one day after this initial filing of the Interchange Agreement.

Copies of the filing were served on Delhi Energy Services, Inc., the Texas Public Utility Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: October 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Central Illinois Public Service Company

[Docket No. ER97–4491–000]

Take notice that on September 3, 1997, Central Illinois Public Service Company (CIPS) submitted an executed non-firm point-to-point service agreement, dated August 26, 1997, establishing AYP Energy, Inc., as a customer under the terms of CIPS' Open Access Transmission Tariff.

CIPS requests an effective date of August 26, 1997, for the service agreement. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served on AYP Energy, Inc., and the Illinois Commerce Commission.

Comment date: October 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. PG&E Power Services Company

[Docket No. ER97–4492–000]

Take notice that on September 2, 1997, PG&E Power Services Company (PG&E) filed a Notice of Succession with the Federal Energy Regulatory Commission indicating that the name of Valero Power Services Company, an indirect wholly-owned subsidiary of PG&E Corporation, has been changed to PG&E Power Services Company effective September 1, 1997. In accordance with 35.16 and 131.51 of the Commission's Regulations, 18 CFR 35.16, 131.51, PG&E adopted and

ratified all applicable rate schedules filed with the FERC by Valero Power Services Company.

Comment date: October 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER97–4493–000]

Take notice that on September 4, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing non-firm transmission agreements under which Market Responsive Energy, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of August 26, 1997.

Comment date: October 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. PacifiCorp

[Docket No. ER97–4495–000]

Take notice that on September 4, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Notice of Termination of firm transmission service under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11.

Copies of this filing were supplied to Sierra Pacific Power Company, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: October 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Duke Energy Corporation

[Docket No. ER97–4496–000]

Take notice that on September 4, 1997, Duke Power, a division of Duke Energy Corporation (Duke), tendered for filing a Market Rate Service Agreement between Duke and Municipal Electric Authority of Georgia, dated as of January 25, 1997 (the MRSA). The parties commenced transactions under the MRSA on August 7, 1997. Duke requests that the MRSA be made effective as of August 7, 1997.

Comment date: October 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. American Electric Power Corporation

[Docket No. ER97–4497–000]

Take notice that on September 4, 1997, the American Electric Power Corporation (AEPSC), tendered for filing executed service agreements under the AEP Companies' Power Sales Tariff. The Power Sales Tariff was accepted for filing effective October 1, 1995, and has been designated AEP Companies' FERC Electric Tariff First Revised Volume No. 2. AEPSC requests waiver of notice to permit the service agreements to be made effective for service billed on and after September 5, 1997.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: October 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Virginia Electric and Power Company

[Docket No. ER97–4498–000]

Take notice that on September 2, 1997, Virginia Electric and Power Company tendered for filing a form of service agreement providing for its use of its transmission system in connection with bundled requirements service to its wholesale customers.

Comment date: October 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26221 Filed 10–2–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Public Outreach Meeting

September 29, 1997.

The Office of Hydropower Licensing will hold a public Outreach Meeting in Sacramento, California, on Thursday, October 23, 1997. The Outreach Meeting is scheduled to start at 9:00 am and finish at 5:00 pm.

The purpose of the outreach program is to familiarize federal, state, and other government agencies, Indian tribes, nongovernmental organizations, licensees, and other interested parties with the Commission's hydropower licensing program. The topics for the Outreach Meeting are pre-licensing, licensing, and post-licensing procedures for hydroelectric projects in California whose licenses expire between calender years 2000 and 2010.

Staff from the Commission's Office of Hydropower Licensing will preside over the meetings.

The location of the Outreach Meeting is: U.S. Fish & Wildlife Service, Sacramento Field Office, Conference Room A&B, 3310 El Camino Ave, Sacramento, CA 95821, (916) 979–2117.

The U.S. Fish & Wildlife Service office is located approximately 8 miles northeast of downtown Sacramento; off—U.S. Business—80 at El Camino Ave.

If you plan to attend, notify John Blair, Western Outreach Coordinator, fax: 202–219–2152; telephone: 202–219–2845).

Lois D. Cashell,

Secretary.

[FR Doc. 97–26223 Filed 10–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Public Outreach Meeting

September 29, 1997.

The Office of Hydropower Licensing will hold a public Outreach Meeting in Bakersfield, California, on Tuesday, October 21, 1997. The Outreach Meeting is scheduled to start at 9:00 am and finish at 5:00 pm.

The purpose of the outreach program is to familiarize federal, state, and other government agencies, Indian tribes, nongovernmental organizations, licensees, and other interested parties with the Commission's hydropower licensing program. The topics for the

Outreach Meeting are pre-licensing, licensing, and post-licensing procedures for hydroelectric projects in California whose licenses expire between calender years 2000 and 2010.

Staff from the Commission's Office of Hydropower Licensing will preside over the meetings.

The location of the Outreach Meeting is: Double Tree Hotel, Kern River Room, 3100 Camino Del Rio Court, Bakersfield, CA 93308; (805) 323–7111.

The Double Tree Hotel is located approximately one mile northwest of downtown Bakersfield at the junction of Highway—99 at Highway—58 (Rosedale Hwy.)

If you plan to attend, notify John Blair, Western Outreach Coordinator, fax: 202–219–2152; telephone: 202–219–2845.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26224 Filed 10–2–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00221; FRL–5739–2]

Asbestos-Containing Materials in School Rule and Model Accreditation Plan (MAP) Rule; Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collection described below. The ICR is a continuing ICR entitled ''Asbestos-Containing Materials in School Rule and Model Accreditation Plan (MAP) Rule,'' EPA ICR No. 1365.05, OMB No. 2070–0091, which relates to reporting requirements at 40 CFR part 763, Subpart E. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

DATES: Written comments must be submitted on or before December 2, 1997.

ADDRESSES: Submit three copies of all written comments to: TSCA Document Receipts (7407), Rm. NE–G99, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–7099. All comments should be identified by administrative record number 185. This ICR is available for public review at, and copies may be requested from, the docket address and phone number listed above.

Comments and data may also be submitted electronically by following instructions under Unit III. of this document. No TSCA confidential business information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: For general information contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–554–1404, TDD: 202–554–0551, e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability:

Internet

Electronic copies of the ICR are available from the EPA home page at the Environmental Sub-Set entry for this document under ''Regulations'' (http://www.epa.gov/fedrgstr/).

Fax on Demand

Using a faxphone call 202–401–0527 and select item 4055 for a copy of the ICR.

I. Background

Entities potentially affected by this action are local education agencies (LEAs) and states with reporting and/or recordkeeping responsibilities under the Asbestos-Containing Materials in Schools Rule, and training providers and states with reporting and/or recordkeeping responsibilities under the Model Accreditation Plan Rule. For the collection of information addressed in this notice, EPA would like to solicit comments to:

(i) 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.

(ii) 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.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) 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.

II. Information Collections

EPA is seeking comments on the following Information Collection Request.

Title: Asbestos-Containing Materials in School Rule and Model Accreditation Plan (MAP) Rule, EPA ICR No. 1365.05, OMB No. 2070–0091. Expires March 31, 1998.

Abstract: The Asbestos Hazard Emergency Response Act (AHERA) requires LEAs to conduct inspections, develop management plans, and design or conduct response actions with respect to the presence of asbestos-containing materials in school buildings. AHERA also requires states to develop model accreditation plans for persons who perform asbestos inspections, develop management control plans, and design or conduct response actions. This information collection addresses the burden associated with recordkeeping requirements imposed on LEAs by the asbestos in schools rule, and reporting and recordkeeping requirements imposed on states and training providers related to the model accreditation plan rule. Responses to the collection of information are mandatory (see 40 CFR part 763, Subpart E).

Burden Statement: The burden to respondents for complying with this ICR is estimated to total 2,367,293 hours per year with an annual cost of $57,149,211. These totals are based on an average burden ranging between 6 and 140 hours per response, depending upon the category of respondent, for an estimated 107,551 respondents making one or more responses annually. These estimates include the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purposes of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

III. Public Record

A record has been established for this action under docket number ''OPPTS–00221'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

List of Subjects

Environmental protection and Information collection requests.

Dated: September 24, 1997.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–26324 Filed 10–2–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5903–1]

Review and Evaluation of EPA Standards Regarding Children's Health Protection from Environmental Risks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments.

SUMMARY: As part of its ongoing commitment to protect children from environmental health risks, EPA will select five existing human health and environmental protection standards for review and evaluation to determine if they sufficiently protect children's health. EPA is seeking recommendations and comment concerning standards it should select for review, including detailed explanations and reference to any studies that support that recommendations, EPA does not intend to review recently promulgated standards as part of this effort. The standards EPA ultimately will select for review and evaluation will be those that could potentially have a major impact on children's health as a result of reevaluation and vision. These standards would generally be those where children's health was not considered in the original development of the standard; or, where children's health was considered but new data suggest the standard does not adequately protect children; and where, if changes were made in the standard, children's health protection would be strengthened.

DATES: Comments must be in writing and received by December 2, 1997.

ADDRESSES: Written comments should be submitted to Paula R. Goode, Office of Children's Health Protection, USEPA (MS 1102), 401 M Street, SW, Washington, DC 20460, goode.paula@epamail.epa.gov.

FOR FURTHER INFORMATION CONTACT: Paula R. Goode, (202) 260–7778.

SUPPLEMENTARY INFORMATION: Children in America today inhabit a world that is very different from that of two generations past. The traditional infectious diseases have largely been eradicated. Infant mortality is greatly reduced. The expected life span of a baby born now in the United States is more than two decades longer than that of a child born at the beginning of the twentieth century. However, children today face hazards in the environment that were neither known nor suspected only a few decades ago. At least 75,000 new synthetic chemical compounds have been developed and introduced into commerce; fewer than half of these compounds have been tested for their potential toxicity to humans, and fewer still have been assessed for their specific toxicity to children.

Children's exposures to lead, pesticides, PCBs, and toxic air pollutants are widespread. Compared to adults, children are particularly vulnerable and at increased risk from many environmental threats in four ways (1) Children's organ systems are still developing—including rapid changes in growth and development immature body organs and tissues, and weaker immune systems—which makes them more susceptible to environmental hazards; (2) pound-for-pound, children breathe more air, drink more water and eat more food than adults; (3) children's exposures to toxins are further enhanced by their play close to the ground and their normal hand-to-mouth activity; and (4) children have more future years of life than adults and are more susceptible to chronic, multi-stage diseases such as cancer or neurodegenerative disease that may be triggered by early exposures. Environmental health hazards that threaten children range from air pollution that triggers asthma attacks and lead-based paint in older housing, to treatment-resistant microbes in drinking water and persistent industrial chemicals that may cause cancer to induce reproductive or developmental changes.

EPA Administrator Carol Browner set forth a National Agenda to Protect Children's Health From Environmental Threats in EPA's publication, Environmental Health Treats to Children, September, 1996, to ensure that children receive the protection they need and deserve, and help fulfill our nation's obligation to protect future generations. This agenda includes a commitment to ''ensure that all standards EPA sets are protective of the potentially heightened risks faced by children, and that the most significant existing standards be reevaluated.''

As stated in the Summary section of this notice, EPA will select and then review and evaluate five human health and environmental protection standards that establish discrete regulatory levels. The standards most suitable for this effort are those that if revised as a result of the review and evaluation, would strengthen and increase children's environmental health protection. The term ''standard'' for purposes of this notice means national standards established by EPA that identify discrete regulatory levels related to human health and environmental protection. Examples of such standards include pesticide tolerances that establish allowable levels of pesticide residues in food under the Federal Food, Drug, and Cosmetic Act, Maximum Contaminant Levels that establish allowable levels of contaminants in drinking water under the Safe Drinking Water Act; and, health-based regulations that establish acceptable levels for air pollutants under the Clean Air Act. EPA will consider comments and recommendations on such standards in all the environmental media (air, water, soil, etc.). The term ''standard'' as used in this Notice does not include standards establishing analytical methods, technology-based standards, or site specific actions (such as facility

permits under the National Pollution Discharge Elimination System, or Records of Decision for cleanup of Superfund sites).

In selecting the five standards for review and reevaluation EPA will consider a variety of factors including any new information since the standards were originally promulgated, as follows:

- New scientific information or new data regarding adverse health effects on children;
- New understanding of routes of exposure to children;
- Whether the regulated substance/pollutant is persistent and bioaccumulative;
- New methodologies of evaluating human health risks;
- New epidemiology studies;
- New toxicity studies; and
- New environmental monitoring studies.

As part of this effort, EPA will convene a balanced, broad-based external Advisory Committee, chartered under the Federal Advisory Committee Act, Public Law 92–463, to give advice to the Administrator on various issues of children's environmental health protection. Notice of the establishment of this Children's Health Protection Advisory Committee (CHPAC) was published on September 9, 1997 (62 FR 47494). CHPAC will consider recommendations received by EPA as a result of this notice and other information. Comments and other information received as a result on this notice will be placed in a docket that will be established for CHPAC. EPA will ask the Committee to recommend five standards that EPA should reevaluate with respect to children's health protection. CHPAC meetings will be announced in the **Federal Register** and open to the public. The Administrator will consider the Committee's recommendations and the recommendations and comments received in response to this Notice. EPA intends to announce the five selected standards in a **Federal Register** notice in early Summer of 1998.

This EPA effort will help fulfill President Clinton's Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, signed on April 21, 1997. This Order, in part, directs each Federal agency to set as a high priority the identification and assessment of environmental health risks and safety risks that may disproportionately affect children; and ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

Dated: September 26, 1997.

E. Ramona Trovato,

Director, Office of Children's Health Protection.

[FR Doc. 97–26320 Filed 10–2–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5902–8]

Consent Decree: Phoenix Federal Implementation Plan for Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with Section 113(g) of the Clean Air Act (''Act''), notice is hereby given of a proposed consent decree in litigation instituted against the Environmental Protection Agency (''EPA'') regarding implementation of the contingency measure provisions of the Carbon Monoxide (CO) Federal Implementation Plan (FIP) for Phoenix, Arizona.

EPA originally promulgated CO FIP contingency measures for Phoenix in 1991 pursuant to a court order in *Delaney* v. *EPA*, 898 F.2d 687 (9th Cir. 1990). 56 FR 5458 (Feb. 11, 1991). In 1996 EPA approved CO contingency measures submitted by the State of Arizona, and withdrew the previously promulgated FIP contingency measures for Phoenix. 61 FR 51599 (Oct. 3, 1996). This action was challenged by the Arizona Center for Law in the Pubic Interest (ACLPI), and was recently overturned by the Ninth Circuit Court of Appeals. *DiSimone* v. *Browner*, 1997 U.S. App. LEXIS 19796 (July 31, 1997).

Subsequently, ACLPI filed an action in District Court to compel implementation of the FIP contingency provisions. *DiSimone* v. *Browner*, No. CIV 97–1987 PHXRGS, D. Ariz. In order to resolve this matter without protracted litigation, ACLPI and EPA have reached agreement on a proposed consent decree which has been signed by the parties and lodged with the court on Sept. 25, 1997. The consent decree provides that, unless EPA previously approves a state submitted attainment demonstration for CO for Phoenix, EPA will sign an initial notice of proposed rulemaking pursuant to the FIP contingency provisions by no later than Nov. 26, 1998, and will complete the remainder of the requirements of the FIP contingency provisions according to the timeframes specified in those procedures.

For a period of thirty [30] days following the date of publication of this notice, the Agency will receive written comments relating to the proposed consent decree. EPA or the Department of Justice may withhold or withdraw consent to the proposed consent decree if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

Copies of the proposed consent decree are available from Sara Schneeberg, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 260–5145. Written comments should be sent to Sara Schneeberg at the above address and must be submitted on or before November 3, 1997.

Dated: September 26, 1997.

Scott C. Fulton,

Acting General Counsel.

[FR Doc. 97–26318 Filed 10–2–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5484–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed September 22, 1997 Through September 26, 1997 Pursuant to 40 CFR 1506.9.

EIS No. 970372, DRAFT EIS, FRC, MT, Missouri-Madison Hydroelectric (FERC No. 2188) Project, Issuing a New licence (Relicense) for Nine Dams and Associated Facilities, MT, Due: December 2, 1997, Contact: John McEachern (202) 219–3056.

EIS No. 970373, FINAL EIS, AFS, UT, Western Uinta Basin Oil and Gas Leasing, Implementation, Federal Oil and Gas Estate on Land Administrated by the Uinta and Ashley National Forests in the western portion of the Uinta Basin, Wasatch and Duchesne Counties, UT, Due: November 3, 1997, Contact: Laura Jo West (801) 781–5167.

EIS No. 970374, DRAFT EIS, COE, CA, San Francisco Bay to Stockton Phase III (John F. Baldwin) Navigation Channel Project, Construction and Operation, For Deliver of Petroleum to Refineries, Storage Terminals and

Other Facilities, COE Section 10 and 404 Permits, U.S. Coast Guard Permit, Contra Costa County, CA, Due: November 17, 1997, Contact: Craig Vassel (415) 977–8546.

EIS No. 970375, FINAL EIS, IBR, AZ, Programmatic EIS—Pima-Maricopa Irrigation Project, Construction and Operation, Maricopa and Pinal Counties, AZ, Due: November 3, 1997, Contact: Bruce D. Ellis (602) 395–5685.

EIS No. 970376, FINAL EIS, NAS, CA, WA, UT, X–33 Advanced Technology Demonstrator Vehicle Program, Final Design, Construction and Testing, Implementation, Approvals and Permits Issuance, CA, UT and WA, Due: November 3, 1997, Contact: Kenneth M. Kumor (202) 358–1112.

EIS No. 970377, FINAL EIS, AFS, MT, Lewis and Clark National Forest Plan, Implementation, Oil and Gas Leasing Analysis, Upper Missouri River Basin, several counties, MT, Due: November 3, 1997, Contact: Robin Strathy (406) 791–7726.

Dated: September 30, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–26329 Filed 10–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5484–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 1, 1997 Through September 5, 1997 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 11, 1997 (62 FR 16154).

DRAFT EISs

ERP No. D–AFS–J61098–MT Rating EC2, Lost Trail Ski Area Expansion Project, Implementation, New Master Development Plan, Bitterroot National Forest, Sula Ranger District, Ravalli County, MT.

Summary: EPA expressed environmental concerns about potential increased wastewater pollutant loadings to area ground water, and lack of analysis and disclosure of potential indirect effects of induced development. Additional information is needed to fully assess and mitigate all potential environmental impacts of the management actions.

ERP No. D–MMS–L02026–AK Rating LO, Beaufort Sea Planning Area Outer Continental Shelf Oil and Gas Lease Sale 170 (1997) Lease Offering, Offshore Marine, Beaufort Sea Coastal Plain, North Slope Borough of Alaska.

Summary: EPA does not foresee having any environmental objections to the proposed project.

Final EISs

ERP No. F–BLM–J60018–UT Price Coalbed Methane Gas Resources Project, Construction, Federal and Non-Federal Lands, Permit-to-Drill Application, Right-of-Way Grants and COE Section 404 Permits, Carbon and Emery Counties, UT.

Summary: The Final EIS addresses most of EPA's air quality concerns on the proposed project and EPA still recommend a cumulative effects analysis in the Price area.

ERP No. F–BLM–J60019–WY Cave Gulch-Bullfrog-Waltman Natural Gas Development Project, Implementation, Platte River Resource Area, Natrona County, WY.

Summary: While the Final EIS addresses most concerns expressed in our comment letter on the draft EIS. EPA still maintains environmental concerns about the protectiveness of the proposed plans for ground water and surface water.

ERP No. F–DOE–L36109–00 Watershed Management Program Standards and Guidelines, Implementation, ID, NV, MT, OR, WA and WY.

Summary: Review of the Final EIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

ERP No. F–UAF–G11031–TX Programmatic EIS—Kelly Air Force Base (AFB), Disposal and Reuse, Implementation, San Antonio County, TX.

Summary: EPA has reviewed the lead agency's responses to EPA comments offered on the draft statement. EPA finds the FEIS has reasonably addressed our concerns and therefore we have no further comments.

ERP No. F–UAF–K11080–CA Programmatic EIS—McClellan Air Force Base (AFB) Disposal and Reuse Including Rezoning of the Main Base, Implementation, Federal Permits, Licenses or Entitlements, Sacramento County, CA.

Summary: EPA was generally satisfied with the additional information provided, but continues to express concerns about groundwater overdraft.

ERP No. F–UMC–K11067–00 Yuma Training Range Complex Management, Operation and Development, Marine Corps Air Station Yuma, Goldwater Range, Yuma and La Paz Cos., AZ and Chocolate Mountain Range, Imperial and Riverside Counties, CA.

Summary: EPA commented that the Final EIS addresses the concerns that were expressed in the Draft EIS.

ERP No. F–UMC–K24018–CA Sewage Effluent Compliance Project, Implementation, Lower Santa Margarita Basin, Marine Corps Base Camp Pendleton, San Diego County, CA.

Summary: EPA commented that while additional alternatives were not developed or advanced in the Final EIS, the additional information regarding Clean Water Act Section 404 requirements that EPA requested was provided.

ERP No. F–USA–K11073–AZ Western Army National Guard Aviation Training Site Expansion Project, Designation of an Expanded Tactical Flight Training Area (TFTA), Development or Use of a Helicopter Gunnery Range and Construction and Operation of various Facilities on the Silver Bell Army Heliport (SBAH), Maricopa, Pima and Pinal Counties, AZ.

Summary: EPA commented regarding analysis of water, noise, biological resources and NEPA issues that the Army has addressed our concerns.

ERP No. FR–USA–G11029–AR Disposal of Chemical Agents and Munitions Stored at Pine Bluff Arsenal, Site-Specific Impacts Associated with On-Site Disposal, Construction and Operation and Approval of Permits, Jefferson County, AR.

Summary: EPA had no objection to the selection of the preferred alternative described in the Revised Final EIS.

Other: ERP No. LD–AFS–J65268–CO Rating EO2, North Fork of the South Platte and the South Platte Rivers, Wild and Scenic River Study, To Determine their Suitability for Inclusion into the National Wild and Scenic Rivers System, Pike and San Isabel National Forests, Comache and Cimarron National Grasslands, Douglas, Jefferson, Park and Teller Counties, CO.

Summary: EPA expressed environmental objections with the first agency preferred alternative (local community protection) because the DLEIS did not include how this would be accomplished or what the impacts would be. EPA expressed environmental concerns with the second agency preferred alternative (congressional

recommendation) because it did not recommend equal protection to the Outstandingly Remarkable Values of several river segments within the study area and did not fully consider the broader implications of designation on other, nearby wilderness and roadless areas.

Dated: September 30, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–26350 Filed 10–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00226; FRL–5749–6]

Forum on State and Tribal Toxics Action (FOSTTA) Projects; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Three projects of the Forum on State and Tribal Toxics Action (FOSTTA) will hold meetings open to the public at the time and place listed below in this notice. The Lead Project will not be meeting this session. The public is encouraged to attend the proceedings as observers. However, in the interest of time and efficiency, the meeting is structured to provide maximum opportunity for state, tribal, and EPA invited participants to discuss items on the predetermined agenda. At the discretion of the chair of the project, an effort will be made to accommodate participation by observers attending the proceedings.

DATES: The three projects will meet October 20, 1997, from 8 a.m. to 5 p.m., with a plenary session on Cutting Edge Initiatives in Pollution Prevention from 8 a.m. to 9:30 a.m., and on October 21, 1997, from 8 a.m. to noon.

ADDRESSES: The meetings will be held at The Embassy Suites Hotel, 1900 Diagonal Road, Alexandria, VA.

FOR FURTHER INFORMATION CONTACT: Darlene Harrod, Designated Federal Official (DFO), Office of Pollution Prevention and Toxics (7408), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 260–6904, e-mail: harrod.darlene@epamail.epa.gov. Any observer wishing to speak should advise the DFO at the telephone number or e-mail address listed above no later than 4 p.m. on October 16, 1997.

SUPPLEMENTARY INFORMATION: FOSTTA, a group of state and tribal toxics environmental managers, is intended to foster the exchange of toxics-related program and enforcement information among the states/tribes and between the states/tribes and EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and Office of Enforcement and Compliance Assurance (OECA). FOSTTA currently consists of the Coordinating Committee and four issue-specific projects. The projects are the: (1) Toxics Release Inventory Project; Pollution Prevention Project; (3) Chemical Management Project; and (4) Lead (Pb) Project.

List of Subjects

Environmental protection.

Dated: September 27, 1997.

Susan B. Hazen,

Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–26323 Filed 10–3–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5902–5]

Proposed Settlement Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended, 42 U.S.C. 9622(h)(1)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative settlement and opportunity for comment.

SUMMARY: The EPA is proposing to enter into an administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. The settlement is intended to recover all past response costs incurred by EPA at the Spruce Street Site in Anchorage, Alaska.

DATES: Comments must be provided on or before November 3, 1997.

ADDRESSES: Comments should be addressed to Docket Clerk, U.S. Environmental Protection Agency, Region 10, ORC–158, 1200 Sixth Avenue, Seattle, Washington, 98101, and should refer to the Spruce Street Site, Anchorage, Alaska, U.S. EPA Docket No. 10–96–0090–CERCLA.

FOR FURTHER INFORMATION CONTACT: Edward J. Kowalski, U.S. Environmental Protection Agency, Office of Regional Counsel, ORC–158, 1200 Sixth Avenue, Seattle, Washington, 98101, (206) 553–6695; Gina Belt, U.S. Department of Justice, Environmental & Natural Resources Division, 801 B Street, #504, Anchorage, Alaska, 99501–3657, (907) 271–3456.

SUPPLEMENTARY INFORMATION: In accordance with section 122(i)(1) of CERCLA, 42 U.S.C. 9622(i)(1), notice is hereby given of a proposed administrative settlement, Agreement for Payment of Response Costs (Agreement), concerning the Spruce Street Site (Site) located in Anchorage, Alaska. Pursuant to section 104 of CERCLA, 42 U.S.C. 9604, EPA undertook response actions at the Site, which was an inactive salvage yard of about two acres. The Agreement resolves EPA's claims regarding liability under section 107(a) of CERCLA, 42 U.S.C. 9607(a), for response costs incurred by EPA in connection with the Site. Subject to review by the public pursuant to this Notice, the Agreement has been approved by the United States Department of Justice. The following are the parties who have executed the proposed Agreement: the Municipality of Anchorage, The State of Alaska, the Defense Logistics Agency, the Federal Aviation Administration; the United States Air Force, and the United States Army. EPA is entering into this Agreement under the authority of section 122(h)(1) of CERCLA, 42 U.S.C. 9622(h)(1).

EPA initiated a time critical removal action at the Site in October 1991 to stabilize the wastes located on-site. Hazardous wastes on-site included paints, electrical equipment containing PCBs, soils contaminated with heavy metals, soils contaminated with PCBs, chemicals, acids, and caustics. Due to inclement weather, removal activities by EPA were suspended and resumed in June 1992, when EPA sorted on-site debris and prepared hazardous materials for removal. In January 1993, hazardous materials including paints, electrical equipment containing PCBs, some contaminated soils and oils were transported off-site. Two nearby residences were supplied with bottled water because of elevated levels of arsenic in their wells. These two residences have since been hooked up to the city water supply. To restrict access to the Site, the Alaska Department of Environmental Conservation erected a fence around the Site and posted hazardous substance warning signs. In performing these response actions, EPA and the State of Alaska incurred response costs at the Site. The Agreement requires, *inter alia*, that the Municipality of Anchorage

reimburse EPA's response costs in the amount of $302,276.63 plus interest from October 6, 1994, through December 31, 1996. The federal agencies are required under the Agreement to reimburse EPA's response costs in the amount of $2,022,928.23 plus interest from October 6, 1994, through December 31, 1996. Under the Agreement, EPA will be reimbursed for all of its past response costs at the Site. The Agreement provides to the Municipality of Anchorage and the federal agencies the contribution protection afforded by sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. 9613(f)(2) and 9622(h)(4). The Agreement contains a reopener section that permits the United States, in certain situations, to institute additional proceedings to require that these defendants perform further response actions or to reimburse the United States for additional costs of response.

EPA will receive written comments relating to this proposed Agreement for a period of thirty (30) days from the date of this publication.

The proposed Agreement may be obtained in person or by mail from EPA's Region 10 Office of Regional Counsel, ORC–158, 1200 Sixth Avenue, Seattle, Washington, 98101; the U. S. Department of Justice, Environmental & Natural Resources Division, 801 B Street, #504, Anchorage, Alaska, 99501–3657. The Administrative Record for the Spruce Street Site may be examined at EPA's Region 10, Hazardous Waste Division Records Center, 1200 Sixth Avenue, Washington, 98101, and at the Alaska Resources Library, U.S. Bureau of Land Management, 222 West Seventh, #36, Anchorage, Alaska.

Philip Millam,

Acting Regional Administrator.

[FR Doc. 97–26319 Filed 10–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–44643; FRL–5747–3]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of test data on Tertiary Amyl Methyl Ether (TAME) (CAS No. 994–05–8). These data were submitted pursuant to an enforceable testing consent agreement/order issued by EPA under section 4 of the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under 40 CFR 790.60, all TSCA section 4 enforceable consent agreements/orders must contain a statement that results of testing conducted pursuant to testing enforceable consent agreements/orders will be announced to the public in accordance with procedures specified in section 4(d) of TSCA.

I. Test Data Submissions

Test data for tertiary amyl methyl ether were submitted by The American Petroleum Institute pursuant to a TSCA section 4 enforceable testing consent agreement/order at 40 CFR 799.5000 and were received by EPA on September 3, 1997. The submission includes four final reports entitled (1) ''Tertiary Amyl Methyl Ether (TAME): Pilot Study (95063) for Metabolism, Distribution, and Pharmacokinetics in Male F-344 Rats After a Single Nose-Only Inhalation Exposure,'' (2) ''Blood Pharmacokinetics of Tertiary Amy Methyl Ether in Male and Female F-344 Rats and CD-1 Mice After Nose-Only Inhalation Exposure,'' (3) ''Tertiary Amyl Methyl Ether (TAME): Metabolism and Distribution in Male and Female F-344 Rats and CD-1 Mice After Single or Repeated Inhalation or Gavage Exposures,'' and (4) ''A 13-Week Inhalation Toxicity/Neurotoxicity Study of Tert-Amyl Methyl Ether (TAME) in the Rat and Mouse via Whole-Body Exposures with a 4-Week Recovery Period.'' This chemical is widely seen as a possible additive in gasoline. EPA has initiated its review and evaluation process for this data submission. At this time, the Agency is unable to provide any determination as to the completeness of the submission.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44643). This record includes copies of all studies reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Nonconfidential Information Center (also known as the TSCA Public Docket Office), Rm. B–607 Northeast Mall, 401 M St., SW., Washington, DC 20460. Requests for documents should be sent in writing to: Environmental Protection Agency, TSCA Nonconfidential Information Center (7407), 401 M St., SW., Washington, DC 20460 or fax: (202) 260–5069 or e-mail: oppt.ncic@epamail.epa.gov.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.

Dated: September 24, 1997.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–26325 Filed 10–2–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission

September 26, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning; whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility, the accuracy of the Commission's burden estimate, ways to enhance the quality, utility, and clarity of the information collected and ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 2, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should

advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commissions, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

OMB Approval No.: 3060–0110.

Title: Application for Renewal of License for AM, FM, TV Translator or LPTV Station (FCC Form 303–S).

Form No.: FCC 303–S.

Type of Review: Revision.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 5,492.

Estimated Hours Per Response: 2.67–11.25 hours (0.67–1.25 hours respondent; 0–10 hours for an attorney).

Frequency of Response: Upon license expiration.

Cost to Respondents: $3,054,891.

Estimated Total Annual Burden: 9,190 hours.

Needs and Uses: FCC Form 303–S is used in applying for renewal of license for a commercial or noncommercial AM, FM to TV broadcast station and FM translator, TV translator, or Low Power TV broadcast stations. It can also be used in seeking the joint renewal of licenses for an FM of TV translator station and its co-owned primary FM, TV, or LPTV station.

This collection also includes the third party disclosure requirement of § 73.3580. This section requires local public notice of the filing of the renewal application. For AM, FM, TV stations, these announcements are made on-the-air. For FM/TV Translators and AM/FM/TV stations that are silent, the local public notice is accomplished through publication in a newspaper of general circulation in the community or area being served.

On September 1, 1997, the Commission's revised children's television programming reporting requirements adopted on 8/8/96 in MM Docket No. 93–48 (Policies and Rules Concerning Children's Television Programming) became effective. Each commercial television licensee is required to describe in its renewal application its efforts to provide children's educational and informational programming, including the newly defined core programming (§ 73.671(c)). The Commission has developed a supplement to the FCC Form 303–S to capture the required information. Until such time as the form has been revised, commercial television broadcast licensees, whose license renewal applications are filed after September 1, 1997, must file this supplement with the FCC 303–S. This supplement will take approximately 4 hours 15 minutes to complete.

In 1996, the Commission adopted new guidelines and procedures for evaluating environmental effects of radio frequency emissions. All applications filed on or after October 15, 1997, must demonstrate compliance with the new requirements. The Commission eliminated the use of the health and safety guidelines issued by the American National Standards Institute regarding RF emissions. The Commission adopted the new RF exposure requirements set forth in 47 CFR 1.1307(b). There is no change in burden associated with this change.

The data is used by FCC staff to assure that the necessary reports connected with the renewal application have been filed and that licensee continues to meet basic statutory requirements to remain a licensee of a broadcast station. The local public notice informs the public that the station has filed for license renewal.

OMB Approval No.: 3060–0348.

Title: Section 76.79 Records available for public inspection.

Form No.: None.

Type of Review: Extension.

Respondents: Business or other for-profit.

Number of Respondents: 2,150.

Estimated Hours Per Response: 2 hours.

Frequency of Response: Recordkeeping requirement.

Cost to Respondents: None.

Estimated Total Annual Burden: 4,300 hours.

Needs and Uses: Section 76.79 requires that every cable employment unit and multichannel video program distributor (MVPD) maintain, for public inspection, a file containing copies of all annual employment reports and related documents. The data is used by the general public to assess a cable unit's/MVPD's EEO program.

OMB Approval No.: 3060–0349.

Title: Section 76.73/76.75 - Cable TV EEO Policy and Programs.

Form No.: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit.

Number of Respondents: 5,600.

Estimated Hours Per Response: 2,125 cable employment units/MVPD with 6 or more employees will have an average burden of 52 hours/year; 3,475 cable employment units/MVPD with fewer than 6 employees will have an average burden of 8 hours/year.

Frequency of Response: Recordkeeping requirement.

Cost to Respondents: None.

Estimated Total Annual Burden: 138,300 hours.

Needs and Uses: Section 76.73 provides that equal opportunity in employment shall be afforded by all cable entities and multichannel video program distributors (MVPD) to all qualified persons and no person shall be discriminated against in employment by such entities because of race, color, religion, national origin, age or sex.

Sections 76.73/76.75 require that each cable employment unit/MVPD shall establish, maintain and carry out a program to assure equal opportunity in every aspect of a cable entity's policy and practice.

The data is used by cable entities/MVPD in the preparation of the Cable Television/MVPD Annual Employment Report (FCC Form 395-A/395–M). The data is also used by FCC staff, in field investigations involving equal employment opportunity. If this program was not maintained there could be no assurance that efforts are being made to afford equal opportunity in employment.

OMB Approval No.: 3060–0635.

Title: Amateur Vanity Call Sign Request.

Form No.: FCC 610V.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals.

Number of Respondents: 80,000.

Estimated Hours Per Response: .33 (20 minutes).

Frequency of Response: On occasion.

Cost to Respondents: N/A.

Estimated Total Annual Burden: 26,400.

Needs and Uses: FCC Rules require that applicants file FCC Form 610V to apply for a vanity (special) call sign, in lieu of a systematically issued call sign. This for is required by Section 9(g) of the Communications Act.

Commission personnel use the data to determine eligibility for radio station authorization and to issue a radio station/operator license. Data is also used by Compliance personnel in conjunction with Field Engineers for enforcement and interference resolution purposes.

This form is being revised to eliminate the need for attaching a photocopy of the applicant's current operator/primary station license document and to add spaces for applicant to provide Taxpayer Identification Number and an Internet or E-mail address.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–26246 Filed 10–2–97; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 97–2074]

Renewal of North American Numbering Council Charter Through October 4, 1999; GSA Approval

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On September 25, 1997, the Commission released a public notice announcing the General Services Administration (GSA) approval for the renewal of the North American Numbering Council (NANC) charter through October 4, 1999. The intended effect of this action is to make the public aware of the NANC's amended charter and its renewal.

FOR FURTHER INFORMATION CONTACT: Marian Gordon, Designated Federal Official at (202) 418–2320 or via the Internet at mgordon@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 2000 M Street, NW, Suite 235, Washington, DC 20054. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: The North American Numbering Council (Council) charter has been renewed, through October 4, 1999, by the General Services Administration (GSA) to allow it to continue advising the Federal Communications Commission on evolving and competitively significant numbering issues facing the telecommunications industry. The Council's original charter was filed with Congress on October 5, 1995, and is scheduled to expire on October 4, 1997. See Attachments A and B for the NANC amended charter and current membership list.

Since its first meeting held on October 1, 1996, the Council has provided the Commission with critically important recommendations regarding numbering administration. On May 1, 1997, the Council issued recommendations regarding the implementation of telephone number portability. Specifically, the Council issued recommendations in the following areas: (1) What party or parties should be selected as Local Number Portability Administrators (LNPAs); (2) whether one or multiple LNPA(s) should be selected; (3) how the LNPA(s) should be selected; (4) specific duties of the LNPA(s); (5) geographic coverage of the regional databases; (6) technical standards, including interoperability standards, network interfaces standards, and technical specifications for regional databases; (7) the sharing of numbering information between the North American Numbering Plan Administrator and the LNPA(s); and (8) the future role of the Council with respect to local number portability issues. On May 15, 1997, the Council issued recommendations regarding neutral entities to serve as North American Numbering Plan Administrator (NANPA) and NANPA Billing and Collection Agent, and recommended a mechanism for recovering the costs of numbering administration in the United States.

The continuation of the Council and its future recommendations to the Commission will facilitate establishment of a new foundation for numbering administration in North America that will ensure that numbering resources are provided to all telecommunications service providers on an equitable basis consistent with the requirements of the Telecommunications Act of 1996.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

Attachment A

Amended Charter for the North American Numbering Council

A. The Committee's Official Designation

The official designation of the advisory committee will be the ''North American Numbering Council'' (NANC or Council).

B. The Committee's Objectives and Scope of Its Activity

The purpose of the Council is to advise the Federal Communications Commission and to make recommendations, reached through industry consensus, that foster efficient and impartial number administration. The Council will continue to develop recommendations on numbering policy issues, initially resolve disputes, provide oversight guidance to the North American Numbering Plan (NANP) Administrator and the Local Number Portability Administrator(s) (LNPAs) to ensure fair and equitable access to numbering resources, and facilitate number conservation including identification of technical solutions to numbering exhaust. The Council will further provide recommendations to the Commission on toll free database administration.

In carrying out its responsibilities, the Council shall assure that NANP administration supports the following policy objectives: (1) That the NANP facilitates entry into the communications marketplace by making numbering resources available on an efficient, timely basis to communications service providers; (2) that the NANP does not unduly favor or disfavor any particular industry segment or group of consumers; (3) that the NANP does not unduly favor one technology over another; (4) that the NANP gives consumers easy access to the public switched telephone network; and (5) that the NANP ensures that the interests of all NANP member countries are addressed fairly and efficiently, fostering continued integration of the NANP across NANP member countries.

C. Period of Time Necessary for the Committee to Carry Out Its Purposes

The Commission will seek advice from the Council regarding whether the NANC, after two years, should again renew this charter to continue as a Federal Advisory Committee.

D. Agency or Official to Whom the Committee Reports

The Council will report to the Chief, Common Carrier Bureau, Federal Communications Commission.

E. Agency Responsible for Providing Necessary Support

The Federal Communications Commission will provide the necessary staff support for the Council. The Federal Communications Commission will provide facilities needed to conduct the meetings, if the Commission has meeting facilities available. Otherwise, private sector members will provide facilities. Private sector members of the Council will serve without any government compensation, and will not be entitled to travel expenses or per diem subsistence allowances.

F. Description of the Duties for Which the Committee is Responsible

The duties of the Council are to gather and discuss information necessary to develop recommendations to the FCC related to the attainment of the objectives listed under (B). The Council will also advise the Commission on the following, which are not exclusive to its portfolio of duties: a plan to transfer responsibility for administering central office codes to the NANP Administrator; a plan to promote conservation of

numbering resources, including examination of ways to ensure efficient use of number resources, and a recommendation for the management of toll free database administration. The Council will also prepare for the Commission periodic and final reports to aid the Commission in its oversight responsibilities.

G. Estimated Annual Operating Costs in Dollars and Staff Years

Estimated staff years that will be expended by the Council are 3 for the Federal Communications Commission staff and 5 for private sector and other governmental representatives. The estimated annual cost to the FCC of operating the Committee is $200,000. The FCC will not pay for private sector staff.

H. Estimated Number and Frequency of Committee Meetings

We expect that there will be approximately 12 Council meetings per year.

I. Charter's Termination Date

This charter will terminate on October 4, 1999, prior to which the Commission may seek its renewal.

J. Date Original Charter Filed

October 5, 1995.

Attachment B

North American Numbering Council (NANC) Federal Advisory Committee

Designated Federal Official: Marian Gordon, Special Counsel, Network Services Division, Common Carrier Bureau, 2000 M Street, NW, Suite 235, Washington, DC 20554

Voting Members

Chairman, North American Numbering Council
Alan Hasselwander, Frontier, 4140 Clover Street, Honeoye Falls, NY 14472–9323
Association for Local Telecommunications Services (ALTS)
Heather Burnett Gold, President, 1200 19th Street, NW, Suite 560, Washington, DC 20036
American Petroleum Institute
Ross Stapleton-Gray, Ph.D., Manager, Technology Policy and Planning, 1220 L Street, NW, Washington, DC 20005
American Mobile Satellite Corporation (AMSC)
Lon Levin, Vice President & Regulatory Counsel, 10802 Parkridge Boulevard, Reston, VA 20191
AT&T Corporation
Ellwood R. Kerkeslager, Vice President, Technology Infrastructure, 295 North Maple Avenue, Basking Ridge, NJ 07920
AT&T Canada
David H. Whyte, Director, Industry Liaison, 200 Wellington Street, West, Toronto, Ontario M5V 3G2, Canada
Bell Atlantic
Daniel Hochvert, Executive Director, 1166 Avenue of Americas, Room 11003, New York, NY 10036
Cable & Wireless, Inc.
George Vinall, Vice President, Regulatory & Legislative Affairs, 8219 Leesburg Pike, Vienna, VA 22182
Cincinnati Bell Telephone Company
Dennis P. Hinkel, Vice President, Network Architecture Planning, 201 East 4th Street, Cincinnati, OH 45202
Cellular Telecommunications Industry Association (CTIA)
Dr. Brian Fontes, Senior Vice President, Policy & Administration, 1250 Connecticut Avenue, NW, Washington, DC 20036
Competitive Telecommunications Associations (CompTel)
Genevieve Morelli, Executive Vice President & General Counsel, 1900 M Street, NW, Suite 800, Washington, DC 20036
GTE Telephone Operations
Bernard J. Harris, Director, Industry Standards, 700 Hidden Ridge, Irving, TX 75015
MCI Telecommunciations Corporation
Peter P. Guggina, Director, Technical Standards Management, 2400 North Glenville Drive, Richardson, TX 75082
Mobility Canada
Gerry P. Thompson, Director, Technology Planning, 2920 Matheson Boulevard, East 7th Floor, Mississauga, Ontario L4W5J4, Canada
National Association of Regulatory Utility Commissioners (NARUC)
Honorable Commissioner, Julia Johnson, Florida Public Utility Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399
National Association of Regulatory Utility Commissioners (NARUC)
Honorable Commissioner, Vincent Majkowski, Colorado Public Utilities Commission, 1580 Logan Street, OL–2, Denver, CO 80203
National Cable Television Association (NCTA)
Paul Jones, Senior Vice President, Regulatory & Public Policy, Time Warner Communications, 300 First Stamford Place, Stamford, CT 06902
Nextel Communications, Inc.
Lawrence R. Krevor, Director, Government Affairs, 800 Connecticut Avenue, NW, Suite 1001, Washington, DC 20006
NORTEL, Northern Telecom Inc.
Ray Strassburger, Director, Government Relations & Telecommunciations Policy, 801 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20004
Omnipoint Corporation
Anna D. Miller, Manager, Regulatory Affairs, 1365 Garden of the Gods Road, Colorado Springs, CO 80907
Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)
Greg Rise, Director, Engineering, East Otter Tail Telephone Company, 160 Second Avenue, SW, Perhnam, MN 56573
Personal Communications Industry Association (PCIA)
Mark J. Golden, Senior Vice President, Industry Affairs, 500 Montgomery Street, Suite 700, Alexandria, VA 22314
SBC Communications, Inc.
Joe Walkoviak, Senior Vice President, One Bell Center, Suite 40–C–1, St. Louis, MO 63101
Sprint Corporation
Loren V. Sprouse, Vice President, Network Support, 2330 Shawnee Mission Parkway, Westwood, KS 66205
Sprint SpectrumPCS
Michael K. Robinson, Vice President, Network Planning & Operations, 4900 Main Street, Kansas City, MO 64112
Stentor Resource Centre, Inc.
Jacques R. Sarrazin, General Manager, Local Network Interconnection, Elgin Street, Room 450, Ottawa, Ontario K1G 3J4, Canada
Teleport Communications Group, Inc. (TCG)
Kenneth A. Shulman, Vice President, Network Planning & Operations, 429 Ridge Road, Dayton, NJ 08810
Telecommunications Industry Association (TIA)
Dan Bart, Vice President, Standards and Technology, 2500 Wilson Boulevard, Suite 300, Arlington, VA 22201
United States Telephone Association (USTA)
Paul Hart, Vice President, Technical Disciplines, 1401 H Street, NW, Suite 600, Washington, DC 20005–2164

Special Members (Non-Voting)

Alliance for Telecommunications Industry Solutions (ATIS)
Susan M. Miller, Vice President &

General Counsel, 1200 G Street, NW, Suite 500, Washington, DC 20005

North American Numbering Plan Administrator
c/o Bellcore, Ronald R. Conners, Director, 6 Corporate Place, Room 1F275, Piscataway, NJ 08854–4157

U.S. Department of State
Ambassador Vonya McCann, EB/CIP Room 4826, 2101 C Street, NW, Room 4826, Washington, DC 20520

U.S. Department of Commerce
National Telecommunications & Information Administration, Larry Irving, Assistant Secretary, Communications & Information, 14th & Pennsylvania Avenue, NW, Rm 4898, Washington, DC 20230

[FR Doc. 97–26252 Filed 10–2–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB to review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review and approval of the information collection system described below.

Type of Review: Renewal of currently approved collection.

Title: Application For Consent To Reduce or Retire Capital.

Form Number: None.

OMB Number: 3064–0079.

Annual Burden:

Number of applications: 120.
Hours to prepare an application: 1.
Total annual burden hours: 120.

Expiration Date of OMB Clearance: October 31, 1997.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–4080, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before November 3, 1997, to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: This collection requires insured state nonmember banks that propose to change their capital structure to submit an application containing information about the proposed change in order to obtain FDIC's consent to reduce or retire capital. The FDIC evaluates the information contained in the letter application in relation to statutory considerations and makes a decision to grant or to withhold consent.

Dated: September 30, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–26238 Filed 10–2–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice and request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA) (collectively referred to as the agencies), under the auspices of the Federal Financial Institutions Examination Council (FFIEC), request comment on a Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities (1997 Statement) to provide guidance on sound practices for managing the risks of investment activities. The agencies also are seeking comment on their intent to rescind the Supervisory Policy Statement on Securities Activities published on February 3, 1992 (1992 Statement). Many elements of that prior statement are retained in the 1997 Statement, while other elements have been revised or eliminated. Changes in generally accepted accounting principles, various developments in both securities and derivatives markets, and revisions to the regulators' approach to risk management have contributed to the need to reassess the 1992 Statement. In particular, the agencies are proposing to eliminate the specific constraints on investing in ''high risk'' mortgage derivative products that were stated in the 1992 Statement. The agencies believe that it is a sound practice for institutions to understand the risks related to their investment holdings. Accordingly, the 1997 Statement substitutes broader guidance than the specific pass/fail requirements contained in the 1992 Statement. Other than for the supervisory guidance contained in the 1992 Statement, the 1997 Statement does not supersede any other requirements of the respective agencies' statutory rules, regulations, policies, or supervisory guidance.

DATES: Comments must be received by November 17, 1997.

ADDRESSES: Comments should be sent to Joe M. Cleaver, Executive Secretary, Federal Financial Institutions Examination Council, 2100 Pennsylvania Avenue, NW, Suite 200, Washington, D.C. 20037 or by facsimile transmission to (202) 634–6556.

FOR FURTHER INFORMATION CONTACT: *FRB:* James Embersit, Manager, Financial Analysis, (202) 452–5249, Division of Banking Supervision and Regulation; Gregory Baer, Managing Senior Counsel, (202) 452–3236, Board of Governors of the Federal Reserve System. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), Dorothea Thompson, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551.

FDIC: William A. Stark, Assistant Director, (202) 898–6972, Miguel D. Browne, Manager, (202) 898–6789, John J. Feid, Chief, Risk Management, (202) 898–8649, Division of Supervision; Michael B. Phillips, Counsel, (202) 898–3581, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

OCC: Kurt Wilhelm, National Bank Examiner, (202) 874–5670, J. Ray Diggs, National Bank Examiner, (202) 874–5670, Treasury and Market Risk; Mark J. Tenhundfeld, Assistant Director, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

OTS: Robert A. Kazdin, Senior Project Manager, (202) 906–5759, Anthony G. Cornyn, Director, (202) 906–5727, Risk Management; Christine Harrington, Counsel (Banking and Finance), (202) 906–7957, Regulations and Legislation Division, Chief Counsel's Office, Office

of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

NCUA: Daniel Gordon, Senior Investment Officer, (703) 518–6360, Office of Investment Services; Lisa Henderson, Attorney, (703) 518–6540, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428.

SUPPLEMENTARY INFORMATION: In 1992, the agencies implemented the FFIEC's Supervisory Policy Statement on Securities Activities. The 1992 Statement addressed: (1) Selection of securities dealers, (2) portfolio policy and strategies (including unsuitable investment practices), and (3) residential mortgage derivative products (MDPs).

The final section of the 1992 Statement directed institutions to subject MDPs to supervisory tests to determine the degree of risk and the investment portfolio eligibility of these instruments. At that time, the agencies believed that many institutions had demonstrated an insufficient understanding of the risks associated with investments in MDPs. This occurred, in part, because most MDPs were issued or backed by collateral guaranteed by government sponsored enterprises. Therefore, most MDPs were not subject to legal investment limits. The agencies were concerned that the absence of significant credit risk on most MDPs had allowed institutions to overlook the significant interest rate risk present in certain structures of these instruments. In an effort to enhance the investment decision making process at financial institutions, and to emphasize the interest rate risk of highly price sensitive instruments, the agencies implemented supervisory tests designed to identify those MDPs with price and average life risks greater than a newly issued residential mortgage pass-through security.

These supervisory tests provided a discipline that helped institutions to better understand the risks of MDPs prior to purchase. The 1992 Statement generally provided that institutions should not hold a high risk MDP in their investment portfolios.[1] A high risk MDP was defined as a mortgage derivative security that failed any of three supervisory tests. The three tests included: an average life test, an average life sensitivity test, and a price sensitivity test.[2]

These supervisory tests, commonly referred to as the ''high risk tests,'' successfully protected institutions from significant losses in MDPs. By requiring a pre-purchase price sensitivity analysis that helped institutions to better understand the interest rate risk of MDPs, the high risk tests effectively precluded institutions from investing in many types of MDPs that resulted in large losses for other investors. However, the high risk tests may have created unintended distortions of the investment decision making process. Many institutions eliminated all MDPs from their investment choices, regardless of the risk versus return merits of such instruments. These reactions were due, in part, to concerns about regulatory burden, such as higher than normal examiner review of MDPs. By focusing only on MDPs, the test and its accompanying burden indirectly provided incentives for institutions to acquire other types of securities with complex cash flows, often with price sensitivities similar to high risk MDPs. The emergence of the structured note market is just one example. The test may have also created the impression that supervisors were more concerned with the type of instrument involved (i.e., residential mortgage products), rather than the risk characteristics of the instrument, since only MDPs were subject to the high risk test. The specification of tests applied to individual securities may have also inhibited some institutions from applying more comprehensive analytical techniques at the portfolio and institutional level.

As a result, the agencies no longer believe that the pass/fail criteria of the high risk tests as applied to specific instruments are useful for the supervision of well-managed institutions. The agencies believe that an effective risk management program, through which an institution identifies, measures, monitors, and controls the risks of investment activities, provides a better framework. Consequently, the agencies are proposing to rescind the 1992 Policy Statement and eliminate the high risk tests as binding constraints on MDP purchases.

Effective risk management addresses risks across all types of instruments on an investment portfolio basis and ideally, across the entire institution. The complexity of many financial products, both on and off the balance sheet, has increased the need for a more comprehensive approach to the risk management of investment activities. To advance such an initiative, the agencies are seeking industry comment on the practices identified in the proposed policy statement.

The proposal to rescind the high risk tests as a constraint on an institution's investment activities does not signal that MDPs with high levels of price risk are either appropriate or inappropriate investments for an institution. Whether a security, MDP or otherwise, is an appropriate investment depends upon a variety of factors, including the institution's capital level, the security's impact on the aggregate risk of the portfolio, and management's ability to measure and manage risk. The agencies continue to believe that the stress testing of MDP investments, as well as other investments, has significant value for risk management purposes. Institutions should employ valuation methodologies that take into account all of the risk elements necessary to price these investments. The proposed policy statement indicates that the agencies believe, as a matter of sound practice, institutions should know the value and price sensitivity of their investments prior to purchase and on an ongoing basis.

The proposed text of the 1997 Statement follows.

Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities

I. Purpose

This policy statement (Statement) provides guidance to financial institutions (institutions) on sound practices for managing the risks of investment securities and end-user derivatives activities. The FFIEC agencies—the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the National Credit Union Administration—believe that effective management of the risks associated with securities and derivative instruments represents an essential component of safe and sound practices. This guidance describes the practices that a prudent manager normally would follow and is not intended to be a checklist. Management should establish practices and maintain documentation appropriate to the institution's individual circumstances, consistent with this Statement.

[1] The only exceptions granted were for those high risk securities that either reduced interest rate risk or were placed in a trading account. Federal credit unions were not permitted these exceptions.

[2] Average Life: Weighted average life of no more than 10 years; Average Life Sensitivity: (a) Weighted average life extends by not more than 4 years (300 basis point parallel shift in rates), (b) weighted average life shortens by no more than 6 years (300 basis point parallel shift in rates); Price Sensitivity: price does not change by more than 17 percent (increase or decrease) for a 300 basis point parallel shift in rates.

II. Scope

This guidance applies to all securities in held-to-maturity and available-for-sale accounts as defined in the Statement of Financial Accounting Standards No. 115 (FAS 115), certificates of deposit held for investment purposes, and end-user derivative contracts not held in trading accounts. This guidance covers all securities used for investment purposes, including: money market instruments, fixed-rate and floating-rate notes and bonds, structured notes, mortgage pass-through and other asset-backed securities, and mortgage-derivative products. Similarly, this guidance covers all end-user derivative instruments used for nontrading purposes, such as swaps, futures, and options.[3] This Statement applies to all federally-insured commercial banks, savings banks, savings associations, and federally chartered credit unions.

As a matter of sound practice, institutions should have programs to manage the market, credit, liquidity, legal, operational and other risks of investment securities and end-user derivatives activities (investment activities). While risk management programs will differ among institutions, there are certain elements that are fundamental to all sound risk management programs. These elements include board and senior management oversight and a comprehensive risk management process that effectively identifies, measures, monitors, and controls risk. This Statement describes sound principles and practices for managing and controlling the risks associated with investment activities.

Institutions should fully understand and effectively manage the risks inherent in their investment activities. Failure to understand and adequately manage the risks in these areas constitutes an unsafe and unsound practice.

III. Board and Senior Management Oversight

Board of director and senior management oversight is an integral part of an effective risk management program. The board of directors is responsible for approving major policies for conducting investment activities, including the establishment of risk limits. The board should ensure that management has the requisite skills to manage the risks associated with such activities. To properly discharge its oversight responsibilities, the board should review portfolio activity and risk levels, and require management to demonstrate compliance with approved risk limits. Boards should have an adequate understanding of investment activities. Boards that do not, should obtain professional advice to enhance its understanding of investment activity oversight, so as to enable it to meet its responsibilities under this Statement.

Senior management is responsible for the daily management of an institution's investments. Management should establish and enforce policies and procedures for conducting investment activities on both a long-range (strategic) and day-to-day (operational) basis. Senior management should have an understanding of the nature and level of various risks involved in the institution's investments and how such risks fit within the institution's overall business strategies. Management should ensure that the risk management process is commensurate with the size, scope, and complexity of the institution's holdings. Management should also ensure that the responsibilities for managing investment activities are properly segregated to maintain operational integrity. Institutions with significant investment activities should ensure that back-office, settlement, and transaction reconciliation responsibilities are conducted and managed by personnel who are independent of those initiating risk taking positions.

IV. Risk Management Process

An effective risk management process for investment activities includes: (1) Policies, procedures, and limits; (2) the identification, measurement, and reporting of risk exposures; and (3) a system of internal controls.

Policies, Procedures, and Limits

Investment policies, procedures, and limits provide the structure to effectively manage investment activities. Policies should be consistent with the organization's broader business strategies, capital adequacy, technical expertise, and risk tolerance. Policies should identify relevant investment objectives, constraints, and guidelines for the acquisition and ongoing management of securities and derivative instruments. Potential investment objectives include: generating earnings, providing liquidity, hedging risk exposures, taking risk positions, modifying and managing risk profiles, managing tax liabilities, and meeting pledging requirements, if applicable. Policies should also identify the risk characteristics of permissible investments and should delineate clear lines of responsibility and authority for investment activities.

An institution's policies should ensure an understanding of the risks and cashflow characteristics of its investments. This is particularly important for products that have unusual, leveraged, or highly variable cashflows. An institution should not acquire a material position in an instrument until senior management and all relevant personnel understand and can manage the risks associated with the product.

An institution's investment activities should be fully integrated into any institution-wide risk limits. In so doing, some institutions rely only on the institution-wide limits, while others may apply limits at the investment portfolio, sub-portfolio, or individual instrument level.

The board and senior management should review, at least annually, the appropriateness of its investment strategies, policies, procedures, and limits.

Risk Identification, Measurement and Reporting

Institutions should ensure that they identify and measure the risks associated with individual transactions prior to acquisition and periodically after purchase. Depending upon the complexity and sophistication of the risk measurement systems, this can be done at the institutional, portfolio, or individual instrument level. Prudent management of investment activities entails examination of the risk profile of a particular investment in light of its impact on the risk profile of the institution. To the extent practicable, institutions should measure exposures to each type of risk and these measurements should be aggregated and integrated with similar exposures arising from other business activities to obtain the institution's overall risk profile.

In measuring risks, institutions should conduct their own in-house pre-acquisition analyses, or to the extent possible, make use of specific third party analyses that are independent of the seller or counterparty. Irrespective of any responsibility, legal or otherwise, assumed by a dealer, counterparty, or financial advisor regarding a transaction, the acquiring institution is ultimately responsible for the appropriate personnel understanding and managing the risks of the transaction into which it enters.

Reports to the board of directors and senior management should summarize the risks related to the institution's

[3] Federal credit unions are not permitted to purchase asset-backed securities and may participate in derivative programs only if authorized by the NCUA.

investment activities and should address compliance with the investment policy's objectives, constraints, and legal requirements, including any exceptions to established policies, procedures, and limits. Reports to management should generally reflect more detail than reports to the board of the institution. Reporting should be frequent enough to provide timely and adequate information to judge the changing nature of the institution's risk profile and to evaluate compliance with stated policy objectives and constraints.

Internal Controls

An institution's internal control structure is critical to the safe and sound functioning of the organization generally and the management of investment activities in particular. A system of internal controls promotes efficient operations, reliable financial and regulatory reporting, and compliance with relevant laws, regulations, and institutional policies. An effective system of internal controls includes enforcing official lines of authority, maintaining appropriate separation of duties, and conducting independent reviews of investment activities.

For institutions with significant investment activities, internal and external audits are integral to the implementation of a risk management process to control risks in investment activities. An institution should conduct periodic independent reviews of its risk management program to ensure its integrity, accuracy, and reasonableness. Items that should be reviewed include:

(1) Compliance with and the appropriateness of investment policies, procedures, and limits;

(2) The appropriateness of the institution's risk measurement system given the nature, scope, and complexity of its activities;

(3) The timeliness, integrity, and usefulness of reports to the board of directors and senior management.

The review should note exceptions to policies, procedures, and limits and suggest corrective actions. The findings of such reviews should be reported to the board and corrective actions taken on a timely basis.

The accounting systems and procedures used for public and regulatory reporting purposes are critically important to the evaluation of an organization's risk profile and the assessment of its financial condition and capital adequacy. Accordingly, an institution's policies should provide clear guidelines regarding the reporting treatment for all securities and derivatives holdings. This treatment should be consistent with the organization's business objectives, generally accepted accounting principles (GAAP), and regulatory reporting standards.

V. The Risks of Investment Activities

The following discussion identifies particular sound practices for managing the specific risks involved in investment activities. In addition to these sound practices, institutions should follow any specific guidance or requirements from their primary supervisor related to these activities.

Market Risk

Market risk is the risk to an institution's financial condition resulting from adverse changes in the value of its holdings arising from movements in interest rates, foreign exchange rates, equity prices, or commodity prices. An institution's exposure to market risk can be measured by assessing the effect of changing rates and prices on either the earnings or economic value of an individual instrument, a portfolio, or the entire institution. For most institutions, the most significant market risk of investment activities is interest rate risk.

Investment activities may represent a significant component of an institution's overall interest rate risk profile. It is a sound practice for institutions to manage interest rate risk on an institution-wide basis. This sound practice includes monitoring the price sensitivity of the institution's investment portfolio (changes in the investment portfolio's value over different interest rate/yield curve scenarios). Consistent with agency guidance, institutions should specify institution-wide interest rate risk limits that appropriately account for these activities and the strength of the institution's capital position. These limits are generally established for economic value or earnings exposures. Institutions may find it useful to establish price sensitivity limits on their investment portfolio or on individual securities. These sub-institution limits, if established, should also be consistent with agency guidance.

It is a sound practice for an institution's management to fully understand the market risks associated with investment securities and derivative instruments prior to acquisition and on an ongoing basis. Accordingly, institutions should have appropriate policies to ensure such understanding. In particular, institutions should have policies that specify the types of market risk analyses that should be conducted for various types or classes of instruments, including that conducted prior to their acquisition (pre-purchase analysis) and on an ongoing basis. Policies should also specify any required documentation needed to verify the analysis.

It is expected that the substance and form of such analyses will vary with the type of instrument. Not all investment instruments may need to be subjected to a pre-purchase analysis. Relatively simple or standardized instruments, the risks of which are well known to the institution, would likely require no or significantly less analysis than would more volatile, complex instruments.[4]

For relatively more complex instruments, less familiar instruments, and potentially volatile instruments, institutions should fully address pre-purchase analyses in their policies. Price sensitivity analysis is an effective way to perform the pre-purchase analysis of individual instruments. For example, a pre-purchase analysis should show the impact of an immediate parallel shift in the yield curve of plus and minus 100, 200, and 300 basis points. Where appropriate, such analysis should encompass a wider range of scenarios, including non-parallel changes in the yield curve. A comprehensive analysis may also take into account other relevant factors, such as changes in interest rate volatility and changes in credit spreads.

When the incremental effect of an investment position is likely to have a significant effect on the risk profile of the institution, it is a sound practice to analyze the effect of such a position on the overall financial condition of the institution.

Accurately measuring an institution's market risk requires timely information about the current carrying and market values of its investments. Accordingly, institutions should have market risk measurement systems commensurate with the size and nature of these investments. Institutions with significant holdings of highly complex instruments should ensure that they have the means to value their positions. Institutions employing internal models should have adequate procedures to validate the models and to periodically review all elements of the modeling process, including its assumptions and risk measurement techniques. Managements relying on third parties for market risk measurement systems and analyses should ensure that they

[4] Federal credit unions must comply with the investment monitoring requirements of 12 CFR § 703.90. See 62 FR 32989 (June 18, 1997).

fully understand the assumptions and techniques used.

Institutions should provide reports to their boards on the market risk exposures of their investments on a regular basis. To do so, the institution may report the market risk exposure of the whole institution. Otherwise, these reports should contain evaluations that assess trends in aggregate market risk exposure and the performance of portfolios in terms of established objectives and risk constraints. They also should identify compliance with board approved limits and identify any exceptions to established standards. Institutions should have mechanisms to detect and adequately address exceptions to limits and guidelines. Management reports on market risk should appropriately address potential exposures to yield curve changes and other factors pertinent to the institution's holdings.

Credit Risk

Broadly defined, credit risk is the risk that an issuer or counterparty will fail to perform on an obligation to the institution. For many financial institutions, credit risk in the investment portfolio may be low relative to other areas, such as lending. However, this risk, as with any other risk, should be effectively identified, measured, monitored, and controlled.

An institution should not acquire investments or enter into derivative contracts without assessing the creditworthiness of the issuer or counterparty. The credit risk arising from these positions should be incorporated into the overall credit risk profile of the institution as comprehensively as practicable. Institutions are legally required to meet certain quality standards (i.e., investment grade) for security purchases. Many institutions maintain and update ratings reports from one of the major rating services. For non-rated securities, institutions should establish guidelines to ensure that the securities meet legal requirements and that the institution fully understands the risk involved. Institutions should establish limits on individual counterparty exposures. Policies should also provide credit risk and concentration limits. Such limits may define concentrations relating to a single or related issuer or counterparty, a geographical area, or obligations with similar characteristics.

In managing credit risk, institutions should consider settlement and pre-settlement credit risk. These risks are the possibility that a counterparty will fail to honor its obligation at or before the time of settlement. The selection of dealers, investment bankers, and brokers is particularly important in effectively managing these risks. An institution's policies should identify criteria for selecting these organizations and should list all approved firms. The approval process should include a review of each firm's financial statements and an evaluation of its ability to honor its commitments. An inquiry into the general reputation of the dealer is also appropriate. This includes review of information from state or federal securities regulators and industry self-regulatory organizations such as the National Association of Securities Dealers concerning any formal enforcement actions against the dealer, its affiliates, or associated personnel.

The board of directors, or a committee thereof, should set limits on the amounts and types of transactions authorized for each securities firm with whom the institution deals. At least annually, the board of directors should review and reconfirm the list of authorized dealers, investment bankers, and brokers.

Sound credit risk management requires that credit limits be developed by personnel who are as independent as practicable of the acquisition function. In authorizing issuer and counterparty credit lines, these personnel should use standards that are consistent with those used for other activities conducted within the institution and with the organization's over-all policies and consolidated exposures.

Liquidity Risk

Liquidity risk is the risk that an institution cannot easily sell, unwind, or offset a particular position at a fair price because of inadequate market depth. In specifying permissible instruments for accomplishing established objectives, institutions should ensure that they take into account the liquidity of the market for those instruments and the effect that such characteristics have on achieving their objectives. The liquidity of certain types of instruments may make them inappropriate for certain objectives. Institutions should ensure that they consider the effects that market risk can have on the liquidity of different types of instruments under various scenarios. Accordingly, institutions should articulate clearly the liquidity characteristics of instruments to be used in accomplishing institutional objectives.

Complex and illiquid instruments can often involve greater risk than actively traded, more liquid securities. Oftentimes, this higher potential risk arising from illiquidity is not captured by standardized financial modeling techniques. Such risk is particularly acute for instruments that are highly leveraged or that are designed to benefit from specific, narrowly defined market shifts. If market prices or rates do not move as expected, the demand for such instruments can evaporate, decreasing the market value of the instrument below the modeled value.

Operational (Transaction) Risk

Operational (transaction) risk is the risk that deficiencies in information systems or internal controls will result in unexpected loss. Sources of operating risk include inadequate procedures, human error, system failure, or fraud. Inaccurately assessing or controlling operating risks is one of the more likely sources of problems facing institutions involved in investment activities.

Effective internal controls are the first line of defense in controlling the operating risks involved in an institution's investment activities. Of particular importance are internal controls that ensure the separation of duties and supervision of persons executing transactions from those responsible for processing contracts, confirming transactions, controlling various clearing accounts, preparing or posting the accounting entries, approving the accounting methodology or entries, and performing revaluations.

Consistent with the operational support of other activities within the financial institution, securities operations should be as independent as practicable from business units. Adequate resources should be devoted, such that systems and capacity are commensurate with the size and complexity of the institution's investment activities. Effective risk management should also include, at least, the following:

- Valuation. Procedures should ensure independent portfolio pricing. For thinly traded or illiquid securities, completely independent pricing may be difficult. In such cases, operational units may need to use portfolio manager prices. For unique instruments where the pricing is being provided by a single source (e.g., the dealer providing the instrument), the institution should review and understand the assumptions used to price the instrument.
- Personnel. The increasingly complex nature of securities available in the marketplace makes it important that operational personnel have strong technical skills. This will enable them to better understand the complex financial structures of some investment instruments.

• Documentation. Institutions should clearly define documentation requirements for securities transactions, saving and safeguarding important documents, as well as maintaining possession and control of instruments purchased.

An institution's policies should also provide guidelines for conflicts of interest for employees who are directly involved in purchasing and selling securities for the institution from securities dealers. These guidelines should ensure that all directors, officers, and employees act in the best interest of the institution. The board may wish to adopt policies prohibiting these employees from engaging in personal securities transactions with these same securities firms without specific prior board approval. The board may also wish to adopt a policy applicable to directors, officers, and employees restricting or prohibiting the receipt of gifts, gratuities, or travel expenses from approved securities dealer firms and their representatives.

Legal Risk

Legal risk is the risk that contracts are not legally enforceable or documented correctly. Institutions should adequately evaluate the enforceability of its agreements before individual transactions are consummated. Institutions should also ensure that the counterparty has authority to enter into the transaction and that the terms of the agreement are legally enforceable. Institutions should further ascertain that netting agreements are adequately documented, executed properly, and are enforceable in all relevant jurisdictions. Institutions should have knowledge of relevant tax laws and interpretations governing the use of these instruments.

Dated: September 29, 1997.

Joe M. Cleaver,

Executive Secretary, Federal Financial Institutions Examination Council.

[FR Doc. 97–26207 Filed 10–2–97; 8:45 am]

BILLING CODE 6210–01–P, 6720–01–P, 6714–01–P, 4810–01–P, 7535–01–P

FEDERAL RESERVE SYSTEM

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. The application also will 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. 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 October 30, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Canisteo Valley Corporation, Canisteo, New York; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Canisteo, New York.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Great Southern Capital Corporation Employee Stock Ownership Trust, Meridian, Mississippi; to acquire at least 50 percent of the voting shares of Great Southern Capital Corporation, Meridian, Mississippi, and thereby indirectly acquire Great Southern National Bank, Meridian, Mississippi.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. First Citizens Bancshares, Inc., Dyersburg, Tennessee; to acquire 100 percent of the voting shares of Bank of Troy, Troy, Tennessee.

Board of Governors of the Federal Reserve System, September 30, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26338 Filed 10–2–97; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 811]

National Institute for Occupational Safety and Health; Research and Demonstration Grants; Occupational Safety and Health

Introduction

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) is soliciting grant applications for research and demonstration projects related to occupational safety and health (see the section **Availability of Funds**).

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000, see the section **Where to Obtain Additional Information.**)

Authority

This program is authorized under the Public Health Service Act, as amended, Section 301 (42 U.S.C. 241); the Occupational Safety and Health Act of 1970, Sections 20(a) and 22 (29 U.S.C. 669(a) and 671); and the Federal Mine Safety and Health Act of 1977, Section 501 (30 U.S.C. 951). The applicable program regulations are in 42 CFR part 52.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products, and Pub. L. 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds and in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants include domestic and foreign non-profit and for-profit organizations, universities, colleges, research institutions, and other public and private organizations, including State and local governments and small, minority and/or woman-owned businesses. Exceptions: Foreign organizations, as well as domestic institutions with a foreign component, are ineligible to apply for the Special

Emphasis Research Career Award (SERCA) Grant and Small Grant programs (additional guidance provided under these mechanisms).

Note: An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible to receive Federal funds constituting an award, grant, contract, loan, or any other form.

Availability of Funds

For fiscal year (FY) 1998, the budget is projected to be $13,500,000. Of that amount, $9,100,000 is committed to support 47 non-competing continuing awards. Therefore, $4,400,000 is available for new and competing renewal awards. The overall budget includes funds for Small Business Innovation Research (SBIR) grants and for health and safety research related to the construction industry. Target amounts (continuing and new awards) for certain grant mechanisms are as follows: 10 R03 grants (about $375,000), 10 K01 grants (about $540,000), and 5 R29 grants (about $500,000).

Grant applications should be focused on the research priorities described in the section **Funding Priorities** that include new research priorities developed in a process which resulted in defining a National Occupational Research Agenda.

Background

In today's society, Americans are working more hours than ever before. The workplace environment profoundly affects health. Each of us, simply by going to work each day, may face hazards that threaten our health and safety. Risking one's life or health should never be considered merely part of the job.

In 1970, Congress passed the Occupational Safety and Health Act to ensure Americans the right to ''safe and healthful working conditions,'' yet workplace hazards continue to inflict a tremendous toll in both human and economic costs.

Employers reported 6.3 million work injuries in 1994 and 515,000 cases of occupational illness. An average of 16 American workers die each day from injuries on the job. Moreover, even the most conservative estimates find that about 137 additional workers die each day from workplace diseases.

Additionally, in 1994 occupational injuries and deaths cost $120.7 billion in wages and lost productivity, administrative expenses, health care and other costs. This does not include the cost of occupational disease.

Occupational injury and disease create needless human suffering, a tremendous burden upon health care resources, and an enormous drain on U.S. productivity. Yet, to date, this mainstream public health problem has escaped mainstream public attention.

The philosophy of NIOSH is articulated in the Institute's vision statement: Delivering on the Nation's Promise: Safety and Health at Work for All People * * * Through Research and Prevention. To identify and reduce hazardous working conditions, the Institute carries out disease, injury, and hazard surveillance and conducts a wide range of field and laboratory research. Additionally, NIOSH sponsors extramural research in priority areas to complement and expand its efforts. These are listed in the section **Funding Priorities**.

Purpose

The purpose of this grant program is to develop knowledge that can be used in preventing occupational diseases and injuries. Thus, NIOSH will support the following types of applied research projects: Causal research to identify and investigate the relationships between hazardous working conditions and associated occupational diseases and injuries; methods research to develop more sensitive means of evaluating hazards at work sites, as well as methods for measuring early markers of adverse health effects and injuries; control research to develop new protective equipment, engineering control technology, and work practices to reduce the risks of occupational hazards; and demonstrations to evaluate the technical feasibility or application of a new or improved occupational safety and health procedure, method, technique, or system.

Mechanisms of Support

Applications responding to this announcement will be reviewed by staff for their responsiveness to the following program requirements. Grants are funded for 12-month budget periods in project periods up to five years for research project grants and demonstration project grants; three years for SERCA grants; and two years for small grants. Continuation awards within the project period are made on the basis of satisfactory progress and on the availability of funds. The types of grants NIOSH supports are as follow:

1. Research Project Grants (R01)

A research project grant application should be designed to establish, discover, develop, elucidate, or confirm information relating to occupational safety and health, including innovative methods, techniques, and approaches for dealing with problems. These studies may generate information that is readily available to solve problems or contribute to a better understanding of the causes of work-related diseases and injuries.

2. Demonstration Project Grants (R18)

A demonstration project grant application should address, either on a pilot or full-scale basis, the technical or economic feasibility of implementing a new/improved innovative procedure, method, technique, or system for preventing occupational safety or health problems. The project should be conducted in an actual workplace where a baseline measure of the problem will be defined, the new/improved approach will be implemented, a follow-up measure of the problem will be documented, and an evaluation of the benefits will be conducted.

3. First Independent Research Support and Transition (FIRST) Grants (R29)

The FIRST grant is to provide a sufficient period of research support for newly independent investigators to initiate their own research and demonstrate the merit of their own research ideas. These grants are intended to underwrite the first independent investigative efforts of an individual; to provide a reasonable opportunity to demonstrate creativity, productivity, and further promise; and to help in the transition to traditional types of research project grants. The award is not intended for individuals in mid-career who may be in transition to another undertaking. It is for a distinct research endeavor and may not be used merely to supplement or broaden an ongoing project.

Candidates must (1) be genuinely independent of a mentor, yet at the same time be at the beginning stages of their research careers, (2) have no more than 5 years of research experience since completing post-doctoral research training or its equivalent, (3) not be in training status at the time of the award, (4) have never been the principal investigator (PI) on any Public Health Service grant except a Small Grant (R03) or a Special Emphasis Research Career Award Grants (K01), and (5) the applicant organizations must be domestic. For non-U.S. citizens who will be principal investigators, the grantee institution must indicate in the application that the individual's visa will allow the person to remain in the country a sufficient length of time to complete the project. Also, a U.S. citizen must be identified who is a permanent staff member of the grantee institution and who, if the FIRST grant

recipient is unable to stay in the U.S., will be responsible for seeing the project through to completion.

The PI must request 5 years of support; otherwise, the application will be reviewed as a traditional research project (R01). There must be a commitment of no less than 50 percent effort to the proposed project. The total direct cost for the 5-year period may not exceed $350,000. The direct cost award in any budget period may not exceed $100,000. FIRST awards are not renewable; however, a PI may submit an R01 application to continue and extend the research supported by a FIRST award. Replacement of the PI on a FIRST award will not be approved.

The application must include the following documentation: (1) A letter or memorandum is needed from a suitable department head or dean which addresses the eligibility of the proposed PI to lead a research project independently at the applicant organization (i.e., Is the proposed PI otherwise qualified to be the PI on a traditional project grant?). When the application is from the institution where the proposed PI received post-doctoral research training, it must be made absolutely clear that the FIRST award would be to support a research endeavor independent of that conducted in the former training environment. Details of the intended commitment of the institution to the project for the 5-year period should be provided. (2) At least three letters of reference must be submitted. FIRST applicants are to request the letters well in advance of the application submission, advising the referees to return the reference letters to the applicant in sealed envelopes as soon as possible. To protect the utility and confidentiality of reference letters, applicants are not to open the envelopes. The sealed envelopes must be attached to the front of the original application. Reference letters should reflect the investigator's research originality and potential for independent investigation. A list of individuals providing letters must be included as Section 10 of the Research Plan. Names, titles, and institutional affiliation are needed for each person.

4. Special Emphasis Research Career Award (SERCA) Grants (K01)

The SERCA grant is intended to provide opportunities for individuals to acquire experience and skills while under the direction of at least one mentor, and in so doing, create a pool of highly qualified investigators who can make future contributions to research in the area of occupational safety and health. SERCA grants are not intended for individuals without research experience, or for productive, independent investigators with a significant number of publications and of senior academic rank. Moreover, the award is not intended to substitute one source of salary support for another for an individual who is already conducting full-time research; nor is it intended to be a mechanism for providing institutional support.

Candidates must: (1) Hold a doctoral degree; (2) have research experience at or above the doctoral level; (3) not be above the rank of associate professor; and (4) be employed at a domestic institution. For non-U.S. citizens who will be principal investigators, the grantee institution must indicate in the application that the individual's visa will allow the person to remain in the country a sufficient length of time to complete the project. Also, a U.S. citizen must be identified who is a permanent staff member of the grantee institution and who, if the SERCA grant recipient is unable to stay in the U.S., will be responsible for seeing the project through to completion.

This non-renewable award provides support for a three-year period for individuals engaged in full-time research and related activities. Awards will not exceed $50,000 per year in direct costs for salary support (plus fringe benefits), technical assistance, equipment, supplies, consultant costs, domestic travel, publications, and other costs. The indirect cost rate applied is limited to 8 percent of the direct costs, excluding tuition and related fees and equipment expenses, or to the actual indirect cost rate, whichever results in the lesser amount.

A minimum of 60 percent time must be committed to the proposed research project, although full-time is desirable. Other work in the area of occupational safety and health will enhance the candidate's qualifications but is not a substitute for this requirement. Related activities may include research career development activities as well as involvement in patient care to the extent that it will strengthen research skills. Fundamental/basic research will not be supported unless the project will make an original contribution for applied technical knowledge in the identification, evaluation, or control of occupational safety and health hazards (e.g., development of a diagnostic technique for early detection of an occupational disease). Research project proposals must be of the applicants' own design and of such scope that independent investigative capability will be evident within three years. At the completion of this three-year award, it is intended that awardees should be better able to compete for individual research project grants awarded by NIOSH.

SERCA grant applications should be identified as such on the application form. Section 2 of the application (the Research Plan) should include a statement regarding the applicant's career plans and how the proposed research will contribute to a career in occupational safety and health research. This section should also include a letter of recommendation from the proposed advisor(s).

5. Small Grants (R03)

The small grant program is intended to stimulate proposals from individuals who are considering a research career in occupational safety and health; as such, the minimum time commitment is 10%. It is expected that a recipient would subsequently compete for other grant mechanisms which are described above in items 1 to 4. The award is not intended to supplement ongoing or other proposed research; nor is it intended to be a mechanism for providing institutional support. Please note that fundamental/basic research is generally not supported.

Small grant candidates are predoctoral students, post-doctoral researchers (within 3 years following completion of doctoral degree or completion of residency or public health training), or junior faculty members (no higher than assistant professor). If university policy requires that a more senior person be listed as principal investigator, it should be clear in the application which person is the small grant investigator. For non-U.S. citizens who will be principal investigators, the grantee institution must indicate in the application that the individual's visa will allow the person to remain in the country a sufficient length of time to complete the project. Also, a U.S. citizen must be identified who is a permanent staff member of the grantee institution and who, if the small grant recipient is unable to stay in the U.S., will be responsible for seeing the project through to completion. Except for applicants who are assistant professors, there must be one or more named mentors to assist with the project.

A biographical sketch is required for the small grant investigator, as well as for the supervisor and other key consultants, as appropriate.

This non-renewable award provides support for project periods of up to two years to carry out exploratory or pilot studies, to develop or test new techniques or methods, or to analyze

data previously collected. Awards will not exceed $25,000 per year in direct costs for salary support (plus fringe benefits), technical assistance, equipment, supplies, consultant costs, domestic travel, publications, and other costs. The indirect costs will be based upon the negotiated indirect cost rate of the applicant organization. An individual may not receive more than two small grant awards, and then, only if the awards are at different stages of development (e.g., doctoral student, post-doctoral researcher, or junior faculty member).

Funding Priorities

The NIOSH program priorities, listed below, are applicable to all of the above types of grants listed under the section **Mechanisms of Support**. These priority areas were developed by NIOSH and its partners in the public and private sectors to provide a framework to guide occupational safety and health research in the next decade—not only for NIOSH but also for the entire occupational safety and health community. Approximately 500 organizations and individuals outside NIOSH provided input into the development of the National Occupational Research Agenda (NORA). This attempt to guide and coordinate research nationally is responsive to a broadly perceived need to address systematically those topics that are most pressing and most likely to yield gains to the worker and the nation. Fiscal constraints on occupational safety and health research are increasing, making even more compelling the need for a coordinated and focused research agenda. NIOSH intends to support projects that facilitate progress in understanding and preventing adverse effects among workers. The conditions or examples listed under each category are selected examples, not comprehensive definitions of the category. Investigators may also apply in other areas related to occupational safety and health, but the rationale for the significance of the research to the field of occupational safety and health must be presented in the grant application.

Potential applicants with questions concerning the acceptability of their proposed work are strongly encouraged to seek programmatic technical assistance from the contact listed in this announcement under the section **Where to Obtain Additional Information**.

The Agenda identifies 21 research priorities. These priorities reflect a remarkable degree of concurrence among a large number of stakeholders. The NORA priority research areas are grouped into three categories: Disease and Injury, Work Environment and Workforce, and Research Tools and Approaches. The NORA document is available through the NIOSH Home Page; http://www.cdc.gov/niosh/nora.html.

NORA Priority Research Areas

Disease and Injury
- Allergic and Irritant Dermatitis
- Asthma and Chronic Obstructive Pulmonary Disease
- Fertility and Pregnancy Abnormalities
- Hearing Loss
- Infectious Diseases
- Low Back Disorders
- Musculoskeletal Disorders of the Upper Extremities
- Traumatic Injuries

Work Environment and Workforce
- Emerging Technologies
- Indoor Environment
- Mixed Exposures
- Organization of Work
- Special Populations at Risk

Research Tools and Approaches
- Cancer Research Methods
- Control Technology and Personal Protective Equipment
- Exposure Assessment Methods
- Health Services Research
- Intervention Effectiveness Research
- Risk Assessment Methods
- Social and Economic Consequences of Workplace Illness and Injury
- Surveillance Research Methods

Applications Submission and Deadlines and Review Dates

The research grant application Form PHS–398 (OMB Number 0925–0001) is to be used in applying for these grants. These forms are available at most institutional offices of sponsored research; from the Extramural Outreach and Information Resources Office, Office of Extramural Research, 6701 Rockledge Drive, MS–C7910, Bethesda, MD 20892–7910, telephone (301) 435–0714; fax (301) 480–8443; Internet girg@drgpo.drg.nih.gov; and from the contacts listed under the section **Where to Obtain Additional Information**.

The original and five copies of the PHS–398 must be submitted to Division of Research Grants, National Institutes of Health, Suite 1040, 6701 Rockledge Drive, MS–C7710, Bethesda, MD 20892–7710, on or before the specified receipt dates provided below. A mailing label is provided in the Form PHS–398 application package.

The timetable for receiving applications and awarding grants is given below. This is a continuous announcement, consequently, these receipt dates will be on-going until further notice.

Receipt date[1]	Initial review	Secondary review	Earliest possible start date
Research and Demonstration Project Grants			
February 1	June/July	September	December 1.
June 1	Oct/Nov	January	April 1.
October 1	Feb/Mar	May	August 1.
SERCA and Small Grants			
March 1	June/July	August	November 1.
July 1	Oct/Nov	December	March 1.
November 1	Feb/Mar	April	July 1.

[1] Deadlines for competing continuation applications or revised applications are 1 month later.

Applications must be received by the above receipt dates. To prevent problems caused by carrier delays, retain a legible proof-of-mailing receipt from the carrier, dated no later than one week prior to the receipt date. If the receipt date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following work day. The receipt date will be waived only in extenuating circumstances. To request such a waiver, include an explanatory letter with the signed, completed application. No request for a waiver will be considered prior to receipt of the application.

Evaluation Criteria

Applications will be reviewed for scientific merit by the chartered CDC/NIOSH Occupational Safety and Health Study Section (SOH), in accordance with standard peer review procedures. Following initial review for scientific merit, the applications will receive a secondary review for programmatic importance. Notification of the scientific review recommendations will be sent to the applicants after the initial review. Awards will be made based on results of the initial and secondary reviews, as well as availability of funds.

1. The initial (peer) review criteria are:

- Scientific, technical, or medical significance and originality of proposed research.
- Availability, adequacy, and competence of personnel, facilities, and other resources needed to carry out the project.
- Feasibility of the project and likelihood of its producing meaningful results.
- Appropriateness of the proposed project period and budget request.
- Adequacy of the applicant's resources available for the project.

Demonstration grant applications will be reviewed additionally on the basis of the following criteria:

- Degree to which the project will document baseline measures and evaluate the benefits of an intervention approach.
- Degree to which the project can be expected to yield or demonstrate results that will be useful and desirable on a national or regional basis.
- Documentation of cooperation from industry, unions, or other participants in the project.

SERCA grant applications will be reviewed additionally on the basis of the following criteria:

- The review process will consider the applicant's scientific achievements, the applicant's research career plan in occupational safety and health, and the degree to which the applicant's institution offers a superior research environment (supportive nature, including letter(s) of reference from advisor(s) which should accompany the application).

Small grant applications will be reviewed taking the following into consideration:

- Applicants for small grants do not have extensive experience with the grants process, so there is leniency in assigning priority scores.

2. The secondary (programmatic) review criteria are:

- Relevance to occupational safety and health by contributing to achievement of research objectives specified in Sections 20(a) and 22 of the Occupational Safety and Health Act of 1970 and Section 501 of the Federal Mine Safety and Health Act of 1977.
- Magnitude of the problem in terms of numbers of workers affected.
- Severity of the disease or injury in the worker population.
- Potential contribution to applied technical knowledge in the identification, evaluation, or control of occupational safety and health hazards.
- Program balance.
- Policy and budgetary considerations.

Questions regarding the above criteria should be addressed to the Programmatic Technical Information Contact listed under **Where to Obtain Additional Information.**

Technical Reporting Requirements

Progress reports are required annually as part of the continuation application (75 days prior to the start of the next budget period). The annual progress reports must contain information on accomplishments during the previous budget period and plans for each remaining year of the project. Financial status reports (FSR) are required no later than 90 days after the end of the budget period. The final performance and financial status reports are required 90 days after the end of the project period. The final performance report should include, at a minimum, a statement of original objectives, a summary of research methodology, a summary of positive and negative findings, and a list of publications resulting from the project.

Research papers, project reports, or theses are acceptable items to include in the final report. The final report should stand alone rather than citing the original application. Three copies of reprints of publications prepared under the grant should accompany the report.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.262.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Other Requirements

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Women and Racial and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC) to ensure that women and racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaska Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women and racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. In conducting review for scientific merit, review groups will evaluate proposed plans for inclusion of minorities and both sexes as part of the scientific assessment and scoring. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, and dated Friday, September 15, 1995.

Animal Subjects

If the proposed project involves research on animal subjects, the applicant must comply with the PHS Policy on Humane Care and Use of Laboratory Animals by Awardee Institutions. An applicant organization proposing to use vertebrate animals in CDC-supported activities must file an Animal Welfare Assurance with the Office for Protection from Research Risks at the National Institutes of Health.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and telephone number and will need to refer to announcement #811. You will receive a complete program description, information on application procedures, and application. Business management information may be obtained from Joanne Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., MS–E13, Atlanta, GA 30305, telephone (404) 842–6535; fax: (404) 842–6513; Internet: jcw6@cdc.gov.

Programmatic technical assistance may be obtained from Roy M. Fleming, Sc.D., Associate Director for Grants, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Building 1, Room 3053, MS–D30, Atlanta, GA 30333, telephone: (404) 639–3343; fax: (404) 639–4616; Internet: rmf2@cdc.gov.

Please refer to announcement number 811 when requesting information and submitting an application.

This and other CDC Announcements can be found on the CDC home page (http://www.cdc.gov) under the Funding section.

CDC will not send application kits by facsimile or express mail (even at the request of the applicant).

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: September 29, 1997.

Linda Rosenstock,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–26275 Filed 10–2–97; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The Centers for Disease Control and Prevention (CDC) Announces the Following Workshop

Name: Workshop on Enhancing Community Participation to Restore Public Trust and Improve Science in Health Research.

Times and Dates: 8:30 a.m.–5:30 p.m., October 16, 1997. 8 a.m.–4:45 p.m., October 17, 1997.

Place: CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: The primary purpose of this workshop is to provide guidance to public health researchers on the inclusion of communities in the planning, conduct, and application of research.

History has demonstrated, when medical and public health science is planned and conducted in the absence of considering the social context of its work, people have been harmed. As a result, society has responded with laws and regulations to protect human subjects who participate in research. Lacking in this discussion has been the issue of planning and conducting research that involves and impacts communities. This workshop will provide a unique opportunity to open dialogue between government, communities, and researchers. This dialogue should result in a proposed framework through which CDC promotes public health, advances democratic principles, establishes an ethical basis for community-based research, enhances scientific credibility, and provides mechanisms for building public trust while advancing the science of public health.

Matters To Be Discussed: Agenda items include: identifying strategies for partnering with communities in research and overcoming distrust; legacy from the Tuskegee Study of Untreated Syphilis; review of human subjects protection; role of the community in protecting human subjects; assets that communities bring to research; and assets that researchers bring to communities.

After the above comments and discussions, the workshop will be divided into five breakout sessions which will include: (I) Strategies, Issues, and Barriers; (II) Research Design Scenarios; (III) Critique of Strategies Elicited in Breakout Session II; (IV) Community Concerns and Issues; and (V) Final Recommendations.

Contact Persons for More Information: Michael J. Sage, Deputy Chief, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, CDC, 4770 Buford Highway, NE (F–35), Atlanta, Georgia 30341–3724, telephone 770/488–7040, FAX 770/488–7044; or Kate M. MacQueen, Ph.D., Division of HIV/AIDS Prevention, National Center for HIV, STD and TB Prevention, CDC, 1600 Clifton Road, NE (E–45), Atlanta, Georgia 30333, telephone 404/639–6146, FAX 404/639–6129.

Dated: September 29, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–26243 Filed 10–2–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0401]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by November 3, 1997.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance:

Export of Medical Devices—Foreign Letters of Approval—21 U.S.C. 381(e)(2) (OMB Control No. 0910–0264—Reinstatement)

Section 801(e)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 381(e)(2)) provides for the exportation of an unapproved device under certain circumstances if the exportation is not contrary to the public health and safety and it has the approval of the foreign country to which it is intended for export.

Requesters communicate (either directly or through a business associate in the foreign country) with a representative of the foreign government to which they seek exportation, and written authorization must be obtained from the appropriate office within the foreign government approving the importation of the medical device. FDA uses the written authorization from the foreign country to determine whether the foreign country has any objection to the importation of the device.

The respondents to this collection of information are companies that seek to export medical devices.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
20	1	20	0.5	10

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

These estimates are based on the experience of FDA's medical device program personnel. In fiscal year 1995, FDA received approximately 800 requests from U.S. firms to export medical devices under section 801(e)(2) of the act. However, the enactment of the Food and Drug Export Reform and Enhancement Act of 1996 has greatly reduced the number of export permit requests made under section 801(e)(2) to an estimated 20 per year.

Dated: September 26, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–26257 Filed 10–2–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97F–0406]

Sveriges Stärkelseproducenter; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Sveriges Stärkelseproducenter has filed a petition proposing that the food additive regulations be amended to provide for the safe use of industrial starch modified by treatment with up to 21 percent 2,3-epoxypropyl trimethylammonium chloride, as a component of food-contact articles.

FOR FURTHER INFORMATION CONTACT: Andrew J. Zajac, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3095.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 7B4558) has been filed by Sveriges Stärkelseproducenter, c/o Kirschman Associates, P.O. Box 88, Emmaus, PA 18049. The petition proposes to amend the food additive regulations in § 178.3520 *Industrial starch-modified* (21 CFR 178.3520) to provide for the safe use of industrial starch modified by treatment with up to 21 percent 2,3-epoxypropyl trimethylammonium chloride, as a component of food-contact articles.

The agency has determined under 21 CFR 25.32(i) that this action is of the 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.

Dated: September 15, 1997.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–26256 Filed 10–2–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–212]

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.

Type of Information Collection Request: New Collection; *Title of Information Collection:* Survey of Primary Caregivers for the District of Columbia's Managed Care Demonstration for Disabled and Special Needs Children and Supporting Statute Section 1115(a) of the Social Security Act; *Form No.:* HCFA-R–212; *Use:* This survey will collect information from primary caregivers of Disabled and Special Needs Children about household composition, access to care, health status, functional status, home care, family care giving burden, satisfaction, and out-of-pocket expenditures on disabled and special needs children living in the District of Columbia who are enrolled in the Supplemental Security Income (SSI) program. This instrument is designed to support a series of analytic studies, which will eventually provide HCFA, Assistant Secretary of Planning and

Evaluation (ASPE), and States with information to consider when developing managed care systems for disabled and special needs children. *Frequency:* Semi-Annually; *Affected Public:* Individuals or Households; *Number of Respondents:* 1,789; *Total Annual Responses:* 3,578; *Total Annual Hours:* 2,900.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: September 23, 1997.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Health Care Financing Administration.

[FR Doc. 97–26306 Filed 10–2–97; 8:45 am]

BILLING CODE 4210–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–485]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Home Health Services Under Hospital Insurance, Manual Instructions and Supporting Regulations in 42 CFR 409.40–.50, 410.36, 410.170, 411.4–.15, 421.100, 424.22, 484.18 and 489.21; *Form No.:* HCFA–485 (OMB# 0938–0357); *Use:* The ''Home Health Services Under Hospital Insurance'' is a certification and plan of care used by the Regional Home Health Intermediaries (RHHIs) to ensure reimbursement is made to Home Health agencies only for services that are covered and medically necessary under Part A and Part B. The attending physician must sign the HCFA–485 (OMB 0938–0357) authorizing the home services for a period not to exceed 62 days.; *Frequency:* Other (initial claim and every second claim thereafter); *Affected Public:* Business or other for-profit; *Number of Respondents:* 9,044; *Total Annual Responses:* 10,080,000; *Total Annual Hours:* 2,520,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 26, 1997.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Information Technology Investment Management Group, Division of HCFA Enterprise Standards.

[FR Doc. 97–26303 Filed 10–2–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Health Professions and Nurse Education Special Emphasis Panel (SEP) Meetings:

Name of SEP: Podiatric Medicine Peer Review Group.
Date and Time: November 3, 1997, 8:00 a.m. to 6:00 p.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.
Open on: November 3, 1997, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: National Research Service Awards Peer Review Group.
Date and Time: November 5–7, 1997, 8:00 a.m. to 6:00 p.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.
Open on: November 5, 1997, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Graduate Training in Family Medicine Peer Review Group.
Date and Time: November 17–21, 1997, 8:00 a.m. to 6:00 p.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.
Open on: November 17, 1997, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Faculty Development Peer Review Group.
Date and Time: December 1–4, 1997, 8:00 a.m. to 6:00 p.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.
Open on: December 1, 1997, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Nursing Education Opportunities Peer Review Group.
Date and Time: January 21–23, 1998, 8:00 a.m. to 6:00 p.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.
Open on: January 21, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Predoctoral Training in Family Medicine Peer Review Group.
Date and Time: January 26–29, 1998, 8:00 a.m. to 6:00 p.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.
Open on: January 26, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Advanced General Dentistry Peer Review Group.
Date and Time: February 9–12, 1998, 8:00 a.m. to 6:00 p.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.
Open on: February 9, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Preventive Medicine Peer Review Group.
Date and Time: February 17–19, 1998, 8:00 a.m. to 6:00 p.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: February 17, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Physician Assistants Peer Review Group.

Date and Time: February 23–26, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: February 23, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Geriatric Education Centers Review Group.

Date and Time: March 2–5, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: March 2, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Nurse Practitioner/Nurse Midwifery Review Group.

Date and Time: March 9–12, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: March 9, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Basic AHEC Review Group

Date and Time: March 16–18, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: March 16, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Model AHEC Review Group.

Date and Time: March 16–18, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue Silver Spring, Maryland 20910.

Open on: March 16, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Nursing Special Projects Review Group.

Date and Time: March 23–26, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: March 23, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Advanced Nurse Education/Nurse Anesthetist Review Group.

Date and Time: March 30–April 1, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue Silver Spring, Maryland 20910.

Open on: March 30, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Allied Health Project Grants Review Group

Date and Time: April 20–24, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: April 20, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Health Career Opportunity/Minority Faculty Fellowship Review Group.

Date and Time: April 20–24, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue Silver Spring, Maryland 20910.

Open on: April 20, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Health Career Opportunity Review Group.

Date and Time: April 27–30, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: April 27, 1998, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Name of SEP: Departments of Family Medicine Peer Review Group.

Date and Time: May 18–21, 1998, 8:00 a.m. to 6:00 p.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Open on: May 18, 1997, 8:00 a.m. to 10:00 a.m. Closed for Remainder of Meeting.

Purpose: The Health Professions and Nurse Education Special Emphasis Panel shall advise the Director of the Bureau of Health Professions on the technical merit of grants to improve the training, distribution, utilization, and quality of personnel required to staff the Nation's health care delivery system.

Agenda: The open portion of each meeting will cover welcome and opening remarks, financial management and legislative implementation updates, and overview of the review process. The meetings will be closed after 10:00 a.m. on the first day of each meeting until adjournment for the review of grant applications. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Acting Associate Administrator for Management and Program Support, Health Resources and Services Administration, pursuant to Pub.L. 92–463.

Anyone wishing to obtain a roster of members or other relevant information should write or contact Mrs. Sherry Whipple, Program Analyst, Peer Review Branch, Parklawn Building, Room 8C–23, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–5926.

Agenda Items are subject to change as priorities dictate.

Dated: September 29, 1997.

Jane M. Harrison,

Acting Director, Division of Policy Review and Coordination, HRSA.

[FR Doc. 97–26288 Filed 10–2–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

This Notice is now available on the internet at the following website: http://www.health.org

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, Room 13A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443–6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance

testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratory, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840, (formerly: Bayshore Clinical Laboratory)

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931 / 334–263–5745

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 22021, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866 / 800–433–2750

Associated Regional and University, Pathologists, Inc. (ARUP) 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787 / 800–242–2787

Baptist Medical Center—Toxicology, Laboratory 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5784

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

CompuChem Laboratories, Inc., 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093, (formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, P.O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045/847–688–4171

Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 941–418–1700/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180/206–386–2672, (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

General Medical Laboratories 36 South Brooks St., Madison, WI 53715, 608–267–6267

Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800–725–3784/915–563–3300, (formerly: Harrison & Associates Forensic, Laboratories),

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Ave., Cincinnati, OH 45229, 513–569–2051

LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927/800–728–4064, (formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America, 888 Willow St., Reno, NV 89502, 702–334–3400, (formerly: Sierra Nevada Laboratories, Inc.)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986/908–526–2400, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734

MedExpress/National Laboratory Center, 4022 Willow Lake Blvd., Memphis, TN 38118, 901–795–1515/800–526–6339

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43614, 419–381–5213

Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302–655–5227

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244/612–636–7466

Methodist Hospital Toxicology Services of Clarian Health Partners, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587

Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800–752–1835/309–671–5199

MetroLab-Legacy Laboratory Services, 235 N. Graham St., Portland, OR 97227, 503–413–4512, 800–237–7808 (x4512)

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250

Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361/801–268–2431

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–341–8092

Pathology Associates Medical Laboratories, 11604 E. Indiana, Spokane, WA 99206, 509–926–2400/800–541–7891

PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 415–328–6200/800–446–5177

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–595–0294, (formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627

Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 619–279–2600/800–882–7272

Premier Analytical Laboratories, 15201 East I–10 Freeway, Suite 125, Channelview, TX 77530, 713–457–3784/800–888–4063, (formerly: Drug Labs of Texas)

Presbyterian Laboratory Services, 1851 East Third Street, Charlotte, NC 28204, 800–473–6640

Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 810–373–9120/800–444–0106, (formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485, (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science)

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–526–0947/972–916–3376, (formerly: Damon Clinical Laboratories, Damon/

MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 800–574–2474/412–920–7733, (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293/314–991–1311, (formerly: Metropolitan Reference Laboratories, Inc., CORNING Clinical Laboratories, South Central Division)

Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728/619–686–3200, (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590, (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)

Quest Diagnostics Incorporated, 1355 Mittel Blvd. Wood Dale, IL 60191, 630–595–3888, (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratories Inc.)

Scientific Testing Laboratories, Inc. 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 800–749–3788/254–771–8379

S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–727–8800/800–999–LABS

SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590, (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–637–7236, (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 352–787–9006, (formerly: Doctors & Physicians Laboratory)

SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–877–7484/610–631–4600, (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 847–447–4379/800–447–4379, (formerly: International Toxicology Laboratories)

SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507

St. Anthony Hospital Toxicology Laboratory, P.O. Box 205, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260

TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA 91367, 818–226–4373/800–966–2211, (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.)

UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800/818–996–7300, (formerly: MetWest-BPL Toxicology Laboratory)

Universal Toxicology Laboratories, LLC, 10210 W. Highway 80, Midland, Texas 79706, 915–561–8851/888–953–8851

UTMB Pathology-Toxicology Laboratory, University of Texas Medical Branch, Clinical Chemistry Division, 301 University Boulevard, Room 5.158, Old John Sealy, Galveston, Texas 77555–0551, 409–772–3197

The Standards Council of Canada (SCC) Laboratory Accreditation Program for Substances of Abuse (LAPSA) has been given deemed status by the Department of Transportation. The SCC has accredited the following Canadian laboratory for the conduct of forensic urine drug testing required by Department of Transportation regulations: MAXXAM Analytics Inc., 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555, (formerly: NOVAMANN (Ontario) Inc.)

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–26356 Filed 10–2–97; 8:45 am]

BILLING CODE 4160–20–U

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–31]

Office of Lead Hazard Control; Notice of Proposed Information Collection: Comment Request

AGENCY: Office of Lead Hazard Control, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: December 2, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Ms. Ruth Wright, Reports Liaison Officer, Office of Lead Hazard Control (L), Department of Housing and Urban Development, 451–7th Street, SW, Room B–133, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Dr. Warren Friedman at (202) 755–1785, extension 159 (this is not a toll-free number), Office of Lead Hazard Control, HUD, for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The notice is soliciting comments from members of the public and affecting 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.

This Notice also lists the following information:

Title of Proposal: National Survey of Lead Hazards in Housing.

OMB Control Number, if applicable: To be requested.

Description of the need for the information and proposed use: HUD needs the information in preparation for regulatory impact analyses of forthcoming regulatory and program proposals, in order to minimize regulatory burdens and increase programmatic efficiency. The survey will be a scientific descriptive study of lead levels in dust, soil, and paint in the Nation's housing, collecting information about lead and related data regarding occupants and their residential environment.

Agency form numbers, if applicable: None.

Members of affected public: Residents of 1000 randomly selected housing units.

Estimation of the total numbers 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
Survey response	1,000	7	3	3,000
Total Estimated Burden Hours: 3,000.				

Status of the proposed information collection: New request.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 25, 1997.

David E. Jacobs,

Director, Office of Lead Hazard Control.

[FR Doc. 97–26296 Filed 10–2–97; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–30]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: December 2, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW, Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Harold R. Holzman, Social Science Analyst, Office of Policy Development and Research—telephone (202) 708–3700 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This notice is soliciting 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.

This notice also lists the following information:

Title of Proposal: Crime Survey in Chicago Public Housing and the Surrounding Neighborhood.

Description of the need for the information and proposed use: Crime is a serious problem in much of Chicago's high-rise public housing and the surrounding areas. The Department of Housing and Urban Development has contracted with Abt Associates Inc. to conduct an analysis of the crime-related impact of an ongoing revitalization and redesign effort in the Chicago Housing Authority's (CHA) Henry Horner Homes and the neighborhood surrounding Horner Homes. Crime prevention is among the principle objectives of the revitalization and redesign effort.

This revitalization presents the opportunity for researchers to gauge the effects of the architectural redesign on crime and perceptions of crime in public housing and the surrounding neighborhood. The proposed survey will collect information on residents' perceptions of the quality of life in their neighborhood, perceptions of crime and disorder in their neighborhood and actual experience with criminal victimization. In addition to contributing to the assessment of the impact of the revitalization effort, this project will provide an opportunity to replicate and refine HUD's Policy Development and Research (PD&R) Office's approach to victimization survey methodology in Federally-assisted housing. Furthermore, the value of the proposed survey is enhanced by the fact that since 1994, Abt Associates Inc. has conducted a series of HUD-sponsored resident satisfaction surveys in Horner Homes. These surveys will provide valuable baseline data for comparison with the results of the proposed survey.

Members of affected public: The survey will involve a random sample of approximately 250 households in the Horner Homes and of 250 households in the community that immediately surrounds Horner Homes. One individual, aged 18 years or older, will be interviewed in each household.

Estimate Burden: The survey will involve 500 respondents, half of whom will be public housing residents and half of whom will be residents of the surrounding neighborhood. Information will be collected by a one-time personal interview that will take an average of approximately 20 minutes to complete. A total of 167 hours of respondents' time (20 minutes times 500 respondents divided by 60 minutes) will be consumed by the survey process.

Status of the proposed information collection: New.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 25, 1997.

Paul A. Leonard,

Deputy Assistant Secretary for the Office of Policy Development.

[FR Doc. 97–26297 Filed 10–2–97; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–29]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The purposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 3, 1997.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Bduget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other avaialbe documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of th eneed for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequenctly information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatemet, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 26, 1997.

David S. Cristy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Moving to Opportunity Demonstration Baseline Survey and Tracking Forms.

Office: Policy Development and Research.

OMB Approval Number: 2528–0161.

Description of the Need for the Information and its Proposed Use: The Moving to Opportunity (MTO) Demonstration is authorized by Congress in the Housing and Community Development Act of 1992. MTO makes use of Section 8 Rental Assistance, in combination with intensive housing search and counseling services, to learn whether moving from low-poverty neighborhoods to a high-poverty community significantly improves the social and economic prospects of poor families. The demonstration has two sets of research goals. First, the demonstration will compare the costs and services of the MTO program with the routine implementation of the Section 8 tenant-based rental assistance program. Second, the demonstration will assess the housing, educational, and employment outcomes of families assisted through the program. HUD will report to Congress biennially on the effectiveness of the demonstration.

Form Number: None.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions, and State, Local, or Tribal Government.

Frequency of Submission: On occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Applicants	2,110		1		.75		1,583
Public Housing Agencies	14		1		205		2,868

Total Estimated Burden Hours: 4,451

Status: Extension, with changes.

Contact: John Goering, HUD, (202) 708–3700 x131; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: September 26, 1997.

[FR Doc. 97–26298 Filed 10–2–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–287]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department if soliciting public comments on the subject proposal.

DATES: Comments due date: November 3, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and

Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 26, 1997.

David S. Cristy,

Acting Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Housing Finance Agency Risk Sharing Program.

Office: Housing.

OMB Approval Number: 2502–0500.

Description of the Need for the Information and Its Proposed Use: Section 542(c) of the Housing and Community Development Act of 1992 directs HUD to insure mortgages underwritten and serviced by Housing Finance Agencies (HFAs). The HFAs will reimburse HUD a certain percentage of any loss under an insured loan depending upon the level of risk the HFA contracts to assume. The required information collection requirements are divided into two categories: Category A requirements relate to information required of the HFAs themselves; and Category B requirements relate to specific projects or mortgagors. The information collected is needed on the projects to insure the mortgages meet statutory requirements and monitor the projects' stability.

Form Number: None.

Respondents: Business or other for-profit and not-for-profit institutions.

Frequency of Submission: Annually and recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Category A	33		2		4.0		264
Category B	83		1		46.5		3,860
Monitoring Reports	330		1		10.5		3,465

Total Estimated Burden Hours: 7,589.

Status: Reinstatement, with changes.

Contact: Flossie Ellison, HUD, (202) 708–0743 x2472; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: September 26, 1997.

[FR Doc. 97–26299 Filed 10–2–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–27]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 3, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 26, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposeal: Recertification of Family Income and Composition, Section 235(b) and Statistical Report for Sections 235 (b), (j) and (i).

Office: Housing.

OMB Approval Number: 2502–0082.

Description of the Need for the Information and its Proposed Use: Recertification forms are submitted by homeowners to mortgages. Mortgagees will use the forms to determine continued eligibility for assistance and determine the amount of assistance a homeowner is to receive. The forms are also used by mortgagees to report statistical and general program data to HUD.

Form Number: HUD–93101 and 93101–A.

Respondents: Individuals or Households and Business or Other For-Profit.

Frequency of Submission: On Occasion, Monthly, and Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–93101	150,000		1.25		1		187,500
HUD–93101–A	962		12		.17		1,962

Total Estimated Burden Hours: 189,462.

Status: Reinstatement, without changes.

Contact: Joseph McCloskey, HUD, (202 708–1719 x2296; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: September 26, 1997.

[FR Doc. 97–26300 Filed 10–2–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4235–N–23]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing-and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLELMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance ACt (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brain Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register,** the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i..e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: ARMY: Mr. Jeff Holste, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22310–3862; (703) 428–6318; ENERGY: Ms. Marsha Penhaker, Department of Energy, Facilities Planning and Acquisition Branch, FM–20, Room 6H–058, Washington, DC 20585; (202) 586–0426; GSA: Mr. Brian K. Polly, Assistant Commissioner,

General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–2059; INTERIOR: Ms. Lola D. Knight, Department of the Interior, 1849 C Street, NW, Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–4080; NAVY: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–7342; (These are not toll–free numbers).

DatedL September 25, 1997.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

Suitable/Available Properties

Buildings (by State)

Colorado

Bldg. T–847
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730209
Status: Unutilized
Comment: 10,286 sq. ft., 2-story, possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–1007
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730210
Status: Unutilized
Comment: 3818 sq. ft., needs repair, possible asbestos/lead paint, most recent use—health clinic, off-site use only

Bldg. T–1342
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730211
Status: Unutilized
Comment: 13,364 sq. ft., possible asbestos/lead paint, most recent use—instruction bldg.

Bldg. T–1641
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730212
Status: Unutilized
Comment: 3663 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. T–6005
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730213
Status: Unutilized
Comment: 19,015 sq. ft., possible asbestos/lead paint, most recent use—warehouse

Bldg. T–6028
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730214
Status: Unutilized
Comment: 10,193 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. T–6049
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730215
Status: Unutilized
Comment: 19,344 sq. ft., possible asbestos/lead paint, most recent use—youth center use only

Bldg. P–6225A
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730216
Status: Unutilized
Comment: 1040 sq. ft., possible asbestos/lead paint, most recent use—garage, off-site use only

Bldg. S–6274
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 219730217
Status: Unutilized
Comment: 4751 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Georgia

Bldg. T–930
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219730218
Status: Unutilized
Comment: 34098 sq. ft., poor condition, most recent use—laundry, off-site use only

Bldg. T–931
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219730219
Status: Unutilized
Comment: 2232 sq. ft., poor condition, most recent use—gas gen. plant, off-site use only

Bldg. T–949
Fort Stewart
Hinesville Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 219730220
Status: Unutilized
Comment: 240 sq. ft., poor condition, most recent use—plant bldg., off-site use only

Hawaii

Bldg. T–450
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219730221
Status: Unutilized
Comment: 672 sq. ft., presence of asbestos/lead paint, most recent use—guest house, off-site use only

Bldg. T–451
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219730222
Status: Unutilized
Comment: 1348 sq. ft., presence of asbestos/lead paint, most recent use—guest house, off-site use only

Bldg. T–452
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219730223
Status: Unutilized
Comment: 672 sq. ft., presence of asbestos/lead paint, most recent use—guest house, off-site use only

Bldg. T–453
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219730224
Status: Unutilized
Comment: 1348 sq. ft., presence of asbestos/lead paint, most recent use—guest house, off-site use only

Bldg. T–454
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219730225
Status: Unutilized
Comment: 672 sq. ft., presence of asbestos/lead paint, most recent use—guest house, off-site use only

Bldg. T–455
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219730226
Status: Unutilized
Comment: 1348 sq. ft., presence of asbestos/lead paint, most recent use—guest house, off-site use only

Bldg. T–456
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219730227
Status: Unutilized
Comment: 672 sq. ft., presence of asbestos/lead paint, most recent use—guest house, off-site use only

Bldg. T–457
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219730228
Status: Unutilized
Comment: 1348 sq. ft., presence of asbestos/lead paint, most recent use—guest house, off-site use only

Bldg. T–458
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219730229
Status: Unutilized
Comment: 672 sq. ft., presence of asbestos/lead paint, most recent use—guest house, off-site use only

Bldg. T–459
Fort Shafter
Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219730230
Status: Unutilized
Comment: 1348 sq. ft., presence of asbestos/lead paint, most recent use—guest house, off-site use only

Bldg. T–460
Fort Shafter

Honolulu Co: Honolulu HI 96819–
Landholding Agency: Army
Property Number: 219730231
Status: Unutilized
Comment: 1348 sq. ft., presence of asbestos/lead paint, most recent use—guest house, off-site use only

Illinois

Bldg. 603030018
Argonne National Laboratory
Argonne Co: DuPage IL 60439–
Landholding Agency: Energy
Property Number: 419730002
Status: Excess
Comment: 1640 sq. ft., reinforced concrete, needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 006
Argonne National Laboratory
Argonne Co: DuPage IL 60439–
Landholding Agency: Energy
Property Number: 419730003
Status: Excess
Comment: 19,000 sq. ft., metal quonset, needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 026
Argonne National Laboratory
Argonne Co: DuPage IL 60439–
Landholding Agency: Energy
Property Number: 419730004
Status: Excess
Comment: 2300 sq. ft., cement block walls, needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 028
Argonne National Laboratory
Argonne Co: DuPage IL 60439–
Landholding Agency: Energy
Property Number: 419730005
Status: Excess
Comment: 2800 sq. ft., concrete block, needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 809
Argonne National Laboratory
Argonne Co: DuPage IL 60439–
Landholding Agency: Energy
Property Number: 419730006
Status: Excess
Comment: 5425 sq. ft., metal quonset, needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 826
Argonne National Laboratory
Argonne Co: DuPage IL 60439–
Landholding Agency: Energy
Property Number: 419730007
Status: Excess
Comment: 800 sq. ft., metal, needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 829
Argonne National Laboratory
Argonne Co: DuPage IL 60439–
Landholding Agency: Energy
Property Number: 419730008
Status: Excess
Comment: 3035 sq. ft., metal, needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 829A
Argonne National Laboratory
Argonne Co: DuPage IL 60439–
Landholding Agency: Energy
Property Number: 419730009
Status: Excess
Comment: 195 sq. ft., metal, needs repair, presence of asbestos/lead paint, off-site use only

Kansas

Bldg. P–138
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219730232
Status: Unutilized
Comment: 5087 sq. ft., 2-story, possible asbestos/lead paint, most recent use—battalion hdqtrs., off-site use only

Bldg. P–139
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219730233
Status: Unutilized
Comment: 1798 sq. ft., possible asbestos/lead paint, most recent use—brigade hdqtrs., off-site use only

Bldg. S–402
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219730234
Status: Unutilized
Comment: 2792 sq. ft., possible asbestos/lead paint, most recent use—hospital clinic, off-site use only

Bldg. S–404
Fort Leavenworth
Leavenworth KS 66027–
Landholding Agency: Army
Property Number: 219730235
Status: Unutilized
Comment: 4795 sq. ft., possible asbestos/lead paint, most recent use—hospital clinic, off-site use only

Louisiana

Bldg. 7401
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730236
Status: Unutilized
Comment: 1688 sq. ft., most recent use—classroom, off-site use only

Bldg. 7402
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730237
Status: Unutilized
Comment: 1675 sq. ft., most recent use—admin/supply, off-site use only

Bldg. 7403
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730238
Status: Unutilized
Comment: 2093 sq. ft., most recent use—admin/supply, off-site use only

Bldg. 7404
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730239
Status: Unutilized
Comment: 2093 sq. ft., most recent use—admin/supply, off-site use only

Bldg. 7405
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730240
Status: Unutilized
Comment: 1922 sq. ft., most recent use—recreation, off-site use only

Bldg. 7406
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730241
Status: Unutilized
Comment: 1675 sq. ft., most recent use—storage, off-site use only

Bldg. 7407
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730242
Status: Unutilized
Comment: 2093 sq. ft., most recent use—admin/supply, off-site use only

Bldg. 7408
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730243
Status: Unutilized
Comment: 2093 sq. ft., most recent use—admin/supply, off-site use only

Bldg. 7412
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730244
Status: Unutilized
Comment: 1029 sq. ft., most recent use—admin., off-site use only

Bldg. 7419
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730245
Status: Unutilized
Comment: 2777 sq. ft., most recent use—classroom, off-site use only

Bldg. 7423
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730246
Status: Unutilized
Comment: 4073 sq. ft., most recent use—barracks, off-site use only

Bldg. 7424
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730247
Status: Unutilized
Comment: 4073 sq. ft., most recent use—barracks, off-site use only

Bldg. 7425
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730248
Status: Unutilized
Comment: 4073 sq. ft., most recent use—barracks, off-site use only

Bldg. 7437
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730249
Status: Unutilized
Comment: 4073 sq. ft., most recent use—barracks, off-site use only

Bldg. 7438
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730250
Status: Unutilized
Comment: 4073 sq. ft., most recent use—barracks, off-site use only

Bldg. 7453
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730251
Status: Unutilized
Comment: 1029 sq. ft., most recent use—admin., off-site use only

Bldg. 7454
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730252
Status: Unutilized
Comment: 1922 sq. ft., most recent use—dining facility, off-site use only

Bldg. 7455
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730253
Status: Unutilized
Comment: 2093 sq. ft., off-site use only

Bldg. 7456
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730254
Status: Unutilized
Comment: 2543 sq. ft., off-site use only

Bldg. 7457
Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 219730255
Status: Unutilized
Comment: 2356 sq. ft., most recent use—dining, off-site use only

Maryland

Bldg. 370
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219730256
Status: Unutilized
Comment: 19,583 sq. ft., most recent use—NCO club, possible asbestos/lead paint

Bldg. 2424
Fort Meade
Ft. Meade Co: Anne Arundel MD 20755–5115
Landholding Agency: Army
Property Number: 219730257
Status: Unutilized
Comment: 2284 sq. ft., most recent use—admin., possible asbestos/lead paint

Bldg. 0716A
Aberdeen Proving Ground Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730258
Status: Unutilized
Comment: 66 sq. ft., concrete, most recent use—ordnance facility, off-site use only

Bldg. 0716C
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730259
Status: Unutilized
Comment: 49 sq. ft., most recent use—pump station, off-site use only

Bldg. 00780
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730260
Status: Unutilized
Comment: 360 sq. ft., most recent use—storage, off-site use only

Bldg. 0795A
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730261
Status: Unutilized
Comment: 210 sq. ft., presence of asbestos/lead paint, most recent use—storage shed, off-site use only

Bldg. 00895
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730262
Status: Unutilized
Comment: 64 sq. ft., most recent use—storage, off-site use only

Bldgs. 01082–01086
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730263
Status: Unutilized
Comment: 65 sq. ft. each, most recent use—ammunition storage, off-site use only

Bldg. 01133
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730264
Status: Unutilized
Comment: 294 sq. ft. concrete, most recent use—storage, off-site use only

Bldg. 01154
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730265
Status: Unutilized
Comment: concrete, possible lead paint, most recent use—ammunition storage, off-site use only

Bldg. E3225
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730266
Status: Unutilized
Comment: 64 sq. ft., most recent use—guard shack, off-site use only

Bldg. E3349
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730267
Status: Unutilized
Comment: 103 sq. ft., possible lead paint, fuels, oils, most recent use—flammable matl storehouse, off-site use only

Bldg. E3371
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730268
Status: Unutilized
Comment: 256 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. E3488
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730269
Status: Unutilized
Comment: 24 sq. ft., most recent use—guard shack, off-site use only

Bldg. E3513
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730270
Status: Unutilized
Comment: 117 sq. ft., most recent use—storehouse, off-site use only

Bldg. E4015
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730271
Status: Unutilized
Comment: 185 sq. ft., presence of asbestos/lead paint, fuel, oil, most recent use—fuel bldg., off-site use only

Bldgs. E5250, E5251
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730272
Status: Unutilized
Comment: 27/120 sq. ft., possible asbestos/lead paint, most recent use—shed/pump station, off-site use only

Bldg. E5432
Aberdeen Proving Ground
Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219730273
Status: Unutilized
Comment: 33 sq. ft., presence of lead paint, most recent use—flammable matl storehouse, off-site use only

Bldgs. E7224, E7226
Aberdeen Proving Ground Co: Hardford MD 21005–5001
Landholding Agency: Army
Property Number: 219730274
Status: Unutilized
Comment: 218/163 sq. ft., possible lead paint, most recent use—storehouse, off-site use only

Missouri

Bldg. 1226
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730275

Status: Unutilized
Comment: 1600 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1271
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730276
Status: Unutilized
Comment: 2360 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1280
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730277
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 1281
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730278
Status: Unutilized
Comment: 2360 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 1282
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730279
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 1283
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730280
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1284
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730281
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1285
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730282
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 1286
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730283
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1287
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730284
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. 1288
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730285
Status: Unutilized
Comment: 2360 sq. ft., presence of asbestos/lead paint, most recent use—dining facility, off-site use only

Bldg. 1289
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730286
Status: Unutilized
Comment: 1144 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

New Mexico

5 Family Housing Units
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730293
Status: Excess
Comment: 1126 gross sq. ft., each needs major repairs, presence of asbestos, off-site use only

25 Family Housing Units
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730294
Status: Unutilized
Comment: 1264 gross sq. ft., each needs major repairs, presence of asbestos, off-site use only

15 Family Housing Units
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730295
Status: Unutilized
Comment: 1207 gross sq. ft. each, needs major repairs, presence of asbestos, off-site use only

19 Family Housing Units
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730296
Status: Unutilized
Comment: 1426 gross sq. ft. each, needs major repairs, presence of asbestos, off-site use only

2 Family Housing Units
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730297
Status: Unutilized
Comment: 2080 gross sq. ft. each, needs major repairs, presence of asbestos, off-site use only

5 Family Housing Units
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730298
Status: Unutilized
Comment: 2220 gross sq. ft. each, needs major repairs, presence of asbestos, off-site use only

Bldg. 364
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730300
Status: Unutilized
Comment: 1992 sq. ft., presence of asbestos, poor condition, most recent use—office, off-site use only

Bldg. 419
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730301
Status: Unutilized
Comment: 4849 sq. ft., presence of asbestos, most recent use—storehouse, off-site use only

Bldg. 421
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730302
Status: Unutilized
Comment: 6418 sq. ft., presence of asbestos, most recent use—storehouse, off-site use only

Bldg. 1332
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730305
Status: Unutilized
Comment: 3672 sq. ft., presence of asbestos, poor condition, most recent use—bathhouse, off-site use only

Bldg. 1334
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730306
Status: Unutilized
Comment: 83 sq. ft., presence of asbestos, poor condition, most recent use—clorinator bldg., off-site use only

New York

Bldg. 720
U.S. Military Academy
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 219730308
Status: Unutilized
Comment: 28,625 sq. ft., multipurpose bldg., poor condition

Oklahoma

Bldg. T–205
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730343
Status: Unutilized
Comment: 95 sq. ft., possible asbestos/lead paint, most recent use—waiting shelter, off-site use only

Bldg. T–208
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730344
Status: Unutilized
Comment: 20,525 sq. ft., possible asbestos/lead paint, most recent use—training center, off-site use only

Bldg. T–210
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730345
Status: Unutilized
Comment: 19,049 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. T–214
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730346
Status: Unutilized
Comment: 6332 sq. ft., possible asbestos/lead paint, most recent use—training center, off-site use only

Bldgs. T–215, T–216
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730347
Status: Unutilized
Comment: 6300 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–217
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730348
Status: Unutilized
Comment: 6394 sq. ft., possible asbestos/lead paint, most recent use—training center, off-site use only

Bldgs. T–219, T–220
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730349
Status: Unutilized
Comment: 152 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–810
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730350
Status: Unutilized
Comment: 7205 sq. ft., possible asbestos/lead paint, most recent use—hay storage, off-site use only

Bldgs. T–837, T–839
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730351
Status: Unutilized
Comment: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–902
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730352
Status: Unutilized
Comment: 101 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–934
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730353
Status: Unutilized
Comment: 402 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–936
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730354
Status: Unutilized
Comment: 342 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. S–956
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730355
Status: Unutilized
Comment: 1602 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1177
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730356
Status: Unutilized
Comment: 183 sq. ft., possible asbestos/lead paint, most recent use—snack bar, off-site use only

Bldgs. T–1468, T–1469
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730357
Status: Unutilized
Comment: 114 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1470
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730358
Status: Unutilized
Comment: 3120 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1508
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730359
Status: Unutilized
Comment: 3176 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1940
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730360
Status: Unutilized
Comment: 1400 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1944
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730361
Status: Unutilized
Comment: 449 sq. ft., possible asbestos/lead paint, off-site use only

Bldgs. T–1954, T–2022
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730362
Status: Unutilized
Comment: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2180
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730363
Status: Unutilized
Comment: possible asbestos/lead paint, most recent use—vehicle maint. facility, off-site use only

Bldg. T–2184
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730364
Status: Unutilized
Comment: 454 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2185
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730365
Status: Unutilized
Comment: 151 sq. ft., possible asbestos/lead paint, most recent use—fuel storage, off-site use only

Bldgs. T–2186, T–2188, T–2189
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730366
Status: Unutilized
Comment: 1656—3583 sq. ft., possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. T–2187
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730367
Status: Unutilized

Comment: 1673 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2209
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730368
Status: Unutilized
Comment: 1257 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2240, T–2241
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730369
Status: Unutilized
Comment: approx. 9500 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2262, T–2263
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730370
Status: Unutilized
Comment: approx. 3100 sq. ft., possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldgs. T–2271, T–2272
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730371
Status: Unutilized
Comment: 232 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2291 thru T–2296
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730372
Status: Unutilized
Comment: 400 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

5 Bldgs.
Fort Sill
T–2300, T–2301, T–2303, T–2306, T–2307
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730373
Status: Unutilized
Comment: various sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2406
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730374
Status: Unutilized
Comment: 114 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

4 Bldgs.
Fort Sill
#T–2427, T–2431, T–2433, T–2449
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730375
Status: Unutilized
Comment: various sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

3 Bldgs.
Fort Sill
#T–2430, T–2432, T–2435
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730376
Status: Unutilized
Comment: approx. 8900 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–2434
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730377
Status: Unutilized
Comment: 8997 sq. ft., possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. T–2606
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730378
Status: Unutilized
Comment: 3850 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2746
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730379
Status: Unutilized
Comment: 4105 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site use only

Bldgs. T–2800, T–2809, T–2810
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730380
Status: Unutilized
Comment: approx. 19,000 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2922
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730381
Status: Unutilized
Comment: 3842 sq. ft., possible asbestos/lead paint, most recent use—chapel, off-site use only

Bldgs. T–2963, T–2964, T–2965
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730382
Status: Unutilized
Comment: approx. 3000 sq. ft., possible asebestos/lead paint, most recent use—maint. shop, off-site use only

Bldgs. T–3001, T–3006
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730383
Status: Unutilized
Comment: approx. 9300 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–3025
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730384
Status: Unutilized
Comment: 5259 sq. ft., possible asbestos/lead paint, most recent use—museum, off-site use only

Bldg. T–3314
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730385
Status: Unutilized
Comment: 229 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. T–3318, T–3324, T–3327
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730386
Status: Unutilized
Comment: 8832–9048 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–3323
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730387
Status: Unutilized
Comment: 8832 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–3328
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730388
Status: Unutilized
Comment: 9030 sq. ft., possible asbestos/lead paint, most recent use—refuse, off-site use only

Bldgs. T–4021, T–4022
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730389
Status: Unutilized
Comment: 442–869 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–4065
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730390
Status: Unutilized
Comment: 3145 sq. ft., possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldg. T–4067
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730391
Status: Unutilized
Comment: 1032 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–4281
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730392
Status: Unutilized
Comment: 9405 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–4401, T–4402
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730393
Status: Unutilized
Comment: 2260 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

5 Bldgs.
Fort Sill
#T–4403 thru T–4406, T–4408
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730394
Status: Unutilized
Comment: 2263 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site use only

Bldg. T–4407
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730395
Status: Unutilized
Comment: 3070 sq. ft., possible asbestos/lead paint, most recent use—dining facility, off-site use only

4 Bldgs.
Fort Sill
#T–4410, T–4414, T–4415, T–4418
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730396
Status: Unutilized
Comment: 1311 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

5 Bldgs.
Fort Sill
#T–4411 thru T–4413, T–4416 thru T–4417
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730397
Status: Unutilized
Comment: 1244 sq. ft., possible asbestos/lead paint, most recent use—showers, off-site use only

Bldg. T–4421
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730398
Status: Unutilized
Comment: 3070 sq. ft., possible asbestos/lead paint, most recent use—dining, off-site use only

10 Bldgs.
Fort Sill
#T–4422 thru T–4427, T–4431 thru T–4434
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730399
Status: Unutilized
Comment: 2263 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site use only

6 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4436, T–4440, T–4444, T–4445, T–4448, T–4449,
Landholding Agency: Army
Property Number: 219730400
Status: Unutilized
Comment: 1311–2263 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

5 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4441, T–4442, T–4443, T–4446, T–4447
Landholding Agency: Army
Property Number: 219730401
Status: Unutilized
Comment: 1244 sq. ft., possible asbestos/lead paint, most recent use—showers, off-site use only

3 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4451, T–4460, T–4481
Landholding Agency: Army
Property Number: 219730402
Status: Unutilized
Comment: various sq. ft., possible asbestos/lead paint, most recent use—dining, off-site use only

12 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4454, T–4455, T–4457, T–4462, T–4464, T–4465, T–4466, T–4482, T–4483, T–4484, T–4485, T–4486
Landholding Agency: Army
Property Number: 219730403
Status: Unutilized
Comment: 2263 sq. ft., possible asbestos/lead paint, most recent use—barracks, off-site use only

Bldgs. T–4461, T–4479
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730404
Status: Unutilized
Comment: 2265 sq. ft., possible asbestos/lead paint, most recent use—dayroom, off-site use only

5 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4469, T–4470, T–4475, T–4478, T–4480
Landholding Agency: Army
Property Number: 219730405
Status: Unutilized
Comment: 1311–2265 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

4 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–4471, T–4472, T–4473, T–4477
Landholding Agency: Army
Property Number: 219730406
Status: Unutilized
Comment: approx. 1244 sq. ft., possible asbestos/lead paint, most recent use—showers, off-site use only

Bldg. T–4707
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730407
Status: Unutilized
Comment: 160 sq. ft., possible asbestos/lead paint, most recent use—waiting shelter, off-site use only

Bldg. T–5005
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730408
Status: Unutilized
Comment: 3206 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–5041
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730409
Status: Unutilized
Comment: 763 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–5044, T–5045
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730410
Status: Unutilized
Comment: 1798/1806 sq. ft., possible asbestos/lead paint, most recent use—classrooms, off-site use only

4 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: #T–5046, T–5047, T–5048, T–5049
Landholding Agency: Army
Property Number: 219730411
Status: Unutilized
Comment: various sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–5094
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730412
Status: Unutilized
Comment: 3204 sq. ft., possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldg. T–5095
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730413
Status: Unutilized
Comment: 3223 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–5420
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730414
Status: Unutilized

Comment: 189 sq. ft., possible asbestos/lead paint, most recent use—fuel storage, off-site use only

Bldg. T–5595
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730415
Status: Unutilized
Comment: 695 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–5639
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730416
Status: Unutilized
Comment: 10,720 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldgs. T–7290, T–7291
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730417
Status: Unutilized
Comment: 224/840 sq. ft., possible asbestos/lead paint, most recent use—kennel, off-site use only

Bldgs. T–7701, T–7703
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730418
Status: Unutilized
Comment: 1706/1650 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–7775
Fort Still
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730419
Status: Unutilized
Comment: 1452 sq. ft., possible asbestos/lead paint, most recent use—private club, off-site use only

Pennsylvania

Bldg. P–968
Carlisle Barracks
Carlisle Co: Cumberland PA 17013–
Landholding Agency: Army
Property Number: 219730309
Status: Unutilized
Comment: 127 sq. ft., 1-story, concrete/brick, off-site use only

Bldg. 76
Naval Inventory Control Point
Philadelphia Co: Philadelphia PA 19111–5098
Landholding Agency: Navy
Property Number: 779730075
Status: Excess
Comment: 3475 sq. ft., cinder block/metal, most recent use—child care, needs repair, off-site use only

South Carolina

Bldg. 3499
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219730310
Status: Unutilized
Comment: 3724 sq. ft., needs repair, most recent use—admin.

Bldg. E4831
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219730311
Status: Unutilized
Comment: 272 sq. ft., needs repair, most recent use—storage

Bldg. 5418
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219730312
Status: Unutilized
Comment: 3900 sq. ft., needs repair, most recent use—admin.

Bldg. G7357
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219730313
Status: Unutilized
Comment: 49 sq. ft., most recent use—range bldg.

Bldg. H7471
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219730314
Status: Unutilized
Comment: 144 sq. ft., most recent use—range bldg.

Texas

Bldg. T–330
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730315
Status: Unutilized
Comment: 59,149 sq. ft., presence of asbestos/lead paint, historical category, most recent use—laundry, off-site use only

Bldgs. P–605A & P–606A
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730316
Status: Unutilized
Comment: 2418 sq. ft., poor condition, presence of asbestos/lead paint, historical category, most recent use—indoor firing range, off-site use only

Bldg. S–1150
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730317
Status: Unutilized
Comment: 8629 sq. ft., presence of asbestos/lead paint, most recent use—instruction bldg., off-site use only

Bldgs. S–1440–S–1446, S–1452
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730318
Status: Unutilized
Comment: 4200 sq. ft., presence of lead, most recent use—instruction bldgs., off-site use only

4 Bldgs.
Fort Sam Houston
#S–1447, S–1449, S–1450, S–1451
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730319
Status: Unutilized
Comment: 4200 sq. ft., presence of asbestos/lead paint, most recent use—instruction bldgs., off-site use only

Bldg. P–3500
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730320
Status: Unutilized
Comment: 13,921 sq. ft., poor condition, presence of asbestos/lead paint, most recent use—support of firing range, off-site use only

Bldg. T–3551
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730321
Status: Unutilized
Comment: 992 sq. ft., presence of asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldg. T–3552
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730322
Status: Unutilized
Comment: 992 sq. ft., poor condition, presence of asbestos/lead paint, most recent use—storage shed, off-site use only

Bldg. T–3553
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730323
Status: Unutilized
Comment: 992 sq. ft., poor condition, presence of asbestos/lead paint, most recent use—storage shed, off-site use only

Bldg. T–3554
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730324
Status: Unutilized
Comment: 18803 sq. ft., poor condition, presence of lead paint, most recent use—stable, off-site use only

Bldg. T–3556
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730325
Status: Unutilized
Comment: 1300 sq. ft., poor condition, presence of lead paint, most recent use—stable, off-site use only

Bldg. T–3557
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730326
Status: Unutilized
Comment: 992 sq. ft., poor condition, presence of asbestos/lead paint, most recent use—stable, off-site use only

Bldg. P–4115
Fort Sam Houston

San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730327
Status: Unutilized
Comment: 529 sq. ft., presence of asbestos/lead paint historic bldg., most recent use—admin., off-site use only

Bldg. 4205
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730328
Status: Unutilized
Comment: 24,573 sq. ft., presence of asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. T–5112
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730329
Status: Unutilized
Comment: 3663 sq. ft., presence of asbestos/lead paint, historical category, most recent use—post exchange, off-site use only

Bldg. T–5113
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730330
Status: Unutilized
Comment: 2550 sq. ft., presence of asbestos/lead paint, historical bldg., most recent use—medical clinic, off-site use only

Bldg. T–5122
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730331
Status: Unutilized
Comment: 3602 sq. ft., presence of asbestos/lead paint, historical category, most recent use—instruction bldg., off-site use only

Bldg. T–5903
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730332
Status: Unutilized
Comment: 5200 sq. ft., presence of asbestos/lead paint, historical category, most recent use—admin., off-site use only

Bldg. T–5907
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730333
Status: Unutilized
Comment: 570 sq. ft., presence of asbestos/lead paint, historical category, most recent use—admin., off-site use only

Bldg. P–6271
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730334
Status: Unutilized
Comment: 291 sq. ft., presence of asbestos/lead paint, most recent use—pump station, off-site use only

Bldg. T–6284
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730335
Status: Unutilized
Comment: 120 sq. ft., presence of lead paint, most recent use—pump station, off-site use only

Bldg. T–5906
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219730420
Status: Unutilized
Comment: 570 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Virginia

Bldg. 409
Fort Myer
Fort Myer Co: Arlington VA 22211–1199
Landholding Agency: Army
Property Number: 219730336
Status: Unutilized
Comment: 2930 sq. ft., most recent use—storage, off-site use only

Bldg. T–59
Fort Monroe
Fort Monroe VA 23651–
Landholding Agency: Army
Property Number: 219730337
Status: Unutilized
Comment: 3282 sq. ft., wood, off-site use only

Wisconsin

Bldg. 1555
Fort McCoy
Fort McCoy Co: Monroe WI 54656–5163
Landholding Agency: Army
Property Number: 219730338
Status: Unutilized
Comment: 4466 sq. ft., needs rehab, most recent use—fire station, off-site use only

Bldg. 1557
Fort McCoy
Fort McCoy Co: Monroe WI 54656–5163
Landholding Agency: Army
Property Number: 219730339
Status: Unutilized
Comment: 192 sq. ft., most recent use—power plant bldg., off-site use only

Bldg. 1770
Fort McCoy
Fort McCoy Co: Monroe WI 54656–5163
Landholding Agency: Army
Property Number: 219730340
Status: Unutilized
Comment: 4000 sq. ft.metal quonset, most recent use—storage, off-site use only

Bldg. 7164
Fort McCoy
Fort McCoy Co: Monroe WI 54656–5163
Landholding Agency: Army
Property Number: 219730341
Status: Unutilized
Comment: 616 sq. ft., needs rehab, most recent use—storage, off-site use only

Suitable/Unavailable Properties

Buildings (by State)

Missouri

Bldg. 5702
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730287
Status: Unutilized
Comment: 1700 sq. ft., off-site use only

Bldg. 5703
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730288
Status: Unutilized
Comment: 288 sq. ft., off-site use only

Bldg. 5704
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730289
Status: Unutilized
Comment: 136 sq. ft., off-site use only

Bldg. 5705
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730290
Status: Unutilized
Comment: 1000 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 5706
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730291
Status: Unutilized
Comment: 1000 sq. ft., presence of asbestos/lead paint, most recent use—classroom, off-site use only

Bldg. 5707
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219730292
Status: Unutilized
Comment: 1600 sq. ft., most recent use—bleachers, off-site use only

New Mexico

Bldg. 146
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730299
Status: Unutilized
Comment: 20,160 sq. ft., poor condition, most recent use—admin., off-site use only

Bldg. 436
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730303
Status: Unutilized
Comment: 4725 sq. ft., poor condition, most recent use—decontamination shelter, off-site use only

Bldg. 1310
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730304
Status: Unutilized
Comment: 4427 sq. ft., presence of asbestos, poor condition, most recent use—boy scout facility, off-site use only

Bldg. 1769
White Sands Missile Range
White Sands Co: Dona Ana NM 88002–
Landholding Agency: Army
Property Number: 219730307
Status: Unutilized
Comment: 768 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Land (by State)

Arizona

Pima Road Pump Station
Scottsdale Co: Maricopa AZ 85260–
Landholding Agency: Interior
Property Number: 619730002
Status: Excess
Comment: 11.80 acres with city's water distribution facilities, irregular shaped parcel

Idaho

7.74 acre parcel
4 mi SE of Rupert, Lot 13
Rupert Co: Minidoka ID 83350–
Landholding Agency: Interior
Property Number: 619730001
Status: Excess
Comment: encumbered w/private improvements in trepass

Unsuitable Properties

Buildings (by State)

California

Bldg. 391A
Naval Air Weapons Station, Point Mugu
Oxnard Co: Ventura CA 93042–5001
Landholding Agency: Navy
Property Number: 779730070
Status: Unutilized
Reason: Secured Area Extensive deterioration

Oklahoma

Bldg. T–1473
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 219730342
Status: Unutilized
Reason: Other
Comment: gas chamber

Pennsylvania

Bldg. 11
Naval Inventory Control Point
Philadelphia Co: Philadelphia PA 19111–5098
Landholding Agency: Navy
Property Number: 779730071
Status: Excess
Reason: Extensive deterioration

Bldg. 30
Naval Inventory Control Point
Philadelphia Co: Philadelphia PA 19111–5098
Landholding Agency: Navy
Property Number: 779730072
Status: Excess
Reason: Extensive deterioration

Bldg. 31
Naval Inventory Control Point
Philadelphia Co: Philadelphia PA 19111–5098
Landholding Agency: Navy
Property Number: 779730073
Status: Excess
Reason: Extensive deterioration

Bldg. 39
Naval Inventory Control Point
Philadelphia Co: Philadelphia PA 19111–5098
Landholding Agency: Navy
Property Number: 779730074
Status: Excess
Reason: Extensive deterioration

Washington

Everett Federal Building
3002 Colby Avenue
Everett Co: Snohomish WA 98201–
Landholding Agency: GSA
Property Number: 549730026
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–G–WA–1140

[FR Doc. 97–25966 Filed 10–2–97; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1540–01]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for an extension of approval under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. On April 16, 1997, BLM published a notice in the **Federal Register** (62 FR 18645) requesting comments on this collection. The comment period closed on May 15, 1997. BLM received no comments from the public in response to that notice.

OMB is required to respond to this request within 60 days but may respond within 30 days. For maximum consideration, your comments and suggestions should be made within 30 days directly to: the Office of Management and Budget, Interior Desk Officer (1004–0157), Office of Information and Regulatory Affairs, Washington, D.C. 20503. Please provide a copy of your comments to: Bureau of Land Management Clearance Officer (WO–630), Department of the Interior, 1849 C St., N.W., Mail Stop 401 LS, Washington, D.C. 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of BLM, including whether or not the information will have practical utility;

2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical or other forms of information technology.

Title: Cost Reimbursement for Right-of-Way Grants Under the Federal Land Policy and Management Act.

OMB Approval Number: 1004–0157.

Abstract: Right-of-way applicants supply information to aid BLM in determining if they are entitled to a set-off against reimbursement of costs to the Government and the reasonable level of any such set-off, pursuant to 43 CFR 2808.3–2.

Description of Respondents: Applicants who believe that they are eligible for reimbursement reductions for public benefit or service aspects of the proposed right-of-way project.

Estimaed Completion Time: 3 hours per application.

Annual Responses: 14.

Annual Burden Hours: 42.

Bureau Clearance Officer: Carole Smith, (202) 452–0367.

Dated: September 18, 1997.

Carole J. Smith,

Bureau of Land Management Clearance Officer.

[FR Doc. 97–26212 Filed 10–2–97; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–020–1060–00]

Temporary Closure of Public Lands in the Southeastern Portion of Carbon County, MT and the Northern Portion of Big Horn County, WY

AGENCY: Bureau of Land Management (BLM), Montana, Miles City District, Billings Resource Area, Interior.

ACTION: Temporary, rotating closure of designated areas of the Pryor Mountain Wild Horse Range to public access.

SUMMARY: Notice is served that designated areas of the Pryor Mountain Wild Horse Range will be closed to public access on a temporary and rotating basis during the wild horse gather operation scheduled to begin on or about October 20, 1997. It is

anticipated that the gather operation will take approximately two weeks depending on the weather. Upon initiation, gather efforts will focus first on Sykes Ridge, then the Bighorn Canyon National Recreation Area ''Dryhead'' area, and finally Burnt Timber Ridge. As such, it will be necessary to individually close, including road access, either Burnt Timber Ridge or Sykes Ridge for a 3–4 day period during helicopter operation. Only one area will be affected at a time. Gather efforts within the ''Dryhead'' area will be coordinated through the National Park Service. This area will not be closed, but some traffic control may be in effect during actual days of helicopter operation. The public land affected by this rotating closure is located at:

SYKES RIDGE

Principal Meridian, Montana

T. 8 S., R. 28 E.,
Sec. 4: M&B
Sec. 5: M&B
Sec. 8: All
Sec. 9: M&B
Sec. 15: M&B
Sec. 16: All
Sec. 17: All
Sec. 20: All
Sec. 21: W2E2, W2
Sec. 28: W2
Sec. 29: All
Sec. 32: All
Sec. 33: W2, W2SE
T. 9 S., R. 28 E.,
Sec. 4: NWNE, S2NE, W2, SE
Sec. 5: All
Sec. 8: All
Sec. 9: All
Sec. 10: W2SW
Sec. 15: NWNW, S2NW, SW
Sec. 16: All
Sec. 17: All
Sec. 20: All
Sec. 21: All
Sec. 22: W2
Sec. 27: W2
Sec. 28: All
Sec. 29: All
Sec. 32: All
Sec. 33: All
Sec. 34: All

6th Principal Meridian, Wyoming

T. 58 N., R. 95 W.,
Sec. 17: M&B
Sec. 18: All
Sec. 19: All
Sec. 26: M&B
Sec. 27: M&B
Sec. 28: M&B
Sec. 33: M&B
Sec. 34: M&B

BURNT TIMBER RIDGE

Principal Meridian, Montana

T. 8 S., R. 27 E.,
Sec. 12: M&B
Sec. 13: M&B
Sec. 24: M&B
Sec. 25: M&B
Sec. 26: M&B
Sec. 35: M&B
Sec. 36: M&B
T. 9 S., R. 27 E.,
Sec. 1: All
Sec. 2: M&B
Sec. 11: M&B
Sec. 12: All
Sec. 13: All
Sec. 14: M&B
Sec. 23: M&B
Sec. 24: All
Sec. 25: M&B
Sec. 36: M&B
T. 8 S., R. 28 E.,
Sec. 6: E2E2
Sec. 7: M&B
Sec. 18: All
Sec. 19: All
Sec. 30: All
Sec. 31: All
T. 9 S., R. 28 E.,
Sec. 6: All
Sec. 7: All
Sec. 18: All
Sec. 19: All
Sec. 30: All
Sec. 31: All

6th Principal Meridian, Wyoming

T. 58 N., R. 95 W.,
Sec. 18: M&B
Sec. 19: M&B
Sec. 29: M&B

This closure is necessary to ensure the safety and welfare of all participants and observers for this gather, and to protect the wild horses as a natural resource on public lands. Efforts will be made to avoid time periods, such as weekends, of heavier anticipated public use of the range. The helicopter contractor is available to work on weekends, however, and this may be necessary due to temporary weather shut-downs or other unforeseen circumstances.

DATES: Rotating closures will be in effect from on or about October 20, 1997 through the conclusion of the gather operation, anticipated to conclude November 1, 1997 depending on weather conditions.

FOR FURTHER INFORMATION CONTACT: Burton D. Williams, Area Manager, BLM, Billings Resource Area Office, 810 E. Main, Billings, Montana 59105 or call (406) 238–1540.

SUPPLEMENTARY INFORMATION: Authority for this action is outlined in Title 43 Code of Federal Regulations, Subparts 8364 (43 CFR 8364.1). Any person who fails to comply with this closure is subject to arrest and a fine up to $1000 or imprisonment not to exceed 12 months, or both. This closure applies to all persons except persons authorized by the Bureau of Land Management and involved in the gather process.

For the first time, helicopters will be used as the primary tool to gather horses into the Britton Springs Corral Facility at the south end of the Pryor Mountain Wild Horse Range. In order to use the helicopter in a safe and effective manner, it is necessary to close the affected area while the helicopter operation is underway. The wild horses are separated into social groups that occupy three fairly distinct geographic areas of the range including Sykes Ridge, Burnt Timber Ridge and the Bighorn Canyon National Recreation Area ''Dryhead'' area. Gather efforts will be selective and will focus on one subpopulation of horses at a time. It is estimated that use of a helicopter will facilitate the timeliness, such that an average of 3–4 days will be necessary to gather horses from each geographic area.

Dated: September 24, 1997.

Timothy M. Murphy,

District Manager.

[FR Doc. 97–26308 Filed 10–2–97; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–930–07–1320–00]

Notice of Public Hearing and Call for Public Comment

AGENCY: Bureau of Land Management, Utah; Interior.

ACTION: Notice of public hearing and call for public comment on fair market value and maximum economic recovery; coal lease application UTU–71307.

SUMMARY: The Bureau of Land Management (BLM) announces a public hearing on the Environmental Assessment (EA) for a proposed coal lease sale and requests public comment on the fair market value of certain coal resources it proposes to offer for competitive lease sale. The lands included in coal lease application UTU–71307 are located in Emery County, Utah, approximately 15 miles northwest of Huntington, Utah on public land located in the Manti-LaSal National Forest and are described as follows:

T. 16 S., R. 6 E., SLM
Section 1: SE¼;
Section 10: E½E½SE¼;
Section 11: All;
Section 12: All;
Section 13: All;
Section 14: All;
Section 15: E½E½;
Section 22: Lots 1, 2, 4–7, E½NE¼; SW¼NE¼, N½SE¼;
Section 23: N½, N½S½;
Section 24: N½;
T. 16 S., R. 7 E., SLM

Section 6: Lots 5–8, S½SE¼;
Section 7: All;
Section 8: NW¼NW¼;
Section 18: Lots 1–2, NE¼.

Containing 5,563 acres more or less.

The Tract has two potentially minable coal seams including, the Hiawatha and the Blind Canyon. The minable portions of the seams in this area are from 6 to 12 feet in thickness. This tract contains an estimated 60–65 million tons of recoverable high-volatile bituminous coal. The range of coal quality in the seams on an as received basis is as follows: 12,800–13,300 Btu/lb., 4–5.25 percent moisture, 4.7–8.8 percent ash, 42–44 percent volatile matter, 45–46 percent fixed carbon, and 0.6–0.65 percent sulfur. The public is invited to the hearing to make public or written comments on the Environmental Analysis concerning the proposal to lease the Mill Fork Tract, and also to submit comments on the fair market value (FMV) and the maximum economic recovery (MER) of the tract.

SUPPLEMENTARY INFORMATION: In accordance with Federal coal management regulations 43 CFR 4322 and 4325, a public hearing shall be held on the proposed sale to allow public comment on and discussion of the potential effects of mining and proposed lease. Not less than 30 days prior to the publication of the notice of sale, the Secretary shall solicit public comments on fair market value appraisal and maximum economic recovery and on factors that may affect these two determinations. Proprietary data marked as confidential may be submitted to the Bureau of Land Management in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information. A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the Bureau of Land Management, Utah State Office during regular business hours (8:00 a.m. to 4:00 p.m.) Monday through Friday. Comments on fair market value and maximum economic recovery should be sent to the Bureau of Land Management and should address, but not necessarily be limited to, the following information:

1. The quality and quantity of the coal resource.

2. The mining method or methods which would achieve maximum economic recovery of the coal, including specifications of seams to be mined and the most desirable timing and rate of production.

3. The quantity of coal.

4. If this tract is likely to be mined as part of an existing mine and therefore be evaluated on a realistic incremental basis, in relation to the existing mine to which it has the greatest value.

5. If this tract should be evaluated as part of a potential larger mining unit and evaluated as a portion of a new potential mine (i.e., a tract which does not in itself form a logical mining unit).

6. The configuration of any larger mining unit of which the tract may be a part.

7. Restrictions to mining which may affect coal recovery.

8. The price that the mined coal would bring when sold.

9. Costs, including mining and reclamation, of producing the coal and the time of production.

10. The percentage rate at which anticipated income streams should be discounted, either in the absence of inflation or with inflation, in which case the anticipated rate of inflation should be given.

11. Depreciation and other tax accounting factors.

12. The value of any surface estate where held privately.

13. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area.

14. Any comparable sales data of similar coal lands.

Coal quantities and the FMV of the coal developed by BLM may or may not change as a result of comments received from the public and changes in market conditions between now and when final economic evaluations are completed.

DATES: The public hearing will be held in the conference room at the Museum of the San Rafael (64 North 100 East) Castle Dale, Utah, at 7:00 p.m., on November 4, 1997. Written comments on fair market value and maximum economic recovery must be received at the Bureau of Land Management, Utah State Office, by November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Max Nielson, 801–539–4038, Bureau of Land Management, Utah State Office, Division of Natural Resources, P.O. Box 45155, Salt Lake City, Utah, 84145–0155. Copies of the Mill Fork EA may be obtained by contacting Janette Kaiser, Forest Supervisor at the Manti-LaSal National Forest, 599 West Price River Dr. in Price, Utah (801–637–2817).

Dated: September 29, 1997.

Douglas M. Koza,

DSD, Natural Resources, Utah.

[FR Doc. 97–26241 Filed 10–2–97; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Oil and Gas Leasing Analysis; Helena & Deerlodge National Forests, MT Counties: Lewis and Clark, Powell, Jefferson, Broadwater, and Meagher. State: Montana

AGENCIES: Forest Service, USDA & Bureau of Land Management, USDI.

ACTION: Notice; extension of public review period for the draft supplement to the Final Environmental Impact Statement (FEIS) for the Helena National Forest and Elkhorn Portion of the Deerlodge National Forest Oil and Gas Leasing Analysis.

SUMMARY: The period of public review for the draft supplement to the FEIS for the Helena National Forest and Elkhorn Portion of the Deerlodge National Forest Oil and Gas Leasing Analysis has been extended to October 29, 1997. The USDA Forest Service and USDI Bureau of Land Management as joint lead agencies agree to extend the public review an additional 30 days from September 29, 1997 to October 29, 1997.

DATES: This action is effective October 3, 1997.

ADDRESSES: Thomas J. Clifford, Forest Supervisor, Helena National Forest, 2880 Skyway Drive, Helena, Mt. 59601; and Larry E. Hamilton, State Director, USDA—Bureau of Land Management, Montana State Office, 222 North 32nd Street, P.O. Box 36800, Billings, MT 59107–6800.

FOR FURTHER INFORMATION CONTACT:

Tom Andersen, Helena National Forest, 2880 Skyway Drive, Helena, Mt. 59601; phone (406) 449–5201, ext 277.

Dated: September 26, 1997.

Dwight Chambers,

Acting Forest Supervisor, Helena National Forest.

Dated: September 29, 1997.

Janet Singer,

Acting State Director, Montana State Office.

[FR Doc. 97–26242 Filed 10–2–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–030–07–1820–00–1784]

Southwest Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Resource Advisory Council Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C.), notice is hereby given that the Southwest Resource Advisory Council (Southwest RAC) will meet on Thursday, November 13, 1997, at the Anasazi Heritage Center near Dolores, Colorado.

DATES: The meeting will be held on Thursday, November 13, 1997.

ADDRESSES: For additional information, contact Roger Alexander, Bureau of Land Management, Montrose District Office, 2465 South Townsend Avenue, Montrose, Colorado 81401; telephone 970–240–5335; TDD 970–240–5366; e-mail r2alexan@co.blm.gov

SUPPLEMENTARY INFORMATION: The November 13, 1997, meeting will begin at 9:00 a.m. at the Anasazi Heritage Center, 27501 Highway 184, three miles west of Dolores, Colorado. The agenda will include a summary of the fee pilot program at the Heritage Center, status reports on sage grouse planning efforts in Dry Creek Basin and the abandoned mine land reclamation effort in the upper Animas River drainage, and discussion on recreation guidelines. Time will be provided for public comments.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. If necessary, a per-person time limit may be established by the Montrose District Manager.

Summary minutes for Council meetings are maintained in the Montrose District Office and on the World Wide Web at http://www.co.blm.gov/mdo/mdo__sw__rac.htm and are available for public inspection and reproduction within thirty (30) days following each meeting.

Dated: September 26, 1997.

Mark W. Stiles,

District Manager.

[FR Doc. 97–26307 Filed 10–2–97; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–070–1220–00]

Restrictions on Public Land; San Juan, Rio Arriba and Sandoval Counties, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of use restrictions.

SUMMARY: In order to reduce the impacts to various resources caused by the high number of open roads and the use of off-highway vehicles in the Farmington District, use restrictions are announced by the Farmington District. Effective immediately, vehicle travel is limited to designated roads and trails within the 13 Off-Highway Vehicle (OHV) management units designated in the Farmington Proposed Resource Management Plan Amendment/Environmental Assessment Off-Highway Vehicle Use, as specified in the Decision Record which was approved in July of 1995. The 13 management units include a total of almost 500,000 acres of public land.

FOR FURTHER INFORMATION CONTACT: John Hansen, BLM Farmington District Office, 1235 La Plata Highway, Suite A, Farmington, NM 87401; 505–599–6325.

SUPPLEMENTARY INFORMATION: The Resource Management Plan Amendment (RMPA) was completed and approved with extensive public involvement. The purpose of the amendment was to protect resource values such as wildlife habitat, soil, cultural sites and threatened and endangered species. The management units are listed below,

1. Tank Mountain/Pump Canyon
2. Middle Mesa
3. Rosa Mesa
4. Sims Mesa
5. Laguna Seca
6. Largo/Carrizo
7. Gallo Canyon
8. North Huerfano
9. Pinon Mesa
10. Kiffen Canyon
11. Manzanares Mesa
12. Blanco Mesa
13. Rincon Largo

A map showing the specific location of the management units is available for viewing at the Farmington District Office located in Farmington, New Mexico at 1235 La Plata Highway.

Off Highway Vehicle management plans will be written for each of the management units as funding and personnel allow. Closures will be enforced as signing is completed. The management plan for the Rosa Mesa area was completed in June of 1996.

Authority for these closures is found in 43 CFR part 8364. Any person who fails to comply with a closure issued under 43 CFR part 8364 may be subject to the penalties provided in 43 CFR 8360.0–7: violations are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Lee Otteni,

District Manager.

[FR Doc. 97–26240 Filed 10–2–97; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

TITLE: Office of Indian Royalty Assistant Customer Satisfaction Survey Postcard.

COMMENTS: This collection of information has been submitted to the Office of Management and Budget (OMB) for approval. In compliance with the Paperwork Reduction Act of 1995, Section 3506(c)(2)(A), we are notifying you, members of the public and affected agencies, of this collection of information, and are inviting your comments. Is this information collection necessary for us to properly do our job? Have we accurately estimated the public's burden for responding to this collection? Can we enhance the quality, utility, and clarify of the information we collect? Can we lessen the burden of this information collection on the respondents by using automated collection techniques or other forms of information technology?

Comments should be made directly to the Attention: Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone (202) 395–7340. Comments should also be directed to the agency. The U.S. Postal Service address is Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165; the courier address is Building 85, Room A–613, Denver Federal Center, Denver, Colorado 80225; and the E-mail address is David__Guzy@mms.gov. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, public comments should be submitted to OMB within 30 days in order to assure their maximum consideration.

Copies of the proposed information collection and related explanatory material may be obtained by contacting Dennis C. Jones, Rules and Publications Staff, telephone (303) 231–3046, FAX (303) 231–3385, E-mail Dennis__Jones@mms.gov.

DATES: Written comments should be received on or before November 3, 1997.

SUMMARY: The Minerals Management Service's Office of Indian Royalty Assistance (OIRA) is soliciting comments from Indian mineral owners to determine the effectiveness of its services. OIRA will use this information to develop and implement new procedures to improve and streamline its services.

Individual Indian mineral owners are requested to respond, using a customer comment postcard, to three questions by checking ''Yes'' or ''No'' boxes and to a fourth question with a written response. The four questions are: 1. Did we answer your questions? 2. Did we respond timely? 3. Did we treat you courteously? 4. How can we improve our service? We estimate that it takes about 2 minutes to respond to these questions and that approximately 60 respondents will respond annually.

Description of Respondents: Individual Indian mineral owners.

Frequency of Response: Upon request after receiving assistance from the Office of Indian Royalty Assistance.

Estimated Reporting and Recordkeeping Burden: 2 minutes.

Annual Responses: 60 responses.

Annual Burden Hours: 2 hours.

Bureau Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: September 22, 1997.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 97–26237 Filed 10–2–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

30-Day Notice of Submission to OMB—Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service, Land and Water Conservation Fund State Assistance and Urban Park and Recreation Recovery Programs.

ACTION: Notice of submission to OMB and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507) and 5 CFR part 1320, Reporting and Recordkeeping Requirements, the National Park Service invites public comments on eight information collection requests (ICR) for the Land and Water Conservation Fund (LWCF) and Urban Park and Recreation Recovery (UPARR) grant programs as described below. Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including use of automated collection techniques or other forms of information technology.

1. LWCF Description and Notification (DNF, NPS 10–903, OMB 1024–0031). The DNF is necessary to provide data input into the NPS automated project information system which provides timely data on projects funded over the life of the LWCF program. *Respondents:* 56 State governments, DC and territories. *Estimated Annual Reporting Burden:* 13 hours. *Estimated Average Burden Hours Per Response:* 0.25 hours. *Estimated Frequency of Response:* 50 nationwide.

2. LWCF Program Performance Report (OMB 1024–0032). As required by OMB Circular A–102, grantees must submit performance reports which describe the status of the work required under the project scope. *Respondents:* 56 State governments, DC and territories. *Estimated Annual Reporting Burden:* 690 hours. *Estimated Average Burden Hours Per Response:* 1.0 hours. *Estimated Frequency of Response:* 690 nationwide.

3. LWCF Project Agreement and Amendment Form (NPS 10–902 and 10–902a, respectively, OMB 1024–0033). The Project Agreement and Amendment forms set forth the obligations assumed by the State through its acceptance of Federal assistance under the LWCF Act and any special terms and conditions. *Respondents:* 56 State governments, DC and territories. *Estimated Annual Reporting Burden:* 70 hours. *Estimated Average Burden Hours Per Response:* 1.0 hours. *Estimated Frequency of Response:* 70 nationwide.

4. LWCF On-Site Inspection Report (OMB 1024–0034). The On-Site Inspection Reports are used to insure compliance by grantees with applicable Federal laws and program guidelines, and to insure the continued viability of the funded site. *Respondents:* 56 State governments, DC and territories. *Estimated Annual Reporting Burden:* 3,000 hours. *Estimated Average Burden Hours Per Response:* 0.5 hours. *Estimated Frequency of Response:* 6,000 nationwide.

5. LWCF Conversion of Use Provisions (OMB 1024–0047). To convert assisted sites to other than public outdoor recreation, LWCF project sponsors must provide relevant information necessary to comply with section 6(f)(3) of the LWCF Act of 1965. *Respondents:* 56 State governments, DC and territories. *Estimated Annual Reporting Burden:* 1,750 hours. *Estimated Average Burden Hours Per Response:* 35 hours. *Estimated Frequency of Response:* 50 nationwide.

6. UPARR Project Performance Report (OMB 1024–0028). As required by OMB Circular A–102, grant recipients must submit performance reports which describe the status of the work required under the project scope. *Respondents:* Urban cities and counties. *Estimated Annual Reporting Burden:* 250 hours. *Estimated Average Burden Hours Per Response:* 1.5 hours. *Estimated Frequency of Response:* 165 nationwide.

7. UPARR Conversion of Use Provisions (OMB 1024–0048). To convert assisted sites to other than public outdoor recreation, UPARR project sponsors must provide relevant information necessary to comply with section 1010 of the UPARR Act of 1978. *Respondents:* Urban cities and counties. *Estimated Annual Reporting Burden:* 75 hours. *Estimated Average Burden Hours Per Response:* 25 hours. *Estimated Frequency of Response:* 3 nationwide.

8. UPARR Project Agreement and Amendment Form (NPS 10–912 and 10–915, respectively, OMB 1024–0089). The Project Agreement and Amendment forms set forth the obligations assumed by grant recipients through their acceptance of Federal assistance under the UPARR Act and any special terms and conditions. *Respondents:* Urban cities and counties. *Estimated Annual Reporting Burden:* 20 hours. *Estimated Average Burden Hours Per Response:* 1.0 hours. *Estimated Frequency of Response:* 20 nationwide.

There were no public comments received as a result of publishing on July 25, 1997 in the **Federal Register** a 60-day notice of intention to request clearance for this ICR.

DATES: Public comments on these eight proposed ICRs will be accepted on or before November 3, 1997.

ADDRESSES: Send comments to: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20503; and also to: Mr. Kenneth R. Compton, Acting Program Manager, Recreation Grants, National Park Service

(2225), P.O. Box 37127, Washington, DC 20013–7127.

Diane M. Cooke,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 97–26266 Filed 10–2–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Director's Order Concerning Relationships Between the National Park Service and Cooperating Associations

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: The National Park Service (NPS) is converting and updating its current system of internal instructions to a three-level system consisting of: (1) NPS Management Policies; (2) Director's Orders; and (3) Reference Manuals/Handbooks and other helpful information. When these documents contain new policy or procedural requirements that may affect parties outside the NPS, this information is being made available for public comment. Director's Order #32 establishes operational policies and procedural guidance concerning relationships between the NPS and Cooperating Associations. Cooperating Associations are private, nonprofit organizations that provide educational services in many areas of the National Park System.

DATES: Written comments will be accepted until November 3, 1997.

ADDRESSES: Send comments to Glenn Clark, Servicewide Cooperating Association Coordinator, Room 7312, National Park Service, 1849 C Street NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Glenn Clark at 202–565–1058.

SUPPLEMENTARY INFORMATION:

Director's Order, #32: Cooperating Associations

1. Purpose and objective

Cooperating Associations (Associations) are private nonprofit corporations established under state law. They support the educational, scientific, historical, and interpretive activities of the National Park Service (Service) in a variety of ways, under the provisions of formal agreements with the Service. For many years, Associations have been among the Service's most effective supporters. This Director's Order is intended to help ensure the success of the relationship between the Service and Associations by specifying operational policies and procedural requirements governing relationships between the Service and Associations. In combination with Reference Manual #32, it supersedes and replaces the Cooperating Associations Guideline (NPS–32) and instructional memoranda that have been issued in years past.

This ''Level 2'' Director's Order is not intended to document all the NPS's policies, procedures, practices and requirements applicable to relationships with Associations. For a comprehensive compilation of those materials, employees must refer to the ''Level 3'' Cooperating Association Reference Manual issued by the Associate Director, Park Operations and Education. The ''Level 1'' NPS Management Policies remain applicable and serve as the basic foundation for the Level 2 and Level 3 documents.

2. Authorities

16 U.S.C. Sec 1–3, 6, 17j–2(e).

3. Policies/Instructions/Requirements

3.1 The Associate Director, Park Operations and Education is delegated the responsibility to issue a reference manual outlining specific procedures that support policy, mandatory requirements and operational procedures.

3.2 Authority to designate associations. Where an Association serves one or more park areas within a region, authority to designate an Association is delegated to the regional director and may not be redelegated to superintendents. When an Association serves park areas in more than one region, designation authority resides with the Director, National Park Service.

3.3 Tax exempt status. Associations must obtain and maintain recognition by the Internal Revenue Service of tax exemption under Section 501(c)(3) of the Internal Revenue Code to operate in areas of the National Park System.

3.4 Service employee's role.

3.4.1 Ethical conduct. In dealing with Associations, all Service staff must comply with 5 CFR Part 2635, ''Standards of Ethical Conduct for Employees of the Executive Branch.''

3.4.2 Relation to boards. 3.4.2a Service employees may not serve on Association boards, even in an ex-officio capacity, and may not participate in Association Decisions concerning the relationship of the Association to the Service, or represent the Association in business transactions or operations. However, as authorized by Public Law 79–633, Service employees may assist Association operations.

3.4.2b Service representatives may attend Association meetings in an advisory, non-voting capacity, but may not participate in executive sessions of an Association board unless invited.

3.5 The Associate Director, Park Operations and Education will develop a standard, non-negotiable Cooperating Association Agreement. This agreement will incorporate the policy and procedural requirements set forth in this Director's Order, the provisions listed below, and any additional requirements imposed by higher authorities or by the Associate Director, Park Operations and Education, where specifically authorized by this Director's Order. Service related activities performed by Associations not addressed in the Agreement must be addressed in supplemental agreements.

3.5.1 Association responsibilities. 3.5.1a Association boards of directors will notify the Service of board meetings and will invite appropriate Service representatives to board meetings and to appropriate committee meetings.

3.5.1b Association employees are not authorized to undertake any government function or activity on behalf of the Service beyond routine visitor information services or other activities authorized by the Cooperating Association Agreement, supplements to the agreement, or agreements for voluntary services.

3.5.1c If Association employees perform functions normally carried out by Service employees other than under 3.5.1b, they must do so as Service volunteers (VIPs).

3.5.1d Associations may not use the ''Agreement for Voluntary Services'' to circumvent any requirements for insurance coverage included in the Cooperating Association Agreement or in this Order.

3.5.1e Association employees may not engage in activities that would lead the public to reasonably conclude that they are government employees. Association employees who engage in public contact must wear some readily identifiable indication of Association affiliation, but Association employees may not wear Service or other government uniforms.

3.5.2 Sales activities.

3.5.2.1 General Requirements.

3.5.2.1a Sales must support the purposes of Associations as stated in their articles of incorporation.

3.5.2.1b Associations must display a sign that identifies the sales outlet as a nonprofit activity of the officially approved Association for the site.

3.5.3 Sales item approval.

3.5.3a Items sold in park areas, through mail order catalogs, and at off-site sales outlets (excluding those sales outlets operated by an Association in partnership with other government entities) must be approved in advance by the superintendent for price, quality, interpretive value, and accuracy.

3.5.3b The sales of visitor convenience items must be conducted under the authority of the Concessions Policy Act and must be managed in the same manner as concession permits/contracts issued to concessioners. However, Associations must relinquish any preferential right to the renewal of those permits.

3.5.3c Associations may not sell material that violates conservation principles of the Service.

The sale of original prehistoric or historic artifacts or paleontological specimens is prohibited. Replicas of such artifacts and specimens must be clearly labeled as such.

3.5.3d Craft items represented as being Indian-made shall be sold in accordance with the Indian Arts and Crafts Act of 1990 (Pub. L. 101-644 [104 Stat. 4662], November 29, 1990).

3.5.3e Paid advertising in sales items (i.e., journals with advertising) must be incidental to the interpretive value or message of an item. Advertising or vendor information may not imply endorsement by the Service.

3.5.4 Off-site sales operations.

3.5.4.a Associations must obtain Service approval before commencing business operations in off-site sales outlets that do not serve other government entities.

3.5.4b An Association must consult with the Service when considering operating an off-site sales outlet for another government entity.

3.5.4c The superintendent will periodically review the off-site sales activities of Associations to ensure that Service interests are protected.

3.5.5 Interpretive activities.

3.5.5a Interpretive activities conducted by Associations in parks must be approved in advance by the Service.

3.5.5b The Association and the superintendent of the affected park area will establish standard operating procedures for conducting interpretive programs and activities.

3.5.5c All interpretive programs conducted by Associations on behalf of the Service will be audited by the Service for content, accuracy, and effective delivery.

3.5.5d The Service will assist the Association in providing training to Association staff appropriate to their interpretive activities.

3.5.5e Any fees charged must first be approved by the park superintendent.

3.5.5f Collections of fees for fee interpretation must meet Service standards for accountability and security of funds.

3.5.6 Facilities and equipment.

3.5.6a The Service will provide Associations with suitable sales areas and other facilities to conduct business. The Service reserves the right to relocate or withdraw any such facilities (upon reasonable notice) in order to meet the needs of the Service.

3.5.6b The Service will reserve the right to conduct inspections of provided facilities whenever it deems necessary.

3.5.6c The Service will provide Associations with routine maintenance and repair services and utilities such as water, electricity, heat, and air conditioning at each assigned facility, to the extent these services and utilities are required for the operation of the building for governmental purposes. Other maintenance and repair services and utilities will be provided by the Association or provided to the Association by the Service on a reimbursable basis.

3.5.6d The Service and Association will negotiate a maintenance and operations plan for those facilities governed by a supplemental agreement.

3.5.6e All Association plans for construction, redesign, or renovation of in-park facilities must be approved in advance by the Service, and must be implemented in accordance with the Service's normal design and construction procedures.

3.5.6f If buildings are constructed on Service property by Associations, the buildings must be the property of the Service.

3.5.6g When the Service designs and constructs new facilities that will house Association activities, the Association will be included in the planning and design and will be given the opportunity to review and comment on preliminary and final design plans.

3.6.6h With prior approval from the superintendent, Associations are permitted incidental use of government-owned or leased vehicles, provided that the use is solely for work authorized under the Cooperating Association Agreement or associated supplemental agreements.

3.5.7 Postage.

Associations may not use government postage.

3.5.8 Administrative requirements.

3.5.8a Audit.

A financial statement audit is required for Associations with annual gross revenue of $1,000,000 or more; a financial statement review is required for Associations with gross revenue of $250,000 to $1,000,000. For additional information refer to RM–32.

3.5.8b Annual Report.

Each Association must submit an annual financial report consisting of the NPS Form 10–40, IRS Form 990 (or 990EZ and 990T, if appropriate), a copy of the year's audited or reviewed financial statement, and a brief narrative of the year's activities and accomplishments.

3.5.8c Insurance.

Each Association must carry adequate liability insurance with a minimum of $100,000.00 protection unless more is prescribed by the Service. In addition, The United States of America will be named as an additional insured on all such policies.

3.6 Future cooperating association agreements

The following provisions are effective immediately, and will be incorporated into the standard Cooperating Association Agreement when it is revised in 1999:

3.61 Donations to associations.

3.6.1a Donations will be governed by Director's Order #21—Donations and Fundraising.

3.6.1b Associations will accept donations only for the purposes described in their articles of incorporation.

3.6.1c When an Association accepts a donation on behalf of the Service, the Association is accountable to the donor for the use of the funds.

3.6.2 Donations from associations.

3.6.2a The level of aid to the Service appropriate to each Association must be determined jointly by the Association and the NPS based upon the nature and extent of the Association's activities and the needs of the Service.

3.6.2b Regional Directors are delegated the authority and responsibility to approve donations in the following categories before they are accepted:

1. Major research projects
2. Land acquisitions
3. Interpretive/educational facilities
4. Historic preservation/restoration projects

3.6.2c Service managers will not accept donations from Associations to fund any government personnel salaries.

3.6.2d When the Service accepts a donation from an Association, timely completion of the funded project and fund accountability are required, and a report made to the Association upon request.

3.6.3 Fundraising by cooperating associations.

3.6.3a Fundraising by Associations will be governed by Director's Order #21—Donations and Fundraising.

Bob Huggins,

Acting Program Manager, Interpretation and Education Division.

[FR Doc. 97–26265 Filed 10–2–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the Coconino National Forest, United States Forest Service, Flagstaff, AZ

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects in the control of the Coconino National Forest, United States Forest Service, Flagstaff, AZ.

A detailed assessment of the human remains was made by U.S. Forest Service, Arizona State Museum, Arizona State University, Museum of Northern Arizona, Northern Arizona University, Peabody Museum of Archaeology and Ethnology (Harvard University), the Southwest Museum, and University of Illinois Urbana-Champaign professional staff in consultation with representatives of the Havasupai Tribe, the Hopi Tribe, the Hualapai Tribe, the Pueblo of Zuni, and the Yavapai-Prescott Indian Tribe.

In 1916, human remains representing one individual were removed without permit from Chavez Pass Ruin, Coconino National Forest by Mrs. Blanche Dougan, who donated the remains to the Southwest Museum. No known individual was identified. No associated funerary objects are present.

Prior to 1934, human remains representing four individuals were removed from Chavez Pass Ruin by George Woodbury and Gila Pueblo staff and donated in 1934 to the Peabody Museum of Archaeology and Ethnology, Harvard University. Gila Pueblo was an archeological research facility located in Globe, AZ. No known individuals were identified. No associated funerary objects are present.

In 1967, human remains representing a minimum of two individuals were recovered from a portion of Chavez Pass Ruin during legally authorized collections by Dr. John Wilson of the Museum of Northern Arizona following the disturbance of this portion by pothunters. No known individuals were identified. No associated funerary objects are present.

In 1976, human remains representing two individuals were recovered from the surface of Chavez Pass Ruin by Northern Arizona University staff following vandalism. No known individuals were identified. No associated funerary objects are present.

Between 1977 and 1981, human remains representing a minimum of 1,930 individuals were recovered from Chavez Pass Ruin during legally authorized excavations by Dr. Fred Plog of Arizona State University. No known individuals were identified. The 810 associated funerary objects include pottery bowls, jars and sherds; shell beads and ornaments; manos and metates; stone tools; projectile points; fiber matting and basketry; seeds; charcoal; and animal bones.

Chavez Pass Ruin has been identified as two large northern Sinagua masonry pueblos occupied between 1250-1400 A.D. based on ceramic seriation and radiocarbon dating.

Between 1940 and 1960, human remains representing three individuals were recovered from the Pollock site (NA 4317) during legally authorized excavations conducted by Dr. John C. McGregor of the University of Illinois Urbana-Champaign. No known individuals were identified. No associated funerary objects are present.

The Pollock site has been identified as a large northern Sinagua masonry pueblo occupied between 1200-1325 A.D. based on material culture, architecture, and site organization.

During 1953-1955, human remains representing seven individuals were removed from the Pollock site (NA 4317) during legally authorized excavations conducted by Dr. John McGregor of the University of Illinois and presently curated at the Museum of Northern Arizona. No known individuals were identified. The 317 associated funerary objects include pottery bowls and jars, shell bracelets, turquoise mosaics, copper bells, shell beads and pendants, yucca fiber, and grinding stones.

This portion of the Pollock site has been identified as a northern Sinagua masonry pueblo occupied between 1325-1400 A.D. based on material culture, architecture, and site organization.

In 1940, human remains representing seven individuals were recovered from Kinikinick Ruin (NA 1629) during legally authorized excavations conducted by Milton Wetherill of the Museum of Northern Arizona. No known individuals were identified. No associated funerary objects are present.

Between 1940 and 1960, human remains representing two individuals were recovered from Kinikinick Ruin (NA 1629) during legally authorized excavations conducted by Dr. John C. McGregor of the University of Illinois Urbana-Champaign. No known individuals were identified. The ten associated funerary objects include shell beads.

Kinikinick Ruin has been identified as two northern Sinagua masonry pueblos occupied between 1250-1350 A.D. based on material culture, architecture, and site organization.

Continuities of ethnographic materials, technology, architecture, and published oral traditions indicate the affiliation of Chavez Pass Ruin, Kinikinick Ruin, and the Pollock site with both the Hopi Tribe and Pueblo of Zuni. Oral traditions presented by representatives of the Hopi Tribe and Pueblo of Zuni further support this affiliation with the northern Sinagua sites of Chavez Pass Ruin, Kinikinick Ruin, and the Pollock site.

In 1927, human remains representing one individual were purchased by Gila Pueblo and transferred to the Arizona State Museum in 1950. Collection information indicates this individual was removed site AR-03-04-02-1892 without a permit by an unknown person. No known individual was identified. The one associated funerary object is a Sosi pitcher in which the cremated human remains had been placed.

Site AR-03-04-02-1892 has been identified as a small Sinagua-period pueblo occupied between 1006-1300 A.D. based on material culture and site organization.

In 1927, human remains representing eight individuals were removed from Turkey Hills Pueblo during legally authorized excavations by the Arizona State Museum. No known individuals were identified. The two associated funerary objects include pottery bowl and jars.

Turkey Hills Pueblo has been identified as a large two-story pueblo with a large open court containing small structures. The site appears to have been occupied during the Sinagua elden-Turkey Hill phase, between 1100-1225 A.D. based on material culture, site organization, and architecture.

In 1980 and 1985, human remains representing six individuals were recovered from the Townsend Divide Site by University of Arizona staff

during legally authorized mitigation work on U.S. Highway 89. No known individuals were identified. The 25 associated funerary objects include potter jar and bowls, projectile points, stone tools, and shell jewelry.

The Townsend Divide Site has been identified as a Sinagua pithouse village occupied between 1000-1225 A.D. based on material culture, architecture, and site organization.

In 1922, human remains representing one individual were donated to the Southwest Museum by Mr. Elliot B. Loomis. These remains were apparently removed from a cliff dwelling in Sycamore Canyon without a permit by Mr. Loomis. No known individual was identified. No associated funerary objects are present.

This cliff dwelling in Sycamore Canyon has been identified as a Southern Sinagua site occupied between 1100-1400 A.D. based on material culture, architecture, and site organization.

During the 1950s, human remains representing nine individuals were removed from NA 4265 (Page site) during legally authorized excavations by the Museum of Northern Arizona. No known individuals were identified. The 21 associated funerary objects include pottery bowls and jars, manos, and shell ornaments.

During the 1950s, human remains representing a minimum of 37 individuals were removed from NA 4266 (Piper site) during legally authorized excavations by the Museum of Northern Arizona. No known individuals were identified. The 58 associated funerary object include pottery jars, bowls, and pitchers; projectile points; stone beads; and shell jewelry.

During the 1950s, human remains representing one individual were removed from site NA 5700 during legally authorized excavations by the Museum of Northern Arizona. No known individual was identified. No associated funerary objects are present.

During the 1950s, human remains representing one individual were removed from site NA 5899 during legally authorized excavations by the Museum of Northern Arizona. No known individual was identified. No associated funerary objects are present.

During the 1950s, human remains representing one individual were removed from site NA 5971 during legally authorized excavations by the Museum of Northern Arizona. No known individual was identified. No associated funerary objects are present.

During the 1950s, human remains representing two individuals were removed from site 6589 during legally authorized excavations by the Museum of Northern Arizona. No known individuals were identified. No associated funerary objects are present.

Site NA 4265 (Page Site), site NA 4266 (Piper Site), site NA 5700, site NA5899, site NA 5971, and site NA 6589 consist of pithouses, small masonry pueblos, and an alcove site occupied between 500–1300 A.D. by people of the Northern Sinagua culture based on material culture, architecture, and site organization.

During the 1960s, human remains representing one individual were removed from site NA 7432 (Rincon Pueblo) during legally authorized excavations by the Museum of Northern Arizona. No known individual was identified. The four associated funerary objects include pottery bowls.

During the 1960s, human remains representing one individual were removed from site NA 8499 (Weimer Ruin) during legally authorized excavations by the Museum of Northern Arizona. No known individual was identified. No associated funerary objects are present.

During the 1960s, human remains representing a minimum of two individuals were removed from site NA 8507 (Red Bead Pueblo) during legally authorized excavations by the Museum of Northern Arizona. No known individuals were identified. The twelve associated funerary objects include pottery jars and bowls, and projectile points.

During the 1960s, human remains representing two individuals were removed from site NA 8722 (Cinder Hill Village) during legally authorized excavations by the Museum of Northern Arizona. No known individuals were identified. The two associated funerary objects are a shell bracelet and pottery canteen.

During the 1960s, human remains representing four individuals were removed from site NA 8735 (Cinder Hill Annex) during legally authorized excavations by the Museum of Northern Arizona. No known individuals were identified. The two associated funerary objects are pottery bowls.

During the 1960s, human remains representing a minimum of six individuals were recovered from site NA 8529 during legally authorized excavations by the Museum of Northern Arizona. No known individuals were identified. The 25 associated funerary objects include pottery bowls, jars, pitcher and ladle; stone tools, and bone tools.

During the 1960s, human remains representing one individual were recovered from site NA 8723 during legally authorized excavations by the Museum of Northern Arizona. No known individual was identified. The two associated funerary objects are pottery bowls.

During the 1960s, human remains representing one individual were removed from site NA 8781 during legally authorized excavations by the Museum of Northern Arizona. No known individual was identified. No associated funerary objects are present.

During the 1960s, human remains representing one individual were removed from site NA 8787 during legally authorized excavations by the Museum of Northern Arizona. No known individual was identified. The two associated funerary objects are projectile points.

During the 1960s, human remains representing one individual were removed from site NA 9091 during legally authorized excavations by the Museum of Northern Arizona. No known individual was identified. No associated funerary objects are present.

During the 1960s, human remains representing five individuals were removed from site NA 9099 during legally authorized excavations by the Museum of Northern Arizona. No known individuals were identified. The two associated funerary objects are turquoise pendants.

Sites NA 7432, NA 8499, NA 8507, NA 8722, NA 8735, NA 8529, NA 8723, NA 8781, NA 8787, NA 9091, and NA 9099 have been identified as a group of pueblo and pithouse sites occupied between 1066-1250 A.D. based on material culture and site organization.

In 1932, human remains representing one individual were recovered from the Calkins Ranch site (NA 2385) during legally authorized excavations by the Museum of Northern Arizona. No known individual was identified. No associated funerary objects are present.

In 1957, human remains representing five individuals were recovered from the Calkins Ranch site (NA 2385) during legally authorized excavations conducted by Dr. David A. Breternitz of the Museum of Northern Arizona. No known individuals were identified. The eight associated funerary objects include pottery bowls and jars, and shell ornaments.

The Calkins Ranch site (NA 2385) has been identified as a pithouse village occupied between 900-1100 A.D. based on material culture and site organization.

Between 1966 and 1968, human remains representing three individuals were recovered from Elden Pueblo (NA 142) during legally authorized

excavations conducted by Northern Arizona University, and curated by the Museum of Northern Arizona. No known individuals were identified. The one associated funerary object is a turquoise bead earring.

Since 1978, human remains representing fourteen individuals have been recovered from Elden Pueblo (NA 142) during legally authorized excavation and stabilization projects by the Coconino National Forest in partnership with the Museum of Northern Arizona and other institutions. No known individuals were identified. The 124 associated funerary objects include pottery mugs, effigies, bowls, jars, and sherds.

Elden Pueblo has been identified as northern Sinagua pueblo, pithouses, and outlier pueblos occupied between 1100-1275 A.D. based on material culture, radiocarbon dating, architecture, and site organization.

In 1974 and 1975, human remains representing a minimum of 145 individuals were recovered from the Koharsho site (NA 10937) during legally authorized excavations by Dr. William J. Beeson of Sacramento State College. No known individuals were identified. The 1,575 associated funerary objects include stone beads, pottery bowls, shell beads, and a shell pendant.

The Koharsho site (NA 10937) has been identified as a northern Sinagua masonry pueblo occupied between 1120-1250 A.D. based on material culture, architecture, and site organization.

Between 1984 and the summer of 1990, human remains representing 54 individuals were recovered from Lizard Man Village (NA 17957) during legally authorized excavations by Dr. John Whittaker and Dr. Kathryn Kamp of Grinnell College. No known individuals were identified. The 26 associated funerary objects include pottery miniatures and sherds; projectile points; shell bracelet and beads; stone and bone tools.

Lizard Man Village has been identified as a northern Sinagua pithouse and surface rooms occupation dating to 1066-1325 A.D. based on material culture, architecture, and site organization.

Between 1984 and the summer of 1990, human remains representing two individuals were recovered from Fortress Hill Pueblo (NA 6612) during legally authorized excavations by Dr. John Whittaker and Dr. Kathryn Kamp of Grinnell College. No known individuals were identified. No associated funerary objects are present.

Fortress Hill Pueblo has been identified as a northern Sinagua masonry pueblo occupied between 1066-1325 A.D. based on material culture, architecture, and site organization.

During 1968-1970, human remains representing eleven individuals were recovered from site NA 10101 during legally authorized excavations by Dr. J. Richard Ambler of Northern Arizona University. No known individuals were identified. The two associated funerary objects are a shell bracelet and a corn cob.

Site NA 10101 has been identified as a northern Sinagua masonry pueblo occupied between 1100-1225 A.D. based on material culture, architecture, and site organization.

In 1957, human remains representing two individuals were recovered from site NA 1125 during legally authorized excavations by Dr. David A Breternitz of the Museum of Northern Arizona. No known individuals were identified. No associated funerary objects are present.

Site NA 1125 has been identified as a northern Sinagua pithouse village occupied between 900-1066 A.D. based on material culture and site organization.

In 1974, human remains representing two individuals were removed from site NA 11553 during legally authorized excavations by Queens College, City University, New York, NY and are curated by the Museum of Northern Arizona. No known individuals were identified. No associated funerary objects are present.

Site NA 11553 has been identified as a northern Sinagua masonry pueblo occupied between 900-1066 A.D. based on material culture, architecture, and site organization.

In 1974, human remains representing a minimum of four individuals were recovered from site NA 13259 by the Museum of Northern Arizona during legally authorized collections following the discovery of pothunting in areas of the site. No known individuals were identified. No associated funerary objects are present.

Site NA 13259 has been identified as a group of northern Sinagua pithouses based on material culture and site organization.

In 1958, human remains representing two individuals were recovered from site NA 19055 during legally authorized excavations conducted jointly by the Museum of Northern Arizona and Northern Arizona University as a field school supervised by Dr. David Wilcox. No known individuals were identified. No associated funerary objects are present.

Site NA 19055 has been identified as a northern Sinagua group of pithouses occupied between 1066–1150 A.D. based on material culture and site organization.

During the early 1970s, human remains representing a minimum of nineteen individuals were recovered from site NA 10772 during legally authorized data recovery excavations by the Museum of Northern Arizona. No known individuals were identified. The six associated funerary objects present include pottery bowls, metates, and olivella beads.

During the early 1970s, human remains representing one individual were recovered from site NA 10775 during legally authorized data recovery excavations by the Museum of Northern Arizona. No known individual was identified. The one associated funerary object is a pottery bowl.

During the early 1970s, human remains representing 81 individuals were recovered from site NA 10792 during legally authorized data recovery excavations by the Museum of Northern Arizona. No known individuals were identified. The seven associated funerary objects present include pottery jar and bowls, and stone tools.

During the early 1970s, human remains representing 27 individuals were recovered from site 10794 during legally authorized data recovery excavations by the Museum of Northern Arizona. No known individuals were identified. No associated funerary objects are present.

During the early 1970s, human remains representing a minimum of 151 individuals were recovered from site NA 10803 during legally authorized data recovery excavations by the Museum of Northern Arizona. No known individuals were identified. The 94 associated funerary objects are a pottery bowls, jars, ladles and pitchers; stone beads and tools; shell beads and ornaments; and projectile points.

During the early 1970s, human remains representing a minimum of 196 individuals were recovered from site NA 10806 during legally authorized data recovery excavations by the Museum of Northern Arizona. No known individuals were identified. The 75 associated funerary objects are a pottery canteen, bowls, jars, and pitchers; stone beads and tools; shell beads and ornaments; and projectile points.

Sites NA 10772, NA 10775, NA 10792, NA 10794, NA 10803, and NA 10906 consist of a group of northern Sinagua pithouse villages and small masonry pueblo occupied between 900-1250 A.D. based on material culture and site organization.

In 1985, human remains representing three individuals were recovered from Old Caves (NA 72) during legally authorized salvage excavations conducted by U.S. Forest Service personnel. No known individuals were identified. No associated funerary objects were present.

The Old Caves site has been identified as a northern Sinagua masonry pueblo and ball court occupied between 1250-1325 A.D. based on material culture, architecture, and site organization.

In 1939, human remains representing a minimum of sixteen individuals were removed from Ridge Ruin (NA 1785) during legally authorized excavations by Dr. John McGregor of the Museum of Northern Arizona. No known individuals were identified. The 1,595 associated funerary objects include pottery bowls, jars and pitchers; wood carvings; stone and bone tools; projectile points; turquoise beads, jewelry and figurines; shell beads and jewelry; burial mats; woven baskets; and macaw remains.

In 1939, human remains representing a minimum of fifteen individuals were recovered from sites NA 3673 and NA 3676 during legally authorized excavations by Dr. John McGregor of the Museum of Northern Arizona. No known individuals were identified. The 118 associated funerary objects include a pottery bowl and sherds, and stone beads.

Ridge Ruin and associated sites NA 3673 and NA 3676 have been identified as a northern Sinagua pueblo and pithouse villages occupied between 1066-1200 A.D. based on material culture, architecture, and site organization.

During the 1940s, human remains representing one individual were donated to the Museum of Northern Arizona by an anonymous individual following recovery without a permit from the Honaki site (NA 1255). No known individual was identified. The one associated funerary object is burial cloth wrappings.

During the 1940s, human remains representing two individuals were donated to the Museum of Northern Arizona by an anonymous individual following recovery without a permit from Sugar Loaf Ruin (NA 1269). No known individuals were identified. No associated funerary objects are present.

In 1965, human remains representing one individual were donated to the Museum of Northern Arizona by Paul Dyck following recovery without a permit from the Dyck Site (NA 9471). No known individual was identified. The 70 associated funerary objects include burial wrappings, cordage, and shell bracelets.

During the 1940s, human remains representing one individual were turned over to Coconino National Forest by an anonymous individual following recovery without a permit from site NA 19804. No known individual was identified. No associated funerary objects are present.

In 1958, human remains representing one individual from McGuireville Cave (NA 4007C) were turned over to the Coconino National Forest by Montezuma Castle National Monument. No known individual was identified. No associated funerary objects are present.

In 1949, human remains representing one individual were recovered from Panorama Ruin (NA 5111) during legally authorized excavations conducted by the Museum of Northern Arizona. No known individual was identified. No associated funerary objects are present.

Between the 1950s and the early 1970s, human remains representing two individuals were recovered from the Hackberry site (NA 3604) and the Stoneman Lake site (NA 11254) during legally authorized excavations by the Museum of Northern Arizona. No known individuals were identified. No associated funerary objects are present.

In 1987, human remains representing one individual were recovered from Moon Ranch Pueblo (NA 21979) during legally authorized salvage excavations conducted by the Coconino National Forest. No known individual was identified. No associated funerary objects were present.

Prior to November 16, 1990, human remains representing one individual were recovered from site NA 23401 during legally authorized salvage excavations conducted by the Coconino National Forest. No known individual was identified. No associated funerary objects were present.

The Honanki site, Sugar Loaf Ruin, Dyck site, NA 19804, McGuireville Cave, Panorama Ruin, Hackberry site, Stoneman Lake site, Moon Ranch Pueblo, and NA 23401 have been identified as southern Sinagua pithouses, masonry pueblos, and a cliff dwelling occupied between 700–1400 A.D. based on material culture, architecture, and site organization.

In 1979, human remains representing one individual were recovered from Sunset Pueblo (NA 1638) during legally authorized excavations conducted by J.W. Hohman of the Coconino National Forest. No known individual was identified. The four associated funerary objects include pottery sherds.

Sunset Pueblo has been identified as a northern Sinagua masonry pueblo occupied between 1100-1200 A.D. based on material culture and site organization.

In 1928 and 1929, human remains representing eight individuals were recovered from Turkey Hills Pueblo (NA 660) during legally authorized excavations conducted by Dr. Byron Cummings of Arizona State University. No known individuals were identified. The two associated funerary objects include a pottery jar and bowl (curated at Arizona State Museum).

In 1985, human remains representing five individuals were recovered from the surface of Turkey Hills Pueblo (NA 660) during legally authorized surface collections conducted by Dr. David Wilcox of the Museum of Northern Arizona. No known individuals were identified. No associated funerary objects are present.

Turkey Hills Pueblo has been identified as a northern Sinagua pueblo and pithouses occupied between 1250-1325 A.D. based on material culture, architecture, and site organization.

Between 1935-1939, human remains representing a minimum of 76 individuals were removed from sites within the Winona Village complex (NA 2131, NA 2133, NA 2134, NA 3644) during legally authorized excavations conducted by Dr. John C. McGregor of the Museum of Northern Arizona. The approximately 44 associated funerary objects include pottery pitcher, jars, and bowls; and shell and stone beads.

The Winona Village complex has been identified as a group of northern Sinagua pithouse villages occupied between 1066-1150 A.D. based on material culture, architecture, and site organization.

In 1981, human remains representing one individual were recovered from site AR 03-04-02-1675 during legally authorized excavations by the Coconino National Forest. No known individual was identified. No associated funerary objects are present.

Site AR 03-04-02-1675 has been identified as a northern Sinagua masonry pueblo occupied between 1150-1250 A.D. based on material culture, architecture, and site organization.

Between 1938 and 1940, human remains representing two individuals were excavated from Padre Knoll Pueblo (NA 789) during legally authorized excavations conducted by the Museum of Northern Arizona. No known individuals were identified. No associated funerary objects are present.

Between 1938 and 1940, human remains representing a minimum of five

individuals were excavated from Turkey Tank Pithouse (NA 2098) during legally authorized excavations conducted by the Museum of Northern Arizona. No known individuals were identified. The six associated funerary objects include pottery bowls and jars.

Between 1938 and 1940, human remains representing fourteen individuals were excavated from Turkey Tank Caves (NA 117) during legally authorized excavations conducted by the Museum of Northern Arizona. No known individuals were identified. The 32 associated funerary objects include pottery jars and bowls; and turquoise and shell beads and ornaments.

Between 1938 and 1940, human remains representing one individual were recovered from Deadman's Wash (NA 2077) during legally authorized excavations conducted by the Museum of Northern Arizona. No known individual was identified. No associated funerary objects are present.

Between 1938 and 1940, human remains representing two individuals were excavated from Jack Smith Alcove House (NA 1295) during legally authorized excavations conducted by the Museum of Northern Arizona. No known individuals were identified. No associated funerary objects are present.

Between 1938 and 1940, human remains representing one individual were excavated from site NA 2801 during legally authorized excavations conducted by the Museum of Northern Arizona. No known individual was identified. The four associated funerary objects include pottery bowl, pitcher, and sherds.

Between 1938 and 1940, human remains representing two individuals were excavated from site NA 3996 during legally authorized excavations conducted by the Museum of Northern Arizona. No known individuals were identified. No associated funerary objects are present.

Between 1938 and 1940, human remains representing one individual were excavated from site NA 860 during legally authorized excavations conducted by the Museum of Northern Arizona. No known individual was identified. The two associated funerary objects consist of a pottery bowl and a stone tool.

Padre Knoll Pueblo, Turkey Tank Pithouse, Turkey Tank Caves, Deadman's Wash, Jack Smith Alcove House, site NA 2801, site NA 3996, and site NA 860 have been identified as a group of northern Sinagua pueblo, pithouse, and cave habitations occupied between 900-1400 A.D. based on material culture, architecture, and site organization.

During the 1930s, human remains representing three individuals were excavated from Clear Creek Ruin (NA 2806) during legally authorized excavations conducted by the Museum of Northern Arizona. No known individuals were identified. No associated funerary objects are present.

In 1970-1971, human remains representing six individuals were excavated from Exhausted Cave (NA 10769) during legally authorized excavations conducted by Bruce R. Gudgens of Northern Arizona University. No known individuals were identified. No associated funerary objects are present.

Clear Creek Ruin and Exhausted Cave have been identified as a group of southern Sinagua cliff and cave dwellings occupied between 1100-1400 A.D. based on material culture and site organization.

In 1931 and 1951, human remains representing six individuals were excavated from the Juniper Terrace site (NA 1814) during legally authorized excavations conducted by the Museum of Northern Arizona. No known individuals were identified. The 102 associated funerary objects include pottery bowls and jars, stone pipe and beads, and faunal material.

The Juniper Terrace site has been identified as a group of northern Sinagua and Cohonino masonry roomblocks occupied between 1150-1250 A.D. based on material culture, architecture, and site organization.

During 1962-1964, human remains representing eleven individuals were excavated from Two Kivas Pueblo (NA 700) during legally authorized excavations conducted by Dr. John C. McGregor of the University of Illinois Urbana-Champaign. No known individuals were identified. The twelve associated funerary objects include pottery jar and bowls, shell beads, paint palette, and turquoise ornaments.

Two Kivas Ruin has been identified as a group of northern Sinagua pueblos occupied between 1150-1325 A.D. based on material culture, architecture, and site organization.

In 1974, human remains representing six individuals were recovered from site NA 12559 during legally authorized excavations conducted by the Museum of Northern Arizona. No known individuals were identified. The two associated funerary objects are a pottery sherd and a shell bracelet.

Site NA 12559 has been identified as a northern Sinagua trash mound utilized between 1066-1100 A.D. based on material culture and site organization.

In 1970, human remains representing one individual were removed from Boynton Canyon without a permit by an anonymous individual and were donated to the Museum of Northern Arizona. No known individual was identified. The thirteen associated funerary objects include baskets, a pottery bowl, woven goods, and gourds.

The Boynton Canyon site is a southern Sinagua cave dwelling site occupied between 1100-1300 A.D. based on material culture and site organization.

In 1938 and 1939, human remains representing five individuals were recovered from sites NA 3679 and NA 3680 during legally authorized excavations conducted by the Museum of Northern Arizona. No known individuals were identified. The eight associated funerary objects include pottery jar and bowls, a shell ring and bracelet, and a projectile point.

Sites NA 3679 and NA 3680 have been identified as two northern Sinagua pithouse villages occupied between 1066-1150 A.D. based on material culture and site organization.

During the 1930s and 1970s, human remains representing six individuals were recovered from site NA 5182 during legally authorized excavations conducted by the Museum of Northern Arizona. No known individuals were identified. No associated funerary objects are present.

Site NA 5182 has been identified as a northern Sinagua pithouse village occupied between 1066-1100 A.D. based on material culture and site organization.

During the 1930s, human remains representing one individual were recovered from site NA 914 during legally authorized excavations conducted by the Museum of Northern Arizona. No known individual was identified. No associated funerary objects are present.

Site NA 914 has been identified as three northern Sinagua rooms associated with a cave utilized between 900-1300 A.D. based on material culture and site organization.

In 1934, human remains representing one individual from site Verde 5:41 were donated to the Peabody Museum of Archaeology and Ethnology, Harvard University by Gila Pueblo, an archeological research facility in Globe, AZ. These human remains had been recovered at an earlier unknown date during legally authorized collections by Gila Pueblo. No known individual was identified. No associated funerary objects are present.

Site Verde 5:41 has been identified as a large southern Sinagua masonry pueblo occupied between 1300-1400

A.D. based on material culture, architecture, and site organization.

In 1934, human remains representing three individuals from the Lookout Ruin site (16:16) were donated to the Peabody Museum of Archaeology and Ethnology, Harvard University by Gila Pueblo, an archeological research facility in Globe, AZ. These human remains had been recovered at an earlier unknown date during legally authorized collections by Gila Pueblo. No known individual was identified. No associated funerary objects are present.

The Lookout Ruin site (16:16) has been identified as a northern Sinagua masonry pueblo occupied between 1150-1300 A.D. based on material culture, architecture, and site organization.

In 1934, human remains representing one individual from the Canyon Padre site were donated to the Peabody Museum of Archaeology and Ethnology, Harvard University by Gila Pueblo, an archeological research facility in Globe, AZ. These human remains had been recovered at an earlier unknown date during legally authorized collections by Gila Pueblo. No known individual was identified. No associated funerary objects are present.

The Canyon Padre site has been identified as a small northern Sinagua habitation occupied between 1150-1250 A.D. based on material culture.

In 1983, human remains representing one individual were confiscated from pothunters at site AR 03-04-02-2512 by U.S. Forest Service law enforcement personnel. No known individual was identified. The 99 associated funerary objects include pottery sherds.

Site AR 03-04-02-2512 has been identified as a small northern Sinagua masonry pueblo and associated trash mound utilized between 1150-1250 A.D. based on material culture and site organization.

Between 1958 and 1960, human remains representing seven individuals were recovered from the Pershing site (NA 7207) during legally authorized excavations conducted by Dr. John C. McGregor of the University of Illinois Urbana-Champaign. No known individuals were identified. The three associated funerary objects include chipped stone.

The Pershing site has been identified as a large northern Sinagua village occupied between 900 1066 A.D. based on material culture, architecture, and site organization.

Continuities of ethnographic materials, technology, architecture, and published oral traditions indicate the affiliation of the northern and southern Sinagua sites with the Hopi Tribe. Oral traditions presented by representatives of the Hopi Tribe further support the affiliation with northern and southern Sinagua sites in this area of north-central Arizona.

Based on the above mentioned information, officials of the U.S. Forest Service have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 2,992 individuals of Native American ancestry. Officials of the U.S. Forest Service have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 5,331 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the U.S. Forest Service have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Hopi Tribe; and the Native American human remains and associated funerary objects from Chavez Pass Ruin, Kinikinick Ruin, and the Pollock site with the Hopi Tribe and the Pueblo of Zuni. .

This notice has been sent to officials of the Havasupai Tribe, the Hopi Tribe, the Hualapai Tribe, the Pueblo of Zuni, and the Yavapai-Prescott Indian Tribe. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. Frank E. Wozniak, NAGPRA Coordinator, Southwestern Region, USDA Forest Service, 517 Gold Ave. SW, Albuquerque, NM 87102; telephone: (505) 842-3238, fax: (505) 842-3800, before November 3, 1997. Repatriation of the human remains and associated funerary objects to the culturally affiliated tribes may begin after that date if no additional claimants come forward.

Dated: September 29, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–26245 Filed 10–2–97 ; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 26, 1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S. C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley ({202} 219–5096 ext. 143) or by E-Mail to OMalley-Theresa@dol.gov. 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–Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, 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: Mine Safety and Health Administration.

Title: Alternative Mines Rescue Capability for Small and Remote Mines and Mines with Special Mining Conditions.

OMB Number: 1219–0078 (reinstatement with change).

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 3,138.

Estimated Time Per Respondent: .53 hour.

Total Burden Hours: 29,267.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing service): 0.

Description: If an underground mine is small and remote or is operating under special mining conditions, the operator may apply for permission to provide alternative mine rescue capability. The intent of the regulation is to establish the best possible rescue response available under the circumstances.

Agency: Occupational Safety and Health Administration.

Title: Bloodborne Pathogens, 29 CFR 1910.1030 and 1915,1030 (29 CFR part 1910 ad 1915).

OMB Number: 1218–0180 (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 511,805.

Estimated Time Per Respondent: .46 hour.

Total Burden Hours: 5,162,397.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $17,262,900.

Description: The purpose of the Bloodborne Pathogens Standard and its information collection requirements are to provide protection to employees from adverse health effects associated with occupational exposure to bloodborne pathogens. The Standard requires that employers establish and maintain an exposure control plan, develop a housekeeping schedule, provide employees with Hepatitis B vaccinations, post exposure evaluation and medical follow-up, provide employees with information and training, and maintain medical and training records for prescribed periods. HIV and HBV Research Labs must also adopt or develop, and annually review a biosafety manual.

Agency: Occupational Safety and Health Administration.

Title: Lead in Construction.

OMB Number: 1218–0189 (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 147,073.

Estimated Time Per Respondent: 0.286 hour.

Total Burden Hours: 1,814,671.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $87,087,005.

Description: The purpose of the Lead in Construction Standard and its information collection requirements are to reduce occupational lead exposure in the construction industry. Lead exposure can result in both acute and chronic effects and can be fatal in severe cases of lead intoxication. Some of the health effects associated with lead exposure include brain disorders which can lead to seizures, coma, and death; anemia; neurological problems; high blood pressure, kidney problems, reproductive problems; and decreased red blood cell production. The Standard requires that employers establish and maintain a training and compliance program, and exposure monitoring and medical surveillance records. These records are used by employers, physicians, employers, and OSHA to determine the effectiveness of the employers' compliance efforts.

Agency: Occupational Safety and Health Administration.

Title: Occupational Noise Exposure (29 CFR 1910.95).

OMB Number: 1218–0048 (extension).

Frequency: On occasion.

Affected Public: Business or other for profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 379,512.

Estimated Time Per Respondent: 0.58 hour.

Total Burden Hours: 5,166,401.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $53,891,845.

Description: The purpose of the Occupational Noise Exposure Standard and its information collection requirements are to provide protection for employees from adverse health effects associated with occupational exposure to noise. The standard requires employers to establish and maintain accurate records of employee exposures to noise and audiometric testing performed in compliance with the standard. These records are used by the physician, employer, employee and the Government to determine whether occupation-related hearing loss has occurred, to prevent further deterioration of hearing, and to determine the effectiveness of an employer's hearing conservation program.

Agency: Occupational Safety and Health Administration.

Title: Asbestos in Construction (29 CFR 1926.1101).

OMB Number: 1218–0134 (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 286,821.

Estimated Time Per Respondent: Ranges from 5 minutes to maintain records to 17.3 hours to train qualified persons.

Total Burden Hours: 5,817,388.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $42,774,491.

Description: The purpose of this standard and its information collection is designed to provide protection for employees from the adverse health effect associated with occupational exposure to asbestos. The standard requires employers to monitor employee exposure to asbestos, and to monitor employee health and to provide employees with information about their exposures and the health effects of injuries.

Agency: Occupational Safety and Health Administration.

Title: Asbestos in Shipyards (29 CFR 1915.1001).

OMB Number: 1218–0195 (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 89.

Estimated Time Per Respondent: Ranges from 5 minutes to maintain records to 40 hours to train qualified persons.

Total Burden Hours: 1, 093.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $34,861.

Description: The purpose of this standard and its information collection is designed to provide protection for employees from the adverse health effects associated with occupational exposure to asbestos. The standard requires employers to monitor employee exposure to asbestos, to monitor employee health and to provide employees with information about their exposures and the health effects of injuries.

Agency: Occupational Safety and Health Administration.

Title: Safety Testing and Certification (29 CFR 1910.7).

OMB Number: 1218–0147 (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 47.

Estimated Time Per Respondent: 53 hours.

Total Burden Hours: 1,160.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: A number of OSHA's standards require certain equipment to be ''tested'' (or approved) by a ''national recognized testing laboratory'' (NRTL). An organization seeking to perform this testing (or approval) must be ''recognized'' by OSHA and must apply to the OSHA NRTL Recognition Program for recognition. Recognition is granted after OSHA determines that the organization meets certain criteria.

Agency: Occupational Safety and Health Administration.

Title: Mechanical Power Presses (29 CFR 1910.217(e)(1)(I) and 29 CFR 1910.217(e)(1)(ii))—Inspection Certifications.

OMB Number: 1218–0new (formerly 1218–0210) (extension).

Frequency: Weekly.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 191,750.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 1,372,945.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The information collection requirements of this standard are necessary to assure compliance with the requirements for mechanical power presses. The inspection is intended to assure that the mechanical power processes are in safe operating condition, and that the safety devices are working properly. The failure of these safety devices could cause serious injury or death to an employee.

Agency: Occupational Safety and Health Administration.

Title: Restraining Devices for Servicing Large Vehicle MultiPiece and Single Piece Rim Wheels (29 CFR 1910.177(d)(3)(iv))—Manufacturer's Certification of Structural or Welding Repairs.

OMB Number: 1218–0new (formerly 1218–0210) (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 80.

Estimated Time Per Respondent: 0.08 hour.

Total Burden Hours: 6.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Pursuant to its statutory authority, OSHA promulgated the standard for the servicing of multi-piece and single piece rim wheels used on large vehicles such as trucks, trailers and buses. The standard requires that when a damaged restraining device needs structural repair such as component replacement or rewelding, the repairs must be certified by either the manufacturer or a registered professional engineer as meeting the strength requirements of paragraph 1910.177(d)(3)(I).

Agency: Occupational Safety and Health Administration.

Title: Portable Fire Extinguishers (29 CFR 1910.157(f)(16)—Hydrostatic Test Certification Record.

OMB Number: 1218–0new (formerly 1218–0210) (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 1,275,500.

Estimated Time Per Respondent: 15 minutes.

Total Burden hours: 318,750.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The requirement for the hydrostatic testing of portable fire extinguishers shells according to an established schedule found at 29 CFR 1910.157, Table L–1. OSHA further requires the employer to provide evidence of the test including the date of the test, the identification of the person making the test and the unique identification number of the unit tested. The employer must provide this information to OSHA upon request.

Agency: Occupational Safety and Health Administration.

Title: Shipyard Certification Records (29 CFR 1915.113(b)(1) and 29 CFR 1915.172(d)—Test Certifications.

OMB Number: 1218–0new (formerly 1218–0210) (extension).

Frequency: Quarterly, Yearly.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 900.

Estimated Time Per Respondent: 0.17 hour.

Total Burden Hours: 1,846.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The standard for shackles and hooks (29 CFR 1915.113) requires that all hooks for which no applicable manufacturer's recommendations are available shall be tested to twice their intended safe work load before they are initially put into use and that the employer shall maintain a certification record. The standard for portable air receivers (29 CFR 1915.172) requires that portable, unfired pressure vessels, not built into the code requirements of 1915.172(a) shall be examined quarterly by a competent person and that they be subjected yearly to a hydrostatic pressure test of one and one-half times the working pressure of the vessels. A certification record of these examinations and tests shall be maintained.

Agency: Occupational Safety and Health Administration.

Title: Slings (29 CFR 1910.184)—Certification Records.

OMB Number: 1218–0new (formerly 1218–0210) (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 975,000.

Estimated Time Per Respondent: 0.58 hours.

Total Burden Hours: 26,775.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The standard requires that an employer make and retain a record of the most recent month in which early alloy steel chain sling was thoroughly inspected, that all new alloy steel chain slings be proof tested with certification records, that all new wire rope slings that have welded end attachments be proof tested by the manufacturer and a certificate of the proof test retained by the employer, and that metal mesh slings that are repaired be proof tested and either marked, tagged or a certification record prepared and maintained.

Agency: Occupational Safety and Health Administration.

Title: Overhead and Gantry Cranes (29 CFR 1910.179(j)(2)(iii); (j)(2)(iv), (m)(1), and (m)(2))—Inspection Certifications.

OMB Number: 1218–0new (formerly 1218–0210) (extension).

Frequency: Monthly.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 35,000.

Estimated Time Per Respondent: 0.30 hour.

Total Burden Hours: 367,528.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The inspection certifications required in 29 CFR 1910.179(j)(2)(iii), (j)(2)(iv), (m)(1), and (m)(2) are necessary to assure compliance with the requirements for overhead and gantry cranes. They are intended to assure that these cranes have periodic and recorded maintenance checks.

Agency: Occupational Safety and Health Administration.

Title: Crawler, Locomotive and Truck Cranes (29 CFR 1910.180(d)(6), (g)(1) and (g)(2)(ii))—Inspection Certifications.

OMB Number: 1218–0new (formerly 1218–0210) (extension).

Frequency: Monthly.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 20,000.

Estimated Time Per Respondent: 1½ hours.

Total Burden Hours: 174.015.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The major purpose of these information collection requirements is to provide information which can be used to properly maintain crawler locomotive and truck cranes and to ensure safe operating conditions for employees. Specifically, it is required for the employer to establish certification records which indicate that the cranes have been inspected in accordance with the requirements in the standard.

Agency: Occupational Safety and Health Administration.

Title: Derricks (29 CFR 1910.181(g)(1)) and (g)(3))—Inspection Certifications.

OMB Number: 1218–0new (formerly 1218–0210) (extension).

Frequency: Monthly.

Affected Public: Business or other for-profit; Federal Government; State, Local or Tribal Government.

Number of Respondents: 10,000.

Estimated Time Per Respondent: 0.58 hour.

Total Burden Hours: 28,508.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: It is required for the employer to establish a certification record that the equipment has been inspected in accordance with the requirements specified in the standard in order to maintain the derricks in a safe, reliable condition. The collection of information will be used to determine if employers are in compliance with the standard.

Agency: Occupational Safety and Health Administration.

Title: Testing of Materials Used in Roll-Over Protective Structures (ROPS) Certification (29 CFR 1926.1001(e)(3) and 29 CFR 1926.1002(d)(6)).

OMB Number: 1218–0new (formerly 1218–0210) (withdrawal).

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 0.

Estimated Time Per Respondent: 0.

Total Burden Hours: 0.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: In the construction standard for scrapers, loaders, dozers, graders, and tractors OSHA requires that the material used in roll-over protective structures (ROPS) have a one-time test. The tests are intended to minimize the possibility of operator injury resulting from accidents during normal operation or ROPS. Upon reconsideration, the Agency no longer believes that the term ''certification'' as used in the provision implies a paperwork burden since there is no explicit requirement for information collection regarding that testing.

Agency: Occupational Safety and Health Administration.

Title: Crawler, Truck, and Locomotive Cranes Inspection Certification (29 CFR 1926.550(b)(2)).

OMB Number: 1218–0new (formerly 1218–0210) (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 947,000.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 1,420,500.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The construction standard on crawler, truck, and locomotive cranes requires employers to conduct tests, inspections, and maintenance checks and retain records for the cranes of this type that their employees use. The certification records, which attest to the safety of the cranes, are necessary to ensure compliance with the standards.

Agency: Occupational Safety and Health Administration.

Title: Proof Testing of Welded End Wire Rope Attachments (29 CFR 1926.251).

OMB Number: 1218–0new (formerly 1218–0210) (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 947,000.

Estimated Time Per Respondent: 5 minutes.

Total Burden Hours: 1,515.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing servies): 0.

Description: The construction standard on rigging equipment for material handling requires employers to retain a certificate of the proof test performed on welded end wire rope attachments. The certification, prepared by the manufacturer or other equivalent entity, attests to the safety of the attachments after welding by testing them at twice their rated capacity.

Agency: Occupational Safety and Health Administration.

Title: Trucks Used Underground to Transport Explosives (29 CFR 1926.903(e))—Inspection Certifications.

OMB Number: 1218–0new (formerly 1218–0210) (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 1.

Estimated Time Per Respondent: 10 minutes every week.

Total Burden Hours: 9.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The construction standard on underground transportation of explosives requires certification of a weekly maintenance inspection of trucks used for this purpose. The inspection certification, which attests to the safety of the truck's electrical system, is necessary to ensure compliance with the standard.

Agency: Occupation Safety and Health Administration.

Title: Construction Records for Blasting Operations (29 CFR 1926.900(k)(3)(I).

OMB Number: 1218–0new (formerly 1218–0210) (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 3,000.

Estimated Time Per Respondent: 8 hours, once per 160 work sites.

Total Burden Hours: 1,280.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $240.000.

Description: The construction standard on blasting operations requires employers to post warning signs or use other alternative means to prevent premature detonation of electric blasting caps and explosives attached to them by mobile radio transmitters. A written description of the alternative means (measures) to be taken must be prepared.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–26302 Filed 10–2–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decision are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

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NV970008 (Feb. 14, 1997)

General Wage Determination Publication

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Signed at Washington, D.C. this 26th day of September 1997.

Margaret Washington,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 97–26002 Filed 10–2–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. McElroy Coal Company

[Docket No. M–97–101–C]

McElroy Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.312(c) to its McElroy Mine (I.D. No. 46–01437) located in Marshall County, West Virginia. The petitioner requests a modification of the mandatory safety standard to permit the testing of the automatic fan signal device without stopping the fan. The petitioner proposes to test the automatic fan signal device at least every 31 days by manually operating a valve near the fan pressure recording chart reducing the pressure on the water gauge to cause the activation of the fan signal. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. Mark P. Shingara Coal

[Docket No. M–97–102–C]

Mark P. Shingara Coal, R.D. #3, Box 79E, Sunbury, Pennsylvania 17801 has filed a petition to modify the application of 30 CFR 75.335 (construction of seals) to its No. 4 Vein Slope (I.D. No. 36–08527) located in Northumberland County, Pennsylvania. The petitioner requests a modification of the standard to permit alternative methods of seal construction using wooden materials of moderate size and weight due to the difficulty in accessing previously driven headings and breasts containing inaccessible abandoned workings; to accept a design criteria in the 10 psi range; and to permit the water trap to be installed in the gangway seal and sampling tube in the monkey seal for seals installed in pairs. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. Mark P. Shingara Coal

[Docket No. M–97–103–C]

Mark P. Shingara Coal, R.D. #3, Box 79E, Sunbury, Pennsylvania 17801 has filed a petition to modify the application of 30 CFR 75.360 (preshift examination) to its No. 4 Vein Slope (I.D. No. 36–08527) located in Northumberland County, Pennsylvania. The petitioner proposes to visually examine each seal for physical damage from the slope gunboat during the preshift examination after an air quality reading is taken inby the intake portal and to test for the quantity and quality of air at the intake air split locations off the slope in the gangway portion of the working section. The petitioner

proposes to physically examine the entire length of the slope once a month. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

4. Mark P. Shingara Coal

[Docket No. M–97–104–C]

Mark P. Shingara Coal, R.D. #3, Box 79E, Sunbury, Pennsylvania 17801 has filed a petition to modify the application of 30 CFR 75.364(b)(1), (4), and (5) (weekly examination) to its No. 4 Vein Slope (I.D. No. 36–08527) located in Northumberland County, Pennsylvania. Due to hazardous conditions and roof falls, certain areas of the intake haulage slope and primary escapeway cannot be traveled safely. The petitioner proposes to examine these areas from the gunboat/slope car with an alternative air quality evaluation at the section's intake level, and travel and thoroughly examine these areas for hazardous conditions once a month. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. Mark P. Shingara Coal

[Docket No. M–97–105–C]

Mark P. Shingara Coal, R.D. #3, Box 79E, Sunbury, Pennsylvania 17801 has filed a petition to modify the application of 30 CFR 75.1100 (quantity and location of firefighting equipment) to its No. 4 Vein Slope (I.D. No. 36–08527) located in Northumberland County, Pennsylvania. The petitioner proposes to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage are not practical. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

6. Mark P. Shingara Coal

[Docket No. M–97–106–C]

Mark P. Shingara Coal, R.D. #3, Box 79E, Sunbury, Pennsylvania 17801 has filed a petition to modify the application of 30 CFR 75.1200 (d) & (i) (mine map) to its No. 4 Vein Slope (I.D. No. 36–08527) located in Northumberland County, Pennsylvania. The petitioner proposes to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000-foot intervals of advance from the intake slope and to limit the required mapping of the mine workings above and below to those present within 100 feet of the veins being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnel. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

7. Mark P. Shingara Coal

[Docket No. M–97–107–C]

Mark P. Shingara Coal, R.D. #3, Box 79E, Sunbury, Pennsylvania 17801 has filed a petition to modify the application of 30 CFR 75.1202–1(a) (temporary notations, revisions, and supplements) to its No. 4 Vein Slope (I.D. No. 36–08527) located in Northumberland County, Pennsylvania. The petitioner proposes to revise and supplement mine maps annually instead of every 6 months, as required, and to update maps daily by hand notations. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

8. Mark P. Shingara Coal

[Docket No. M–97–108–C]

Mark P. Shingara Coal, R.D. #3, Box 79E, Sunbury, Pennsylvania 17801 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its No. 4 Vein Slope (I.D. No. 36–08527) located in Northumberland County, Pennsylvania. The petitioner proposes to use a slope conveyance (gunboat) in transporting persons without installing safety catches or other no less effective devices but instead use increased rope strength/safety factor and secondary safety rope connection in place of such devices. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. Oxbow Carbon & Minerals, Inc.

[Docket No. M–97–109–C]

Oxbow Carbon Minerals, Inc., P.O. Box 535, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.804(a) to its Sanborn Creek Mine (I.D. No. 05–04452) located in Gunnison County, Colorado. The petitioner requests a modification of the standard to allow the use of Anaconda Type SHD+GC, Pirelli Type SHD-Center-GC, Tiger Brand Type SHD–CGC, and other brands of identical construction flame-resistant cables on the high-voltage longwall system(s). The petitioner states that these cables would utilize a flexible No. 16 A.W.G. ground check conductor for the ground continuity check circuit. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

10. Oxbow Carbon & Minerals, Inc.

[Docket No. M–97–110–C]

Oxbow Carbon & Minerals, Inc., P.O. Box 535, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Sanborn Creek Mine (I.D. No. 05–04452) located in Gunnison County, Colorado. The petitioner proposes to use 2,400 volt cables to power longwall equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

11. Freeman United Coal Mining Company

[Docket No. M–97–111–C]

Freeman United Coal Mining Company, 1999 Wabash Avenue, Suite 200B, Springfield, Illinois 62704–5364 has filed a petition to modify the application of 30 CFR 75.332(a) to its Crown III Mine (I.D. No. 11–02632) located in Montgomery County, Illinois. The petitioner requests a modification of the standard to allow one continuous miner on a super section to cleanup while the other continuous miner is loading coal. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

12. USMX of Alaska

[Docket No. M–97–05–M]

USMX of Alaska, 200 Center Court, Anchorage, Alaska 99518 has filed a petition to modify the application of 30 CFR 56.9300(a) (berms or guardrails) to its Illinois Creek Mine (I.D. No. 50–01637) located in Yukon-Koyukuk County, Alaska. The petitioner requests a modification of the standard to eliminate the use of berms along the drop-off side of the road. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard by allowing expeditious and effective snow removal from the road in conjunction with a low 25 mile per hour speed limit.

Request for Comments

Persons interested in these petitions may furnish written comments. These

comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 3, 1997. Copies of these petitions are available for inspection at that address.

Dated: September 25, 1997.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 97–26214 Filed 10–2–97; 8:45 am]

BILLING CODE 4510–43–U

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. White Oak Mining & Construction Co., Inc.

[Docket No. M–97–95–C]

White Oak Mining & Construction Co., Inc., Scofield Route, P.O. Box 60, Helper, Utah 84526 has filed a petition to modify the application of 30 CFR 75.364(b)(4) (weekly examination) to its White Oak No. 1 Mine (I.D. No. 42–01279) located in Carbon County, Utah. The petitioner proposes to establish an evaluation point at crosscut 13 and one just outby crosscut No. 15 in the No. 5 entry of the 3rd East Mains. The petitioner alleges that application of the standard would result in a diminution of safety to the miners assigned to rehabilitate and travel the return entry.

2. Peabody Coal Company

[Docket No. M–97–96–C]

Peabody Coal Company, 800 Laidley Tower, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.364(b)(4) (weekly examination) to its Camp No. 1 Mine (I.D. No. 15–02709) located in Union County, Kentucky. Due to hazardous conditions in the air course entries, traveling certain areas of the air course would be unsafe. The petitioner proposes to establish evaluation points inby and outby the seals of the 2nd Panel West of the 1st Submain North of the mine; and to have a certified person examine these evaluation points for methane and oxygen concentrations and the volume of air and record the results in a book maintained on the surface of the mine. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method will guarantee the same measure of protection afforded the miners by the mandatory standard and will result in no diminution of safety to the miners.

3. CONSOL of Kentucky, Inc.

[Docket No. M–97–97–C]

CONSOL of Kentucky, Inc., Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75–1101–8 (water sprinkler systems; arrangement of sprinklers) to its Big Springs No. 16 Mine (I.D. No. 15–17957) located in Knott County, Kentucky. The petitioner proposes to use a single overhead pipe system with ½-inch orifice automatic sprinklers located on 10-foot centers, located to cover 50 feet of fire-resistant belt or 150 feet of non-fire resistant belt, with actuation temperatures between 200 and 230 degrees Fahrenheit and with water pressure equal to or greater than 10 psi; to have the sprinklers located not more than 10 feet apart, so that the discharge of water will extend over the belt drive, belt take-up, electrical control, and gear reducing unit. The petitioner asserts that the proposed alternative method will guarantee the same measure of protection afforded the miners by the mandatory standard and will result in no diminution of safety to the miners.

4. Eastern Associated Coal Corporation

[Docket No. M–97–98–C]

Eastern Associated Coal Corporation, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Harris No. 1 Mine (I.D. No. 46–01271) located in Boone County, West Virginia. The petitioner proposes to use high-voltage cables (2400 volt) inby the last open crosscut at the longwall working sections. The petitioner asserts that the proposed alternative method will guarantee the same measure of protection afforded the miners by the mandatory standard and will result in no diminution of safety to the miners.

5. Lodestar Energy, Inc.

[Docket No. M–97–99–C]

Lodestar Energy, Inc., P.O. Box 448, Clay, Kentucky 42404 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment) to its Baker Mine (I.D. No. 15–14492) located in Webster County, Kentucky. The petitioner proposes to use a spring-loaded device with specific fastening characteristics instead of a padlock to secure plugs and electrical type connectors to batteries and to the permissible mobile powered equipment to prevent accidental separation of the battery plugs from their receptacles during normal operation of the battery equipment. The petitioner asserts that the proposed alternative method will guarantee the same measure of protection afforded the miners by the mandatory standard and will result in no diminution of safety to the miners.

6. Eastern Associated Coal Corporation

[Docket No. M–97–100–C]

Eastern Associated Coal Corporation, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Federal No. 2 Mine (I.D. No. 46–01456) located in Monongalia County, West Virginia. The petitioner requests that the Proposed Decision and Order (PDO) for its previously granted petition be amended, docket number M–92-01–C. The petitioner requests that paragraph 28 of the PDO be amended to provide at least one escapeway on the tailgate side of the longwall face. The petitioner asserts that the requested amendment would not result a diminution of safety to the miners.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 3, 1997. Copies of these petitions are available for inspection at that address.

Dated: September 25, 1997.

Patricia W. Silvey,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 97–26213 Filed 10–2–97; 8:45 am]

BILLING CODE 4510–43–U

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–53; Exemption Application No. D–10261, et al.]

Grant of Individual Exemptions; McCroskey, Feldman, Cochrane & Brock, P.C.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

McCroskey, Feldman, Cochrane & Brock, P.C. Profit Sharing Plan and Trust (the Plan), Located in Muskegon, Michigan

[Prohibited Transaction Exemption 97–53; Exemption Application No. D–10261]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale (the Sale) by the Plan of certain improved real property located at 1440 and 1442 Peck Street in Muskegon, Michigan (the Muskegon Property) to the McCroskey Development Partnership (the Partnership), a party in interest with respect to the Plan; provided that the following conditions are satisfied:

(A) All terms and conditions of the Sale are no less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(B) The Sale is a one-time transaction for cash in which the Plan incurs no expenses;

(C) The Plan receives a purchase price for the Muskegon Property which is no less than the greater of (1) the fair market value of the Muskegon Property established at the time of the sale by an independent qualified appraiser, or (2) $350,000;

(D) Within sixty days of the publication in the **Federal Register** of this notice granting the exemption, McCroskey, Feldman, Cochran & Brock, P.C. (the Employer) files Form 5330 with the Internal Revenue Service and pays the applicable excise taxes which are due with respect to the continuation of a lease of the Muskegon Property by the Plan to the Employer after September 27, 1989; and

(E) Within sixty days of the publication in the **Federal Register** of this notice granting the exemption, the Employer's payment of rent to the Plan for the Muskegon Property from September 27, 1989 through the date of the Partnership's purchase of the Property from the Plan is reviewed by an independent fiduciary to determine whether such rent was at all times no less than the fair market rental value of the Muskegon Property, and, to the extent such rent is determined to have been less than the fair market rental value, the Employer pays the Plan the amount of such deficiency together with interest thereon at a rate determined by the independent fiduciary to be appropriate to compensate the Plan for lost income on such deficiency amount.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on August 1, 1997 at 62 FR 41431.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Alloy Die Casting Co. Employees' Profit Sharing Plan and Trust (the Plan), Located in Anaheim, California

[Prohibited Transaction 97–54; Exemption Application No. D–10439]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan to the Alloy Die Casting Co./W.E. Holmes, Inc. (Alloy), the Plan sponsor and a party in interest with respect to the Plan, of units (the Units) in the Krupp Insured Plus-II Limited Partnership, provided: (a) The sale is a one-time transaction for cash; (b) no commissions or other expenses are paid by the Plan in connection with the sale; (c) the Plan will receive $1.15 above the highest bid price for the Units at the most recent sealed bid auction for the Units which has occurred prior to the time of the sale; and (d) Alloy will purchase the Units from the Plan within 10 calendar days following the granting of this exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notices of proposed exemption published on June 23, 1997 at 62 FR 33924 and on August 8, 1997 at 62 FR 42837.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Bloom Consulting Corporation Profit Sharing Plan (the Plan), Located in Tiburon, California

[Prohibited Transaction Exemption 97–55; Exemption Application No. D–10440]

Exemption

The application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code shall not

apply to the proposed purchase by the Plan of shares of common stock of Valley Forge Corporation (the Stock) from the Martin Bloom Family Trust, a disqualified person with respect the Plan provided that the following conditions are satisfied: (1) The purchase of the Stock will be a one-time transaction for cash; (2) the Plan will purchase the Stock at a price no greater than the fair market value of the Stock as reported on the American Stock Exchange (AMEX) on the date of the purchase; (3) the Plan will not pay any expenses in connection with the proposed transaction; and (4) the purchase of the Stock shall represent no more than 25% of the fair market value of the Plan's assets.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption, published on August 8, 1997 at 62 FR 47064.

FOR FURTHER INFORMATION CONTACT: Allison Padams of the Department, telephone (202) 219–8971. (This is not a toll free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 30th day of September, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–26289 Filed 10–2–97; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–143)]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are assinged to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATES: October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Office of Patent Counsel, Langley Research Center, Mail Stop 212, Hampton, VA 23681–0001; telephone (757) 864–9260.

NASA Case No. LAR–15547–1: An Improved Substrate Material for Holographic Emulsions Utilizing Fluorinated Polyimide Film.

NASA Case No. LAR–14997–3: Optical Flameout Detector (FWC of—2).

NASA Case No. LAR–15539–1: Advanced Layered Composite Polylaminate Electro-Active Actuator.

NASA Case No. LAR–15411–2–CU: Process and Apparatus for Applying Powder Particles to a Filamentary Material (FWC of—1).

NASA Case No. LAR–15062–2: Multi-Channel Electronically Scanned Cryogenic Pressure Sensor (FWC of—1).

NASA Case No. LAR–15289–2: 3-Dimensional Object Tracking System and Method Employing Plural Sensors/Processors for Performing Parallel Processing (FWC of—1).

Dated: September 26, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–26292 Filed 10–2–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–144]

NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Air Traffic Management Research and Development Executive Steering Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Air Traffic Management Research and Development Executive Steering Committee meeting.

DATES: October 21, 22, and 23, 1997, 8:00 a.m. to 5:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, Building 262, Room 100, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert W. Schlickenmaier, National Aeronautics and Space Administration, Headquarters, Washington, DC 20546, 202/358–4638.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The meeting will focus on NASA's Advanced Air Transportation Technology (AATT) element of the aviation capacity research program. Agenda topics for the meeting are as follows:

—AATT Program Introduction

—Overview of AATT Level II Plan

—Summary at AATT Sub-element Level III Plans

—Review of the AATT Level 1, Milestone 1, Program Plan Assessment

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: September 26, 1997.

Leslie M. Nolan

Advisory Committee Management Officer.

[FR Doc. 97–26293 Filed 10–2–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–145)]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Sun-Earth Connection Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Space Science Advisory Committee, Sun-Earth Connection Advisory Subcommittee.

DATES: Tuesday, October 21, 1997, 8:30 a.m. to 5:00., p.m., Wednesday, October 22, 1997, 8:30 a.m. to 5:00 p.m., and Thursday, October 23, 1997, 8:30 a.m. to 12:00 Noon.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW, MIC Room 7H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: George L. Withbroe, Code SA, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–2150.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

—Sun-Earth Connection Program Overview: Budget, Ongoing Program, Future Activities.
—Senior Review of Mission Operations and Data Analysis Program
—Research and Analysis Program
—Strategic Planning
—Discussion and writing Groups

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 26, 1997.

Leslie, M. Nolan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 97–26294 Filed 10–2–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that propose the destruction of records not previously authorized for disposal, or reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before November 17, 1997. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Civilian Appraisal Staff (NWRC), National Archives and Records Administration, 8601 Adelphi Road College Park, MD 20740–6001. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director, Records Management Programs, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, telephone (301)713–7110.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Housing and Urban Development (N1–207–97–2). Records of the Office of Lead Hazard Control (substantive program records are designated for permanent retention).

2. Department of Housing and Urban Development (N1–196–97–2). Routine administrative records, 1937–1964, of the Public Affairs Branch, Public Housing Administration.

3. Department of the Interior, Minerals Management Service (N1–473–97–1). Administrative records pertaining to foreign and domestic training, cooperative agreements, and technical assistance.

4. Department of Labor, Pension and Welfare Benefits Administration (N1–317–97–2). Reduction in retention period for summary plan descriptions.

5. Department of Treasury, Internal Revenue Service (N1–58–97–11). Calendars and administrative correspondence of the Associate Commissioner for Tax Systems Modernization.

6. Panama Canal Commission (N1–185–97–20). Routine canal operations and services records.

Dated: September 26, 1997.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 97–26210 Filed 10–2–97; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirements to be submitted:

1. *The title of the information collection:* 10 CFR Part 25—Access Authorization for Licensee Personnel.

2. *Current OMB approval number:* 3150–0046.

3. *How often the collection is required:* On occasion.

4. *Who is required or asked to report:* NRC regulated facilities and other organizations requiring access to NRC classified information.

5. *The number of annual respondents:* 20.

6. *The number of hours needed annually to complete the requirement or request:* 257 hours (197 hours Reporting and 60 hours Recordkeeping) or 3.8 hours/response.

7. *Abstract:* NRC regulated facilities and other organizations are required to provide information and maintain records to ensure that an adequate level of protection is provided NRC classified information and material.

Submit by December 2, 1997, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW (lower level), Washington, DC. OMB clearance packages are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC 20555–0001, or by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 29th day of September 1997.

For the Nuclear Regulatory Commission.

Arnold E. Levin,

Acting Designated Senior Official for Information Resources Management.

[FR Doc. 97–26268 Filed 10–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Number 40–8902]

Atlantic Richfield Company; Notice of Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of placing the Bluewater uranium mill and tailings disposal site near Grants, New Mexico, in the custody and long-term care of the U.S. Department of Energy under the general licensing provisions of 10 CFR part 40.28; and notice of opportunity for a hearing.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has accepted the Long-Term Surveillance Plan (LTSP) submitted by U.S. Department of Energy (DOE), by letter dated July 31, 1997, for the Bluewater uranium mill and tailings disposal site. The LTSP was developed by DOE as the long-term custodian of the Bluewater site. By accepting the LTSP, the Bluewater site will be regulated by NRC under the general licensing provisions of 10 CFR 40.28, and the Atlantic Richfield Company's Source Material License SUA–1470 for the Bluewater site has been terminated. These actions complete all requirements for closure of the Bluewater site under Title II of the Uranium Mill Tailings Radiation Control Act of 1978, as amended. An NRC staff environmental assessment is not required for this action, since it is categorically excluded under 10 CFR 51.22(c)(11).

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hooks, Uranium Recovery Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–7777.

NOTICE OF OPPORTUNITY FOR HEARING: The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings, of the Commission's Rules of Practice for Domestic Licensing Proceedings in 10 CFR Part 2'' (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, Atlantic Richfield Company, Bluewater Mill, P.O. Box 638, Grants, New Mexico 87020; and

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) the requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Any hearing that is requested and granted will be held in accordance with

the Commission's Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings in 10 CFR part 2, subpart L.

Dated at Rockville, Maryland, this 25th day of September, 1997.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–26271 Filed 10–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Updated Environmental Standard Review Plan: Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability and request for comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) has prepared an update to the Environmental Standard Review Plan for the review of environmental reports for nuclear power plants (ESRP) for review and comment. A draft of the updated ESRP, NUREG–1555, incorporates changes in the regulation of the nuclear power industry, and changes in the treatment of environmental protection and siting issues that have occurred since the ESRP was initially issued in 1978 as NUREG–0555. Organizational changes have been made to the structure of ESRP sections to conform to the structure of the companion safety Standard Review Plan for the review of safety analysis reports for nuclear power plants (SRP), NUREG–0800. Most notably, significant changes have been made to incorporate the changes in environmental protection and resource statutes, other Federal regulations, Presidential executive orders, hearing decisions and case law, and NRC regulations related to new plant and site licensing, and license renewal. NUREG–1555 will supersede NUREG–0555.

DATES: The comment period expires January 30, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES AND SUBMISSION OF COMMENTS: Mail comments to: Chief, Rules and Directives Branch, Division of Freedom of Information and Publications Services, Mail Stop T–6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland between 7:45 a.m. and 4:15 p.m. on Federal workdays. Comments may be submitted electronically in WordPerfect or ASCII format via the Internet to the NRC at esrp@nrc.gov. Written comments and comments received electronically will be available for inspection at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Barry Zalcman, Office of Nuclear Reactor Regulation, Mail Stop O–10H5, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–3467.

SUPPLEMENTARY INFORMATION: The proposed text in NUREG–1555, ''Environmental Standard Review Plan,'' reflects the combined effort of NRC staff and NRC contractors. NRC staff review and evaluation, including resolution of public comments, and consideration by the Advisory Committee on Reactor Safeguards will be needed before a final version of NUREG–1555 can be published.

Due to the significance of the changes in NRC regulations related to new plant and site licensing, NRC regulations related to license renewal and environmental protection, other Federal regulations, environmental protection and resource statutes, Presidential executive orders, hearing decisions and case law, and due to the goal of restructuring the ESRP to conform to the structure of NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants—LWR Edition,'' NUREG–1555 will supersede the earlier ESRP (NUREG–0555). For every section, the ESRP now identifies the specific acceptance criteria, which may have been the driver that forms the basis for the change to ESRP sections. For these reasons, the NRC judged that supporting documentation, including a redline/strikeout copy, that traces back to the original ESRP need not be provided. The updated ESRP also contains several new sections to address issues that emerged since 1978, for example, severe accident mitigation design alternatives and environmental justice.

The updated ESRP is not a generic communication that proposes new NRC staff positions or seeks additional licensee commitments. It does not impose new or revised requirements but simply compiles and documents NRC and other Federal requirements, and NRC staff positions. The ESRP does not explicitly incorporate State, regional or Native American tribal agency requirements that may also need to be addressed by applicants or licensees.

Work activities related to updating the ESRP were performed substantially in conformance with the guidance in NUREG–1447, ''Standard Review Plan Update and Development Program—Implementing Procedures Document,'' dated May 1992. NUREG–1447 documents the results of developing the major work assumptions and work processes for completing the standard review plan revision process. Information management protocols and process modifications were made to account for the unique drivers that resulted from changes outside of the Atomic Energy Act and NRC regulations arena including, but not limited to, the National Environmental Policy Act, the Endangered Species Act, the Presidential executive order on environmental justice, guidance from the Council on Environmental Quality, and the regulations of the Environmental Protection Agency on non-radiological issues. The entire work effort and responsibility for updating the ESRP resides in the NRC Generic Issues and Environmental Projects Branch, which coordinates with the appropriate technical review branches and essential technical specialists on particular issues.

The purpose of this notice is to solicit specific public comment on whether the updated ESRP accurately and fully reflects established NRC staff positions and existing requirements that include statutes, regulations, executive orders, and NRC decisions. Consideration should be given to the thoroughness and utility in use of the guidance provided to implement NRC rules promulgated since the original ESRP was published in 1978 with particular emphasis given to those related to siting and environmental protection and to those new licensing frameworks related to early site permits, combined licenses, and license renewal. The SRP is made available to the public as part of NRC's policy to inform the nuclear industry and general public of regulatory procedures and policies. Environmental standard review plans are not substitutes for regulatory guides or NRC regulations. Compliance with ESRPs is not required. Published environmental standard review plans will be revised periodically, as appropriate, to accommodate comments and to reflect new information and experience.

The NRC encourages comment from all interested parties; however, public review is not intended to reopen a dialogue on the merits of the requirements themselves but should be focused on the purposes stated above.

Comments should reference the page number and section (either ESRP section or Introduction or appendices).

The updated ESRP in printed paper, 3.5-inch disks and compact disk (CD) versions, and comments submitted are available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, DC 20555–0001.

A limited number of copies of the updated draft ESRP in printed paper and CD versions (in WordPerfect 6.1 format) are available free, to the extent of supply, upon written request to the Office of Information Resources Management, Distribution Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dated at Rockville, Maryland, this 11th day of September, 1997.

For the Nuclear Regulatory Commission.

David B. Matthews,

Acting Chief, Generic Issues and Environmental Projects Branch, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 97–26269 Filed 10–2–97; 8:45 am]

BILLING CODE 7590–01–P

Nuclear Regulatory Commission

[Docket No. 72–10]

Northern States Power Company Issuance of Director's Decision Under 10 CFR 2.206 (DD–97–24)

Notice is hereby given that the Director, Office of Nuclear Material Safety and Safeguards, has issued a Director's Decision concerning a Petition dated August 26, 1996, filed by Carol A. Overland, on behalf of the Florence Township, Minnesota, Board of Supervisors (Petitioner), under Section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206).

The Director of the Office of Nuclear Material Safety and Safeguards has determined that the Petition should be denied for the reasons stated in the ''Director's Decision Under 10 CFR 2.206'' (DD–97–24), the complete text of which follows this notice. The Decision and documents cited in the Decision are available for public inspection and copying in the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC.

A copy of this Decision has been filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c). As provided therein, this Decision will become the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 26th day of September 1997.

For The Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

Director's Decision Under 10 CFR 2.206

I. Introduction

On August 26, 1996, Florence Township, Minnesota (Petitioner) filed a petition requesting that the Nuclear Regulatory Commission (NRC) institute a proceeding pursuant to 10 CFR 2.202 with regard to the application by Northern States Power Company (NSP), claiming, that NSP violated the Commission's regulations by failing to provide Lake City, Minnesota, with an opportunity to comment on a proposed emergency plan for an independent spent fuel storage installation (ISFSI) before submission to the NRC. The Petitioner requested that NRC: (1) Determine that NSP violated the requirements of 10 CFR 72.32(a)(14) by refusing to allow Lake City, Minnesota, 60 days to comment on NSP's emergency plan before submitting it to NRC; (2) reject NSP's application as incomplete and inadequate and return it to the corporation; (3) require that NSP specifically name the local governments referred to in section 5.6 of the emergency plan which are expected to respond in case of an accident; (4) require that NSP allow 60 days to the named local governments to review and comment upon NSP's emergency plan prior to NSP's resubmission of the application; (5) impose a penalty in the amount of one million dollars and require NSP to compensate the Petitioner in the amount of $7,500.00 for time expended by its Board and attorney in attempting to obtain the emergency plan before its submission to the NRC; and (6) provide hearings on this petition at which the Petitioner and members of the public may participate.

The Petitioner asserts as the basis for this request the regulatory requirement found at § 72.32(a)(14) of Chapter 10 of the Code of Federal Regulations [10 CFR 72.32(a)(14)]:

> The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the initial submittal of the licensee's emergency plan before submitting it to NRC. Subsequent plan changes need not have the offsite comment period unless the plan changes affect the offsite response organizations. The licensee shall provide any comments received within 60 days to NRC with the emergency plan.

The petition has been referred to me for a decision. For the reasons given below, I have concluded that the Petitioner's requests should be denied.

II. Background

NSP has an onsite ISFSI at Prairie Island Nuclear Generating Plant (PINGP), which has a capacity to store 1920 spent fuel assembles in 48 Transnuclear TN–40 casks. In 1994, the Minnesota legislature enacted statutes authorizing NSP to store spent nuclear fuel at the ISFSI. 1994 Minn. Laws ch 641, arts. 1, 6 (codified at Minn. Stat §§ 116C.77-.80(1996)). The legislation authorized the immediate use of five casks and allowed the use of four additional casks upon a determination that NSP had: (1) Filed a license application with NRC for a separate dry cask storage facility in Goodhue County; (2) continued a good faith effort to implement the alternate site; and (3) arranged for the use of additional megawatts of wind power. The law also provided that NSP could not construct at the second site without first obtaining a Certificate of Site Compatibility from the Minnesota Environmental Quality Board (MEQB). The MEQB was authorized to certify that the alternative Goodhue County site was comparable to the independent spent fuel storage facility site located on Prairie Island.

NSP applied for a certificate from the MEQB in July 1995. It identified two possible sites for the Goodhue County spent fuel storage facility, both in Florence Township, south of the City of Red Wing.[1] On October 2, 1996, after receiving the report of a citizen Advisory Task Force, the MEQB determined that because of the additional risks it believed to be inherent in transporting spent nuclear fuel to a second site in Goodhue County away from PINGP, no other site in Goodhue County would be comparable to the Prairie Island facility and denied a certificate.

NSP's application to NRC included an emergency plan for the Goodhue County facility, which contained comments from the Minnesota Departments of Public Safety and Public Health, as well as the Goodhue County, Minnesota, Office of Emergency Management which coordinates emergency services within the county. NRC completed its acceptance review and docketed the NSP application on September 9, 1996. A ''Notice of Consideration of Issuance of a Materials License for the Storage of

[1] One of these was the site chosen by NSP for inclusion in its application to NRC. It is described as being situated south of Frontenac Station, north of Wells Creek, and between Territorial Road and the CP Rail railroad tracks.

Spent Fuel and Notice of Opportunity for Hearing'' was published in the **Federal Register** on September 17, 1996. The Petitioner and several others sought a hearing as provided by 10 CFR 2.105. An Atomic Safety and Licensing Board (ASLB) was established on October 9, 1996. Among the issues raised in the petitions to intervene by the Petitioner and by Lake City, Minnesota, were issues associated with emergency planning, substantially similar to the issues raised by the Petitioner in the petition requesting that the NRC institute a proceeding pursuant to 10 CFR 2.202. Consequently, the staff deferred the response to the Petition until completion of the ASLB hearing process.

Because of the physical proximity of its Reservation to PINGP, the Prairie Island Indian Community had been particularly interested in seeing the offsite ISFSI built. Since the MEQB decision effectively ended the possibility of that facility being developed, the Indian Community initiated litigation in the Minnesota State Courts in December 1996, seeking to overturn the MEQB decision. When the litigation began, NSP requested and was granted a suspension of both NRC staff's review of the Goodhue County application and the ASLB proceeding, just prior to the pre-hearing conference which was scheduled for December 1996. State litigation ended in July 1997, when the Minnesota Supreme Count declined to hear an appeal of the Minnesota Court of Appeals ruling which affirmed the MEQB decision. Subsequently, in a letter dated July 22, 1997, NSP withdrew the Goodhue County application. NRC acknowledged the withdrawal in a letter dated August 4, 1997. The ASLB issued a Memorandum and Order terminating its proceeding on July 30, 1997. However, a motion for reconsideration is currently under review by the Board.[2]

III. Discussion

Section 72.32(a)(14) provides that the offsite response organizations expected by the licensee to respond to an on-site emergency should be provided an opportunity to comment on an ISFSI emergency plan.[3] As required by 10 CFR 72.32(a)(14), NSP contacted the offsite response organizations it expected to respond to an on-site emergency at the proposed Goodhue County facility. NSP requested comments from the Minnesota Departments of Public Safety and Public Health and the Goodhue County, Minnesota, Office of Emergency Management. All three responded to NSP's request. Their comments were provided to NRC with the emergency plan.

The Petitioner claims that because the Lake City, Minnesota, Fire Department contracts with Florence Township to provide fire protection, it is one of the offsite response organizations that NSP would contact in case of an on-site emergency at the Goodhue County ISFSI. Lake City is not located in Goodhue County, however, and therefore is not expected by the applicant to respond to an on-site emergency.

The emergency plan appropriate for an ISFSI is an on-site emergency plan. The staff has determined that there are no credible accidents at an ISFSI which have significance for offsite emergency preparedness.[4] There is no specific requirement that any particular political jurisdiction be contacted to comment on an ISFSI emergency plan. Rather, the applicant is required to determine which services it will require from offsite providers and to seek comments from those organizations. NSP did not indicate in the emergency plan that Lake City, Minnesota, was expected to respond to an on-site emergency. Further, no evidence has been provided that NSP, at the time of the submittal of the license application, had plans to seek emergency planning assistance from Lake City, Minnesota. Thus, there is no violation of 10 CFR 72.32(a)(14) to warrant any enforcement action.

The Petitioner raised several additional requests regarding NRC's review of NSP's Goodhue County application. These are matters which the NRC considers during the license review, not as part of a Petition filed under 10 CFR 2.206. Further, in light of the fact that NSP has now withdrawn the application, they are moot.

Conclusion

I have concluded that NSP did not violate NRC regulations by failing to provide Lake City, Minnesota, with an opportunity to respond to the proposed emergency plan. As provided by 10 CFR 2.206(c), a copy of this Decision will be filed with the Secretary of the Commission for the Commission's review.

Dated at Rockville, Maryland, this 26th day of September, 1997.

For The Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–26273 Filed 10–2–97; 8:45 am]

BILLING CODE 7590–01–P

[2] On July 30, 1997, the Petitioner filed a response to NSP's July 24, 1997, Motion for Withdrawal of Application and Termination of Proceeding. In the response, the Petitioner requested that the ASLB dismiss the NSP application with prejudice, or alternatively, deny NSP's application, or impose a condition of withdrawal that the application for the Florence Township site shall not be resubmitted. The ASLB considered this Petitioner's June 30, 1997, submittal to be a motion for reconsideration. On August 29, 1997, the staff responded that Florence Township's motion for reconsideration should be denied on the basis that the proceeding had not sufficiently progressed such that dismissal with prejudice is appropriate, and on the basis that Florence Township has not demonstrated legal harm warranting the relief it requests.

[3] The regulatory requirements for comments on the emergency plans for ISFSIs, like the requirements for the emergency plans, are separate and quite different from those for nuclear reactors. The requirements for emergency plans for ISFSIs are for on-site emergencies only. Because offsite health effects have not been identified for accidents at ISFSIs, there is no requirement for neighboring jurisdictions to be involved in emergency response. There is, for instance, no requirement for evacuation planning and hence no need for the kinds of more elaborate plans associated with nuclear reactors.

[4] See NUREG–1140, ''A Regulatory Analysis on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees.''

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39143; File No. SR–Amex–97–29]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Listing and Trading of DIAMONDS℠ Trust Units

September 29, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 11, 1997, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to list and trade under Amex Rules 1000 *et seq.* DIAMONDS℠, units of beneficial interest in the DIAMONDS Trust. In addition, the Exchange proposes to adopt Amex Rule 1005, ''Dow Jones Indexes,'' relating to license and warranty issues. The text of the proposed rule change is available at the

Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 11, 1992,[1] the Commission approved Amex Rules 1000 *et seq.* to accommodate trading on the Exchange of Portfolio Depositary Receipts (''PDRs℠''), securities which represent interests in a unit investment trust (''Trust'') operating on an open-end basis and that hold a portfolio of securities. The Trust sponsor (''Sponsor'') for each series of PDRs is PDR Services Corporation, a wholly-owned subsidiary of Amex.[2] Each Trust is intended to provide investors with an instrument that closely tracks the underlying securities portfolio, that trades like a share of common stock, and that pays to PDR holders periodic dividends proportionate to those paid with respect to the underlying portfolio of securities, less certain expenses, as described in the applicable Trust prospectus. The first Trust to be formed in connection with the issuance of PDRs was based on the Standard & Poor's 500 Index (''S&P 500 Index''), known as Standard & Poor's Depositary Receipts® (''SPDRs''), which have been trading on the Exchange since January 29, 1993.[3] In 1995, the Commission approved Amex's listing and trading of PDRs based on the Standard & Poor's MidCap 400 Index™ (''MidCap SPDRs'').[4]

The Exchange now proposes to list and trade under Rules 1000 *et seq.* DIAMONDS℠, units of beneficial interest in the DIAMONDS Trust.[5] The Sponsor will enter into a trust agreement with the Trustee, State Street Bank and Trust Company, in accordance with Section 26 of the Investment Company Act of 1940 (''1940 Act''). A distributor will act as underwriter of DIAMONDS on an agency basis. All orders to create DIAMONDS in Creation Unit size aggregations must be placed with the distributor, and it will be the responsibility of the distributor to transmit such orders to the Trustee. The distributor is a registered broker-dealer, and a member of the National Association of Securities Dealers, Inc.

The Dow Jones Industrial Average:[6] The Dow Jones Industrial Average is the oldest continuous barometer of the U.S. stock market, and the most widely quoted indicator of U.S. stock market activity. The 30 stocks now comprising the DJIA are all leaders in their respective industries, and their stocks are widely held by individuals and institutional investors.

The DJIA is a price-weighted stock index; that is, the component stocks are accorded relative importance based on their prices. The DJIA is called an ''average'' because originally it was calculated by adding up the component stock prices and then dividing by the number of stocks. The method remains the same today, but the divisor (the number that is divided into the total of the stock prices) has been increased to eight significant digits to minimize distortions due to rounding.

The DJIA divisor is adjusted due to corporate actions that change the price of any of its component shares. The most frequent reason for such an adjustment is a stock split. For example, suppose a company in the DJIA issues one new share for each share outstanding. After this two-for-one ''split,'' each share of stock is worth half what it was immediately before, other things being equal. But without an adjustment in the divisor, this split would produce a distortion in the DJIA. An adjustment must be made to compensate so that the ''average'' will remain unchanged. At Dow Jones, this adjustment is handled by changing the divisor.[7] The formula used to calculate divisor adjustments is:

New Divisor = Current Divisor × Adjusted Sum of Prices/Unadjusted Sum of Prices

Changes in the composition of the DJIA are made entirely by the editors of The Wall Street Journal without consultation with the companies, the respective stock exchange, or any official agency. Additions or deletions of components may be made to achieve better representation of the broad market and of American industry.

The DIAMONDS Trust: To be eligible to place orders to create DIAMONDS as described below, an entity or person must either be a participant in the Continuous Net Settlement (''CNS'') system of the National Securities Clearing Corporation (''NSCC'') or a Depository Trust Company (''DTC'') participant. Upon acceptance of an order to create DIAMONDS, the distributor will instruct the Trustee to initiate the book-entry movement of the appropriate number of DIAMONDS to the account of the entity placing the order. DIAMONDS will be registered in book entry only, which records will be kept by DTC.

Payment with respect to creation orders placed through the distributor will be made by (1) the ''in-kind'' deposit with the Trustee of a specified portfolio of securities that is substantially similar in composition to the component shares of the underlying index or portfolio; (2) a cash payment sufficient to enable the Trustee to make a distribution to the holders of beneficial interests in the Trust on the next dividend payment date as if all the securities had been held for the entire accumulation period for the distribution (''Dividend Equivalent Payment''), subject to certain specified adjustments;[8] and (3) a cash payment or adjustment calculated by the Trustee to enable the securities portfolio portion to equal the net asset value of the Trust (the ''Balancing Amount''). The Balancing Amount and the Dividend Equivalent Payment are referred to as the ''Cash Component'' in the case of a creation. The securities and cash

[1] See Securities Exchange Act Release No. 31591 (December 11, 1992), 57 FR 60253 (December 18, 1992) (''SPDRs Order'').

[2] ''PDRs'' is a service mark of PDR Services Corp.

[3] See SPDRs Order, *supra* note 1.

[4] See Securities Exchange Act Release No. 35534 (March 24, 1995), 60 FR 16686 (March 31, 1995). ''Standard & Poor's 500,'' ''Standard & Poor's MidCap 400 Index,'' ''Standard & Poor's Depositary Receipts®,'' ''SPDRs®,'' ''Standard & Poor's MidCap 400 Depositary Receipts'' and ''MidCap SPDRs'' are trademarks of The McGraw-Hill Companies, Inc. and are being used by the Exchange and the Sponsor under license among Standard & Poor's, a division of The McGraw-Hill Companies, Inc., the Exchange and the Sponsor. ''SPDRs'' and ''MidCap SPDRs'' are not sponsored, endorsed, sold, or promoted by S&P, and S&P makes no representation regarding the advisability of investing in SPDRs or MidCap SPDRs.

[5] ''Dow Jones Industrial Average℠,'' ''DJIA℠,'' ''Dow Jones℠'' and ''DIAMONDS'' are each trademarks and service marks of Dow Jones & Company, Inc. (''Dow Jones'') and have been licensed for use for certain purposes by the Exchange and the Sponsor. DIAMONDS are not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in such product.

[6] The description of the DJIA included herein is based on materials prepared by Dow Jones.

[7] Currently, the divisor is recalculated after the close of business on the day prior to the occurrence of the split.

[8] See ''Distributions'' infra.

accepted by the Trustee are referred to, in the aggregate, as a ''Portfolio Deposit.''

The mandatory termination date of the Trust will be the first to occur of (i) January 30, 2122 or (ii) the date 20 years after the death of the last survivor of eleven persons named in the trust agreement between the Trust Sponsor and the Trustee.

Issuance: Upon receipt of a Portfolio Deposit in payment for a creation order placed through the distributor as described above, the Trustee will issue a specified number of DIAMONDS, which aggregate number is referred to as a ''Creation Unit.'' The Exchange anticipates that, with respect to DIAMONDS, a Creation Unit will be made up of 50,000 DIAMONDS. Individual DIAMONDS can then be traded in the secondary market like other equity securities.[9] It is expected that Portfolio Deposits will be made primarily by institutional investors, arbitrageurs, and the Exchange specialist. The DIAMONDS Trust has been structured to provide for the initial issuance of DIAMONDS at a per unit price which would approximate 1/100th of the value of the DJIA. As of August 7, 1997 it is estimated that the value of such an individual DIAMONDS Unit would be approximately $81.88.

It is expected that the Trustee or Sponsor will make available (a) on a daily basis a list of the names and required number of shares for each of the securities in the current Portfolio Deposit; (b) on a minute-by-minute basis throughout the day, a number representing the value (on a per DIAMONDS Unit basis) of the securities portion of a Portfolio Deposit in effect on such day, plus accumulated dividends less expenses through the previous day's close, and (c) on a daily basis, the accumulated dividends, less expenses, per outstanding DIAMONDS Unit.

Transactions in DIAMONDS may be effected on the Exchange until 4:15 p.m. New York time each business day. The minimum fractional change for DIAMONDS shall be 1/64 of $1.00.

Redemption: DIAMONDS in Creation Unit size aggregations generally will be redeemable in kind by tendering them to the Trustee. While holders may sell DIAMONDS in the secondary market at any time, they must accumulate at least 50,000 (or multiples thereof) to redeem through the Trust. DIAMONDS will remain outstanding until redeemed or until the termination of the Trust. Creation Units generally will be redeemable on any business day in exchange for a portfolio of the securities held by the Trust identical in composition to the securities portion of a Portfolio Deposit in effect on the date request is made for redemption, together with a ''Cash Redemption Payment'' (as defined in the Trust prospectus), including accumulated dividends, less expenses, through the date of redemption. The number of shares of each of the securities transferred to the redeeming holder generally will be the number of shares of each of the component stocks in a Portfolio Deposit on the day a redemption notice is received by the Trustee, multiplied by the number of Creation Units being redeemed. Nominal service fees may be charged in connection with the creation and redemption of Creation Units. The Trustee will cancel all tendered Creation Units upon redemption.

Distributions: The DIAMONDS Trust will pay monthly dividends. The first ex-dividend date for DIAMONDS will be the third Friday of the third full month following the commencement date of the Trust unless such date is not a Business Day, in which case the ex-dividend date will be the immediately preceding Business Day (the ''ex-dividend date''). Holders of DIAMONDS as reflected on the records of the DTC and the DTC Participants on the second business day following the ex-dividend date will be entitled to receive an amount representing dividends accumulated through the monthly dividend period which ends on the business day preceding such ex-dividend date net of fees and expenses accrued daily for such period. The payment of dividends will be made on the first business day coincident with or following the Monday preceding the third Friday in the calendar month following the ex-dividend date (the ''Dividend Payment Date''). On the Dividend Payment Date, dividends payable for those securities with ex-dividend dates falling within the period from the ex-dividend date most recently preceding the current ex-dividend date will be distributed. The Trustee will compute on a daily basis the dividends accumulated within each monthly dividend period. Dividend payments will be made through DTC and its participants to all such holders with funds received from the Trustee. The DIAMONDS Trust intends to make the DTC Dividend Reinvestment Service available for use by DIAMONDS holders through DTC Participant brokers for reinvestment of their cash proceeds. An interested investor would have to consult his or her broker to ascertain the availability of dividend reinvestment through such broker.

Criteria for Initial and Continued Listing: Because of the open-end nature of the Trust upon which a series of PDRs is based, the Exchange believes it is necessary to maintain appropriate flexibility in connection with listing a specific Trust. In connection with initial listing, the Exchange will establish a minimum number of PDRs required to be outstanding at the time of commencement of Exchange trading. For DIAMONDS, it is anticipated that a minimum of 150,000 DIAMONDS (*i.e.*, three Creation Units of 50,000 DIAMONDS each), will be required to be outstanding when trading begins.

The DIAMONDS Trust will be subject to the initial and continued listing criteria of Rule 1002(b). Rule 1002(b) provides that, following twelve months from the formation of a Trust and commencement of Exchange trading, the Exchange will consider suspension of trading in, or removal from listing of a Trust when, in its opinion, further dealing in such securities appears unwarranted under the following circumstances:

(a) If the Trust on which the PDRs are based has more than 60 days remaining until termination and there have been fewer than 50 record and/or beneficial holders of the PDRs for 30 or more consecutive trading days; or

(b) If the index on which the Trust is based is no longer calculated; or

(c) If such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

A Trust shall terminate upon removal from Exchange listing and its PDRs redeemed in accordance with provisions of the Trust prospectus. A Trust may also terminate under such other conditions as may be set further in the Trust prospectus. For example, the Sponsor, following notice to PDRs holders, shall have discretion to direct that the Trust be terminated if the value of securities in such Trust falls below a

[9] The DIAMONDS Trust, Series I, has filed with the Commission an application seeking, among other things, an order: (1) Permitting secondary market transactions in DIAMONDS at negotiated prices, rather than at a current public offering price described in the prospectus as required by Section 22(d) of the 1940 Act and Rule 22c–1; and (2) permitting the sale of DIAMONDS to purchasers in the secondary market unaccompanied by a prospectus, when prospectus delivery is not required by Section 4(3) of the Securities Act of 1933 but may be required according to Section 24(d) of the 1940 Act for redeemable securities issued by a Unit Investment Trust. These exemptions, if granted, will permit individual DIAMONDS to be traded in secondary market transactions similar to a closed-end investment company.

specified amount.[10] The DIAMONDS Trust may also terminate if the license agreement with Dow Jones terminates.

Trading Halts: Prior to commencement of trading in DIAMONDS, the Exchange will issue a circular to members informing them of Exchange policies regarding trading halts in such securities. The circular will make clear that, in addition to other factors that may be relevant, the Exchange may consider factors such as those set further in Rule 918C(b) in exercising its discretion to halt or suspend trading. These factors would include whether trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the applicable current index group value [11]; or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[12]

Terms and Characteristics: Under Amex Rule 1000, Commentary .01, Amex members and member organizations are required to provide to all purchasers of DIAMONDS a written description of the terms and characteristics of such securities, in a form prepared by the Exchange, not later than the time a confirmation of the first transaction in each series is delivered to such purchaser. The Exchange also requires that such description be included with any sales material on DIAMONDS that is provided to customers or the public. In addition, the Exchange requires that members and member organizations provide customers the prospectus for DIAMONDS upon request.

A member or member organization carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase DIAMONDS for such omnibus account will be deemed to constitute agreement by the non-member to make such written description available to its customers on the terms as are directly applicable to members and member organizations.

Prior to commencement of trading of DIAMONDS, the Exchange will distribute to Exchange members and member organizations an Information Circular calling attention to characteristics of the DIAMONDS Trust and to applicable Exchange rules.

Adoption of Rule 1005: The Exchange proposes to adopt Rule 1005 (''Dow Jones Indexes'') stating that Dow Jones has licensed the Exchange to use certain Dow Jones indexes for purposes of the listing and trading of particular series of Portfolio Depositary Receipts on the Exchange, and stating, among other things, that Dow Jones and the Exchange make no warranty, express or implied, as to results to be obtained by any person or entity from the use of the Indexes or any data included therein.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) [13] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest. The Exchange believes that Portfolio Depositary Receipts, generally, and DIAMONDS specifically, have the potential to benefit the markets by providing an alternate trading instrument, such as those encouraged by the Division of Market Regulation in its report, ''The October 1987 Market Break,'' that may help temper market volatility and reduce stress on individual index component stocks during unusual market conditions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-97-29 and should be submitted by October 24, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26285 Filed 10–2–97; 8:45 am]

BILLING CODE 8010–01–M

[10] With respect to the DIAMONDS Trust, the Sponsor has the discretionary right to terminate the Trust if the value of Trust Securities (as defined in the Trust registration statement) falls below $150,000,000 at any time after six months following, and prior to three years following, inception of the Trust. Following such time, the Sponsor has the discretionary right to terminate if Trust Securities fall below $350,000,000 in value, adjusted annually for inflation.

[11] Amex Rule 918C(b)(3).

[12] Amex Rule 918C(b)(4).

[13] 15 U.S.C. 78f(b)(5).

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of: (a) Final action regarding amendments to sentencing guidelines and policy statements effective November 1, 1997; and (b) an amendment to correct a clerical error in USSG § 2K2.1(a)(3), as amended by amendment 522 (November 1, 1995).

SUMMARY: The Sentencing Commission hereby gives notice of: (a) Several amendments to policy statements and commentary made pursuant to its authority under 28 U.S.C. 994(a); (b)

conforming and technical amendments to several amendments submitted to Congress on May 1, 1997; and (c) an amendment to correct a clerical error that omitted the word ''felony'' from the phrase ''prior felony'' in USSG § 2K2.1(a)(3), as amended by amendment 522 (November 1, 1995).

DATES: The effective date of these amendments is November 1, 1997.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Information Specialist, Telephone: (202) 273–4590.

Authority: 28 U.S.C. 994 (a), (o), (x).

Richard P. Conaboy,

Chairman.

1. Amendment: The Commentary to new guideline § 2A6.2 (see 62 F.R. 26615 (1997)) captioned ''Application Notes'' is amended in Note 1 by inserting at the beginning the following:

For purposes of this guideline—

'Bodily injury' and 'dangerous weapon' are defined in the Commentary to § 1B1.1 (Application Instructions).

Reason for Amendment: This amendment incorporates into § 2A6.2 the definitions of ''bodily injury'' and ''dangerous weapon'' found in § 1B1.1 (Application Instructions). The definition of bodily injury found in the guidelines differs from the definition of bodily injury in 18 U.S.C. 2266 that is applicable to interstate stalking and interstate domestic violence offenses. The definition of ''bodily injury'' in 18 U.S.C. 2266 explicitly include sexual abuse, but the guideline definition of ''bodily injury'' does not. However, the Commission is fully aware that criminal sexual abuse often is part of a domestic violence offense under 18 U.S.C. 2261 and 2262 and may be part of a stalking offense under 18 U.S.C. 2261A. It is the view of the Commission that the new guideline provides an adequate mechanism for taking into account the occurrence of criminal sexual abuse in any of these offenses. This is because the guideline definition of ''serious bodily injury'' in § 1B1.1 deems serious bodily injury—a more serious gradient of bodily injury—to have occurred if the offense involved conduct constituting criminal sexual abuse under 18 U.S.C. 2241 or 2242 or any similar offense under state law. Under the new guideline, any offense that involved criminal sexual abuse almost certainly will be subject to the cross reference to another offense guideline and to the rule deeming such conduct to be serious bodily injury (for purposes of applying a serious bodily injury enhancement in that other guideline to the offense). Therefore, in all likelihood, the sentence will be enhanced for the occurrence of criminal sexual abuse because the case will be cross referenced to another guideline that enhances for serious bodily injury.

2. Amendment: The Commentary to § 2B4.1 captioned ''Statutory Provisions'' is amended by deleting ''§§ 11907(a), (b)'' and inserting in lieu thereof ''§ 11902''.

The Commentary to § 2N3.1 captioned ''Statutory Provisions'' is amended by deleting ''15 U.S.C. §§ 1983–1988, 1990c'' and inserting in lieu thereof ''49 U.S.C. §§ 32703-32705, 32709(b).''.

The Commentary to § 2Q1.2 captioned ''Statutory Provisions'' is amended by deleting ''§ 1809(b)'' and inserting in lieu thereof ''§ 60123(d)''.

Reason for Amendment: This amendment makes technical corrections to § 2B4.1 (Bribery in Procurement of Bank Loan and Other Commercial Bribery), § 2N3.1(Odometer Laws and Regulations), § 2Q1.2 (Mishandling of Hazardous or Toxic Substances or Pesticides; Recordkeeping, Tampering, and Falsification; Unlawfully Transporting Hazardous Materials in Commerce), to reflect changes made to statutory references when Congress codified Title 49 (Transportation), United States Code. Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1356; Pub. L. 104–88, Title I, § 102(a), December 29, 1995, 109 Stat. 850.

3. Amendment: The Commentary to § 2D1.11 captioned ''Application Notes'' is amended in Note 4(a) in the fourth sentence by deleting ''14'' and inserting in lieu thereof ''16''.

Reason for Amendment: This amendment corrects a clerical error.

4. Amendment: The Commentary to § 2K1.5 captioned ''Background'' is amended by deleting:

Except under the circumstances specified in 49 U.S.C. 46505(c), the offense covered by this section is a misdemeanor for which the maximum term of imprisonment authorized by statute is one year;

by deleting ''An'' and inserting in lieu thereof ''This guideline provides an''; and by deleting ''is provided'' immediately after ''enhancement''.

Reason for Amendment: This amendment strikes background commentary in guideline § 2K1.5 that is no longer correct because of a recent change in statutory penalties. Specifically, the Antiterrorism Act of 1996 increased the statutory maximum penalty for violations of 49 U.S.C. 46505(b) from not more than one year to not more than 10 years. This increase changes the classification of an offense under subsection (b) from a class A misdemeanor to a class D felony.

5. Amendment: The Commentary to § 4B1.1 captioned ''Application Notes'' is amended in Note 2 by deleting ''not'' after ''offense,'' in the first sentence; by deleting ''(b)(1)(B), (b)(1)(C), and (b)(1)(D)'' and inserting in lieu thereof ''(B), (C), and (D)''; by deleting ''where'' and inserting in lieu thereof ''in a case in which''; by inserting ''for that defendant'' after ''Maximum'''; by deleting ''twenty years and not thirty years'' and inserting in lieu thereof ''thirty years and not twenty years''; by deleting ''authorizes'' and inserting in lieu thereof ''has''; and by deleting ''maximum term of imprisonment'' and inserting in lieu thereof ''offense statutory maximum''.

The Commentary to § 4B1.1 captioned ''Background'' is amended by deleting:

The legislative history of this provision suggests that the phrase 'maximum term authorized' should be construed as the maximum term authorized by statute. See S. Rep. No. 225, 98th Cong., 1st Sess. 175 (1983); 128 Cong. Rec. 26, 511–12 (1982) (text of 'Career Criminals' amendment by Senator Kennedy); *id.* at 26,515 (brief summary of amendment); *id.* at 26,517–18 (statement of Senator Kennedy).

Reason for Amendment: This amendment responds to United States v. LaBonte, 117 S.Ct. 1673. In LaBonte, the Supreme Court held that the way in which the Commission defined ''maximum term authorized'', for purposes of fulfilling the requirement under 28 U.S.C. 994(h) to specify sentences for certain categories of career offenders at or near the maximum term authorized for those offenders, is inconsistent with section 994(h)'s plain and unambiguous language and is therefore invalid. The Commission defined ''maximum term authorized'' to mean the maximum term authorized for the offense of conviction not including any sentencing enhancement provisions that apply because of the defendant's prior criminal record. The Supreme Court held that under section 994's plain and unambiguous language, ''maximum term authorized'' must be read to include all applicable statutory sentencing enhancements. The proposed amendment makes a straightforward change to the commentary to § 4B1.1, the career offender guideline, to reflect the LaBonte decision. Specifically, the definition of ''maximum term authorized'' is proposed to be changed to reflect that the ''maximum term authorized'' includes all sentencing enhancements that apply because of the defendant's prior criminal record.

6. Amendment: The Commentary to § 2K1.3 captioned ''Application Notes'' is amended in Note 2 by deleting ''Note 3'' and inserting in lieu thereof ''Note 1''.

The Commentary to § 2K2.1 captioned ''Application Notes'' is amended in Note 5 by deleting ''Note 3'' and inserting in lieu thereof ''Note 1''.

The Commentary to § 7B1.1 captioned ''Application Notes'' is amended in Note 2 by deleting ''§ 4B1.2(1)'' and inserting in lieu thereof ''§ 4B1.2(a)''; and by deleting ''Notes 1 and 2'' and inserting in lieu thereof ''Note 1''.

The Commentary to § 7B1.1 captioned ''Application Notes'' is amended in Note 3 by deleting ''§ 4B1.2(2)'' and inserting in lieu thereof ''§ 4B1.2(b)''.

Reason for Amendment: This amendment conforms §§ 2K1.3, 2K2.1 and 7B1.1 to § 4B1.2, as amended November 1, 1997 (see 62 FR 26615 (1997)).

7. Amendment: The replacement guideline for § 5B1.3 (see 62 FR 26615 (1997)) is amended in subsection (a)(2) by inserting the following additional paragraph:

Note: Section 3563(a)(2) of Title 18, United States Code, provides that, absent unusual circumstances, a defendant convicted of a felony shall abide by at least one of the conditions set forth in 18 U.S.C. 3563(b)(2), (b)(3), and (b)(13). Before the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, those conditions were a fine ((b)(2)), an order of restitution ((b)(3)), and community service ((b)(13)). Whether or not the change was intended, the Act deleted the fine condition and renumbered the restitution and community service conditions in 18 U.S.C. 3563(b), but failed to make a corresponding change in the referenced paragraphs under 18 U.S.C. 3563(a)(2). Accordingly, the conditions now referenced are restitution ((b)(2)), notice to victims pursuant to 18 U.S.C. 3555((b)(3)), and an order that the defendant reside, or refrain from residing, in a specified place or area ((b)(13)).

The Commentary to § 2X5.1 captioned ''Application Note'' is amended in Note 1 by deleting: ''§ 5B1.4 (Recommended Conditions of Probation and Supervised Release);''.

Section 5H1.3 is amended by deleting ''recommended condition (24) at § 5B1.4 (Recommended Conditions of Probation and Supervised Release)'' and inserting in lieu thereof ''§§ 5B1.3(d)(5) and 5D1.3(d)(5)''.

Section 5H1.4 is amended in the second paragraph by deleting ''recommended condition (23) at § 5B1.4 (Recommended Conditions of Probation and Supervised Release)'' and inserting in lieu thereof ''§ 5D1.3(d)(4)''; and in the third paragraph by deleting ''recommended condition (23) at § 5B1.4 (Recommended Conditions of Probation and Supervised Release)'' and inserting in lieu thereof ''§ 5B1.3(d)(4)''.

Section 8D1.3(a) is amended by deleting ''shall'' immediately after ''organization''.

Section 8D1.3(b) is amended by deleting ''a fine, restitution, or community service,'' and inserting in lieu thereof ''(1) restitution, (2) notice to victims of the offense pursuant to 18 U.S.C. 3555, or (3) an order requiring the organization to reside, or refrain from residing, in a specified place or area,'';

and by adding at the end:

Note: Section 3563(a)(2) of Title 18, United States Code, provides that, absent unusual circumstances, a defendant convicted of a felony shall abide by at least one of the conditions set forth in 18 U.S.C. 3563 (b)(2), (b)(3), and (b)(13). Before the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, those conditions were a fine ((b)(2)), an order of restitution ((b)(3)), and community service ((b)(13)). Whether or not the change was intended, the Act deleted the fine condition and renumbered the restitution and community service conditions in 18 U.S.C. 3563(b), but failed to make a corresponding change in the referenced paragraphs under 18 U.S.C. 3563(a)(2). Accordingly, the conditions now referenced are restitution ((b)(2)), notice to victims pursuant to 18 U.S.C. 3555((b)(3)), and an order that the defendant reside, or refrain from residing, in a specified place or area ((b)(13)).

Reason for Amendment: This amendment conforms §§ 2X5.1, 5H1.3, and 5H1.4 to the replacement guideline for § 5B1.3 and the deletion of § 5B1.4 (see 62 FR 26615 (1997)). The amendment also adds a note to §§ 5B1.3 and 8D1.3 explaining an ambiguity created by the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, Pub.L. 104–132, 110 Stat. 1227.

8. Amendment: Section 5K2.0 is amended in the third paragraph by deleting ''immigration violations'' and inserting in lieu thereof ''other guidelines''; and by deleting ''for an immigration violation'' and inserting in lieu thereof ''under one of these other guidelines''.

Reason for Amendment: This amendment conforms § 5K2.0 to § 2L1.1 (see 62 FR 26615 (1997)).

9. Amendment: The Commentary to § 6A1.3 is amended in the first paragraph by deleting ''will no longer exist'' and inserting in lieu thereof ''no longer exists''; by deleting ''will usually have'' and inserting in lieu thereof ''usually has'';

and by deleting:

Although lengthy sentencing hearings should seldom be necessary, disputes about sentencing factors must be resolved with care. When a reasonable dispute exists about any factor important to the sentencing determination, the court must ensure that the parties have an adequate opportunity to present relevant information. Written statements of counsel or affidavits of witnesses may be adequate under many circumstances. An evidentiary hearing may sometimes be the only reliable way to resolve disputed issues. See *United States* v. *Fatico,* 603 F.2d 1053, 1057 n.9 (2d Cir. 1979) cert. denied, 444 U.S. 1073 (1980). The sentencing court must determine the appropriate procedure in light of the nature of the dispute, its relevance to the sentencing determination, and applicable case law.

and inserting in lieu thereof:

Although lengthy sentencing hearings seldom should be necessary, disputes about sentencing factors must be resolved with care. When a dispute exists about any factor important to the sentencing determination, the court must ensure that the parties have an adequate opportunity to present relevant information. Written statements of counsel or affidavits of witnesses may be adequate under many circumstances. See, e.g., *United States* v. *Ibanez,* 924 F.2d 427 (2d Cir. 1991). An evidentiary hearing may sometimes be the only reliable way to resolve disputed issues. See, e.g., *United States* v. *Jimenez Martinez,* 83 F.3d 488, 494–95 (1st Cir. 1996) (finding error in district court's denial of defendant's motion for evidentiary hearing given questionable reliability of affidavit on which the district court relied at sentencing); *United States* v. *Roberts,* 14 F.3d 502, 521(10th Cir. 1993) (remanding because district court did not hold evidentiary hearing to address defendants' objections to drug quantity determination or make requisite findings of fact regarding drug quantity); see also, *United States* v. *Fatico,* 603 F.2d 1053, 1057 n.9 (2d Cir. 1979), cert. denied, 444 U.S. 1073 (1980). The sentencing court must determine the appropriate procedure in light of the nature of the dispute, its relevance to the sentencing determination, and applicable case law.

The Commentary to § 6A1.3 is amended by deleting:

In determining the relevant facts, sentencing judges are not restricted to information that would be admissible at trial. 18 U.S.C. 3661. Any information may be considered, so long as it has ''sufficient indicia of reliability to support its probable accuracy.'' *United States* v. *Marshall,* 519 F. Supp. 751 (E.D. Wis. 1981), aff'd, 719 F.2d 887 (7th Cir. 1983); *United States* v. *Fatico,* 579 F.2d 707 (2d Cir. 1978) cert. denied, 444 U.S. 1073 (1980). Reliable hearsay evidence may be considered. Out-of-court declarations by an unidentified informant may be considered ''where there is good cause for the nondisclosure of his identity and there is sufficient corroboration by other means.'' *United States* v. *Fatico,* 579 F.2d at 713. Unreliable allegations shall not be considered. *United States* v. *Weston,* 448 F.2d 626 (9th Cir. 1971) cert. denied, 404 U.S. 1061 (1972).

and inserting in lieu thereof:

In determining the relevant facts, sentencing judges are not restricted to information that would be admissible at trial. See 18 U.S.C. 3661; see also *United States* v. *Watts,* 117 U.S. 633, 635 (1997) (holding that

lower evidentiary standard at sentencing permits sentencing court's consideration of acquitted conduct); *Witte* v. *United States,* 515 U.S. 389, 399–401 (1995) (noting that sentencing courts have traditionally considered wide range of information without the procedural protections of a criminal trial, including information concerning criminal conduct that may be the subject of a subsequent prosecution); *Nichols* v. *United States,* 511 U.S. 738, 747–48 (1994) (noting that district courts have traditionally considered defendant's prior criminal conduct even when the conduct did not result in a conviction). Any information may be considered, so long as it has sufficient indicia of reliability to support its probable accuracy. Watts, 117 U.S. at 637; Nichols, 511 U.S. at 748; *United States* v. *Zuleta-Alvarez,* 922 F.2d 33 (1st Cir. 1990), cert. denied, 500 U.S. 927 (1991); *United States* v. *Beaulieu,* 893 F.2d 1177 (10th Cir.), cert. denied, 497 U.S. 1038 (1990). Reliable hearsay evidence may be considered. *United States* v. *Petty,* 982 F.2d 1365 (9th Cir. 1993), cert. denied, 510 U.S. 1040 (1994); *United States* v. *Sciarrino,* 884 F.2d 95 (3d Cir.), cert. denied, 493 U.S. 997 (1989). Out-of-court declarations by an unidentified informant may be considered where there is good cause for the non-disclosure of the informant's identity and there is sufficient corroboration by other means. *United States* v. *Rogers,* 1 F.3d 341 (5th Cir. 1993); see also *United States* v. *Young,* 981 F.2d 180 (5th Cir.), cert. denied, 508 U.S. 980 (1993); *United States* v. *Fatico,* 579 F.2d 707, 713 (2d Cir. 1978), cert. denied, 444 U.S. 1073 (1980). Unreliable allegations shall not be considered. *United States* v. *Ortiz,* 993 F.2d 204 (10th Cir. 1993).

Reason for Amendment: This amendment updates the case law references in the commentary to § 6A1.3 to include references to sentencing guideline cases.

10. Amendment: Appendix A (Statutory Index) is amended by inserting, in the appropriate place by title and section:

18 U.S.C. 514 2F1.1'';
18 U.S.C. 611 2H2.1'';
18 U.S.C. 669 2B1.1'';
18 U.S.C. 758 2A2.4'';
18 U.S.C. 1030(a)(7) 2B3.2'';
18 U.S.C. 1035 2F1.1'';
18 U.S.C. 1347 2F1.1'';
18 U.S.C. 1518 2J1.2'';
18 U.S.C. 1831 2B1.1'';
18 U.S.C. 1832 2B1.1'';
18 U.S.C. 2261A 2A6.2'';
21 U.S.C. 841(b)(7) 2D1.1'';
21 U.S.C. 960(d)(7) 2D1.11'';
47 U.S.C. 223(a)(1)(C) 2A6.1'';
47 U.S.C. 223(a)(1)(D) 2A6.1'';
47 U.S.C. 223(a)(1)(E) 2A6.1'';
49 U.S.C. 5124 2Q1.2'';
49 U.S.C. 32703 2N3.1'';
49 U.S.C. 32704 2N3.1'';
49 U.S.C. 32705 2N3.1'';
49 U.S.C. 32709(b) 2N3.1'';
49 U.S.C. 60123(d) 2B1.3'';
49 U.S.C. 80116 2F1.1'';
49 U.S.C. 80501 2B1.3'';
in the line referenced to ''15 U.S.C. 1281'' by inserting ''(for offenses committed prior to July 5, 1994)'' immediately after ''2B1.3'';
in the line referenced to ''15 U.S.C. 1983'' by inserting ''(for offenses committed prior to July 5, 1994)'' immediately after ''2N3.1'';
in the line referenced to ''15 U.S.C. 1984'' by inserting ''(for offenses committed prior to July 5, 1994)'' immediately after ''2N3.1'';
in the line referenced to ''15 U.S.C. 1985'' by inserting ''(for offenses committed prior to July 5, 1994)'' immediately after ''2N3.1'';
in the line referenced to ''15 U.S.C. 1986'' by inserting ''(for offenses committed prior to July 5, 1994)'' immediately after ''2N3.1'';
in the line referenced to ''15 U.S.C. 1987'' by inserting ''(for offenses committed prior to July 5, 1994)'' immediately after ''2N3.1'';
in the line referenced to ''15 U.S.C. 1988'' by inserting ''(for offenses committed prior to July 5, 1994)'' immediately after ''2N3.1'';
in the line referenced to ''15 U.S.C. 1990c'' by inserting ''(for offenses committed prior to July 5, 1994)'' immediately after ''2N3.1'';
by deleting ''18 U.S.C. 1008 2F1.1, 2S1.3'';
in the line referenced to ''18 U.S.C. 1030(a)(2)'' by deleting ''2F1.1'' and inserting in lieu thereof ''2B1.1'';
in the line referenced to ''18 U.S.C. 1030(a)(3)'' by deleting ''2F1.1'' and inserting in lieu thereof ''2B2.3'';
in the line referenced to ''18 U.S.C. 1030(a)(5)'' by deleting ''2F1.1'' and inserting in lieu thereof ''2B1.3'';
by deleting:
''18 U.S.C. 2258(a), (b) 2G2.1, 2G2.2'', and inserting in lieu thereof:
''18 U.S.C. 2260 2G2.1, 2G2.2'';
in the line referenced to ''18 U.S.C. 2261'' by deleting ''2A1.1, 2A1.2, 2A2.1, 2A2.2, 2A2.3, 2A3.1, 2A3.4, 2A4.1, 2B3.1, 2B3.2, 2K1.4'' and inserting in lieu thereof ''2A6.2'';
in the line referenced to ''18 U.S.C. 2262'' by deleting ''2A1.1, 2A1.2, 2A2.1, 2A2.2, 2A2.3, 2A3.1, 2A3.4, 2A4.1, 2B3.1, 2B3.2, 2K1.4'' and inserting in lieu thereof ''2A6.2'';
in the line referenced to ''21 U.S.C. 959'' by inserting '', 2D1.11'' immediately after ''2D1.1''.
in the line referenced to ''49 U.S.C. 121'' by inserting ''(for offenses committed prior to July 5, 1994)'' immediately after ''2F1.1'';
in the line referenced to ''49 U.S.C. 1809(b)'' by inserting ''(for offenses committed prior to July 5, 1994)'' immediately after ''2Q1.2'';
in the line referenced to ''49 U.S.C. App. § 1687(g)'' by inserting ''(for offenses committed prior to July 5, 1994)'' immediately after ''2B1.3''; and
by deleting ''49 U.S.C. 14904 2B4.1''.

The Commentary to § 2G2.1 captioned ''Statutory Provisions'' is amended by deleting ''2258(a), (b)'' and inserting in lieu thereof ''2260''.

The Commentary to § 2G2.2 captioned ''Statutory Provisions'' is amended by deleting ''2258(a), (b)'' and inserting in lieu thereof ''2260''.

Section 2K2.1(a)(3) is amended by inserting ''felony'' before ''prior''.

Reason for Amendment: This amendment makes Appendix A (Statutory Index) more comprehensive. This amendment adds references for additional offenses, including offenses created by recently enacted legislation. In addition, this amendment revises Appendix A to conform to the revision of existing statutes and to reflect the codification of Title 49, United States Code. This amendment also corrects clerical errors in §§ 2G2.1 and 2G2.2.

Finally, this amendment corrects a clerical error in § 2K2.1(a)(3), as amended by amendment 522, effective November 1, 1995. During the execution of that amendment, which equalized offense levels for semiautomatic assault weapon possession with machinegun possession, the word ''felony'' was inadvertently omitted from the phrase ''prior conviction'' in subsection (a)(3).

[FR Doc. 97–26312 Filed 10–2–97; 8:45 am]
BILLING CODE 2210–40–P

SOCIAL SECURITY ADMINISTRATION

[Social Security Ruling, SSR 97–3]

Disability Insurance Benefits; Reduction Due to Receipt of State Workers' Compensation; Validity of an Amended Stipulation on a Prior Workers' Compensation Settlement Award; Minnesota

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(1), the Acting Commissioner of Social Security gives notice of Social Security Ruling, SSR 97–3. This Ruling, based on an SSA Regional Chief Counsel opinion, concerns whether the Social Security Administration should give effect to an amended stipulation on a prior lump-sum workers' compensation settlement and whether workers' compensation offset was properly computed on the basis of the amended stipulation. Although this case

involves a Minnesota workers' compensation stipulation, this Ruling addresses an issue that is becoming a problem nationwide, i.e., the practice of obtaining an addendum to a workers' compensation settlement merely to state that the workers' compensation settlement was based on a low weekly rate using life expectancy, thus attempting to avoid the offset provisions of section 224 of the Social Security Act. This Ruling clearly illustrates the Social Security Administration's policy of not being bound by the terms of a second, or amended, stipulation that would circumvent the workers' compensation offset provisions of section 224 of the Social Security Act.

EFFECTIVE DATE: October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 402.35(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Programs 96.001 Social Security—Disability Insurance; 96.005 Special Benefits for Disabled Coal Miners)

Dated: September 22, 1997.

John J. Callahan,

Acting Commissioner of Social Security.

Section 224(a)–(b) of the Social Security Act (42 U.S.C. 424a (a)–(b)) Disability Insurance Benefits—Reduction Due to Receipt of State Workers' Compensation—Validity of an Amended Stipulation on a Prior Workers' Compensation Settlement Award—Minnesota

20 CFR 404.408

Under section 224 of the Social Security Act (the Act), title II disability insurance benefits may be offset if the disabled worker receives workers' compensation (WC) benefits. The issue here is whether WC offset was properly computed on the basis of an amended stipulation to a prior WC settlement award.

The disabled worker became entitled to Social Security disability insurance benefits in September 1993. Periodic WC payments were paid to the disabled worker January 31, 1993 through July 11, 1994. The disabled worker subsequently received a lump-sum payment on August 19, 1994. The lump sum was prorated at the weekly rate at which the disabled worker had been receiving benefits before the lump-sum settlement. The lump-sum proration ended December 1997.

After offset was imposed, and nearly 2 years after the date of the original lump-sum settlement agreement, the disabled worker obtained an amended lump-sum award in which an attempt was made to subject the lump-sum award to proration over the disabled worker's life expectancy to remove the offset.

Based on section 224 of the Act, case law, and Social Security Administration (SSA) policy, SSA is not necessarily bound by the terms of a second, or amended, stipulation. Instead, SSA will evaluate both the original and amended stipulations and will disregard any language which has the effect of altering the terms in the original lump-sum settlement where, as here, the terms in the amended document are illusory or conflict with the terms of the first stipulation concerning the actual intent of the parties, and would have the effect of circumventing the WC offset provisions of section 224 of the Act.

A question was raised concerning whether SSA should give effect to a Minnesota amended stipulation on a prior lump-sum WC settlement award which originally resulted in offset of the disabled worker's claim. For the reasons stated below, effect need not be given to an amended stipulation to a WC award if it was amended solely to circumvent the WC offset provisions of section 224 of the Act.

Background

The disabled worker became entitled to Social Security disability insurance benefits in September 1993. He received WC periodic payments of $458.99 weekly from January 31, 1993 through January 30, 1994, and $477.35 weekly from January 31, 1994 through July 11, 1994. The disabled worker subsequently received a lump-sum payment of $85,000 less $10,000 withheld for attorney fees based on a stipulation dated August 19, 1994. This lump sum was prorated at the weekly rate of $477.35, the rate at which the disabled worker had been receiving benefits just before the lump-sum award. The lump-sum proration ended December 8, 1997, with a remainder of $31.70 for December 1997.

After offset was imposed, and nearly 2 years after the date of the original lump-sum settlement agreement, the disabled worker obtained an amended lump-sum award in which an attempt was made to prorate the lump-sum award over the disabled worker's life expectancy, which would result in a weekly benefit of $64.97 and thereby trigger removal of the offset.

Discussion

Section 224 of the Act, 42 U.S.C. 424a, places a ceiling on an individual's combined Social Security disability insurance benefits and State WC benefits. The statute provides that where an individual is receiving both Social Security disability insurance benefits and State WC benefits on account of a disability, his or her Social Security benefits ''shall be reduced'' by the amount necessary to ensure that the sum of the State and Federal benefits does not exceed 80 percent of the individual's average pre-disability earnings. 42 U.S.C. 424a(a); see also 20 CFR 404.408. As the Supreme Court has explained, ''by limiting total state and federal benefits to 80% of the employee's average earnings prior to the disability, [section 224 of the Act] reduce[s] the duplication inherent in the programs and at the same time allow[s] a supplement to workmen's compensation where the state payments [are] inadequate.'' *Richardson* v. *Belcher*, 404 U.S. 78, 83 (1971).[1]

The Act refers only to ''periodic benefits'' arising under a State worker's compensation program based upon the claimant's ''total or partial disability (whether or not permanent).'' 42 U.S.C. 424a(a)(2). By its own terms, the statute encompasses virtually every conceivable form of WC benefits. The Act also requires that lump-sum settlements, if they substitute for periodic benefits, be offset, at a rate that will ''approximate as nearly as practicable'' the rate at which the award would have been paid on a monthly

[1] SSR 72–37c (C.E. 1971–1975, p. 466).

basis and explicitly delegates to the Commissioner the authority to determine the appropriate method of prorating such a lump-sum benefit. 42 U.S.C. 424a(b). As a result, receipt of WC compensation benefits, whether or not in a lump sum, may subject Social Security benefits to reduction.

The issue of whether SSA correctly reduced or offset Social Security benefits due to the settlement of a WC claim is governed by Federal, not State, law. The Eighth Circuit, which is controlling for Minnesota cases, has expressly concluded that the resolution of these issues is entirely a ''federal question'' to be answered by ''the federal statute and its underlying policy, notwithstanding conflicting state law.'' *Munsinger* v. *Schweiker,* 709 F.2d 1212, 1217 (8th Cir. 1983);[2] see also *Campbell* v. *Shalala,* 14 F.3d 424, 427 (8th Cir. 1994) (holding that Federal, not State, law governs whether WC payments could be offset against Social Security disability insurance benefits);[3] *Krysztoforski* v. *Secretary of Health and Human Services,* 55 F.3d 857, 859 (3rd Cir. 1994) (noting that section 224 of the Act does not refer to or defer to State law for the determination of whether a person's periodic benefits are subject to offset, the Third Circuit held that Federal law governs in determining whether a WC award should be offset against disability benefits).

In *Munsinger,* the Eighth Circuit held that the terms of the lump-sum settlement represented periodic payments which, without an offset, would result in duplicate benefits and that ''to deny [the Commissioner] an offset of the settlement would frustrate congressional intent.'' This same reasoning applies to amendments or addenda to lump-sum settlements—that is, the terms of both the original stipulations and the amendments to stipulations for settlements should be evaluated in light of the Federal statute and its underlying policy to avoid duplication in benefits. If the original language of the settlement establishes receipt of benefits, establishes the classification of benefits, triggers an offset, and/or establishes an appropriate offset rate, SSA is not bound by any language in a subsequent amendment or addendum which conflicts with, or alters, those terms. If the amended terms have no factual basis or were made solely to circumvent the offset provisions of section 224 of the Act, the use by SSA of such amended terms would frustrate congressional intent to avoid duplicate benefits and will be disregarded.

This is the approach followed in *Fox* v. *Chater,* No. 4–95–235 (D. Minn. Feb. 20, 1996), in which the District Court agreed that SSA was not bound by the terms of an amended stipulation. In *Fox,* after plaintiff received partial disability, temporary partial disability and permanent partial WC benefits, he entered into a stipulation for settlement which was approved by a WC judge, and he was awarded a lump-sum settlement as full and final settlement of any claims for WC benefits. The parties disputed, and left unresolved, whether plaintiff was permanently and totally disabled. In the meantime, the plaintiff applied for, and was awarded, Social Security disability insurance benefits. SSA subsequently determined that the lump-sum payment was subject to offset and reduced the plaintiff's disability benefits. After offset was imposed, the parties entered into a second stipulation which added a provision indicating that the parties agreed that the plaintiff had been permanently and totally disabled as a result of his personal injuries and that the WC benefits he received prior to the stipulation were subject to Minnesota's Social Security offset provisions and that the lump-sum payment agreed upon included a 5 percent reduction in the benefits payable for the Social Security offset. The plaintiff argued that the two stipulations established that the payments made before the stipulation were subject to SSA offset and that the subsequent lump-sum settlement was, therefore, subject to the reverse offset provisions of the Minnesota WC statute.[4]

In *Fox,* the District Court rejected the plaintiff's arguments and affirmed the administrative law judge's (ALJ) determination not to apply reverse offset on the basis of the ''illusory'' terms of the amended stipulation. The Court concluded that Mr. Fox's belated claim that the Social Security offset had been considered in the first stipulation was illusory. Noting that the parties did not recognize an offset in the first stipulation and never provided for additional WC benefits if the Social Security disability insurance benefit claim were denied, the Court found that, despite his belated claim in his second stipulation, the plaintiff failed to make a sufficient showing that he had made a settlement which accounted for future Social Security benefits. The Court also rejected plaintiff's argument that both stipulations showed that the parties intended the lump-sum payment to be a permanent total disability benefit because, despite the language in the second stipulation that both parties agreed that Mr. Fox was permanently and totally disabled, the first stipulation was ''very clear that the parties do not agree that Fox was permanently and totally disabled.'' Thus, the Court found that the ALJ was not bound to accept the illusory terms of the second stipulation.

Although unpublished, the holding of *Fox* is directly applicable to this case. Like Mr. Fox, the disabled worker's belated claim that the original award was to be prorated over his life expectancy appears illusory.[5] The original award did not state that the lump-sum settlement was subject to proration over the disabled worker's life expectancy. A lump sum of $85,000, less attorney's fees, was awarded pursuant to the 1994 lump-sum stipulated settlement. Although the original stipulation did not specify the rate at which the lump sum would be prorated, it noted that a prior weekly rate had been paid. The original stipulation contained no other reference to the proration rate of the lump-sum award, much less any reference to the life expectancy of the disabled worker. The lump sum was prorated, then, at the prior weekly rate of $477.35.[6]

Two years later, in 1996, after offset was imposed, the disabled worker obtained an amended stipulation which

[2] SSR 85–6c (C.E. 1981–1985, p. 692).

[3] In addition, it is the disabled worker's burden to prove that a lump-sum payment paid by a WC carrier is not subject to offset against the claimant's Social Security disability insurance benefits. *Campbell,* 14 F.3d at 427–28.

[4] Under Minnesota law, after permanent total disability benefits of $25,000 have been paid, WC will reduce permanent total disability benefits in order to reflect the disability insurance benefits that an individual is receiving from SSA. Minn. Stat. Ann. § 176.101, Subd. 4; *McClish* v. *Pan-O-Gold Baking Co.,* 336 N.W.2d 538 (Minn. 1983). Acknowledging this ''reverse offset,'' SSA stops its own offset. POMS DI 52001.226.

[5] This Ruling does not address the related issue of the validity of stipulated lump-sum settlements where the original settlement contains a term purporting to prorate a lump sum over the life expectancy of the worker. This Ruling only addresses later-added amendments, addenda, etc. whose terms conflict with or change the original terms and where the purpose of these amendments is to circumvent the offset provisions of the Act.

[6] As noted above, Federal law requires that lump-sum awards be offset at a rate that will ''approximate as nearly as practicable'' the rate at which the award would have been paid on a monthly basis. 42 U.S.C. 424a(b); 20 CFR 404.408(g). The Commissioner has issued guidelines for calculating the rate at which lump-sum awards should be prorated based on an established weekly rate. *See* POMS DI 52001.555C.4. The guidelines provide a 3-step priority for establishing weekly rates: first, the rate specified in the award; second, if no rate is specified in the award, the periodic rate paid prior to the lump sum; and third, if no rate was established in the award and there was no preceding periodic benefit, the State's WC maximum weekly rate in effect at the time of the WC injury. POMS DI 52001.555C.4.a–DI 52001.555C.4.c.

expressly confirmed the 1994 Stipulation for Settlement. Nevertheless, the amendment purports to ''clarify'' the terms of the settlement by attempting to characterize the lump-sum award as prorated over the disabled worker's life expectancy. The amended stipulation, however, did not change the dollar amounts of the award, did not involve any appeal of the award sought or change in the actual amount of WC benefits, and did not affect in any way the rights, liabilities or obligations of the parties with respect to the actual WC award. Its terms modify the original document which did not specify that the lump sum should be prorated over the disabled worker's life expectancy. It contained no supporting factual information that the original stipulation had, in fact, been based on life expectancy.

Conclusion

Based on section 224 of the Act, case law, and SSA policy, SSA is not necessarily bound by the terms of a second, or amended, stipulation in determining whether and by what rate a disabled worker's Social Security disability insurance benefits should be offset on account of a WC lump-sum payment. SSA will evaluate both the original and amended stipulations and disregard any language which has the effect of altering the terms in the original lump-sum settlement where the terms in the amended document are illusory or conflict with the terms of the first stipulation concerning the actual intent of the parties, and where, as here, the terms in the amended document would have the effect of circumventing the WC offset provisions of section 224 of the Act. To give effect to such illusory terms would frustrate Congress' intent to avoid duplicate benefits.

[FR Doc. 97–26258 Filed 10–2–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

[Public Notice 2614]

Imposition of Chemical and Biological Weapons Proliferation Sanctions on Foreign Entities and Persons

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The United States Government has determined that two entities have engaged in chemical weapons proliferation activities that require the imposition of sanctions pursuant to the Arms Export Control Act and the Export Administration Act of 1979 (the authorities of which were most recently continued by Executive Order 12924 of August 19, 1994).

EFFECTIVE DATE: September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Vann H. Van Diepen, Office of Chemical, Biological, and Missile Nonproliferation, Bureau of Political-Military Affairs, Department of State (202–647–1142).

SUPPLEMENTARY INFORMATION: Pursuant to Section 81(a) of the Arms Export Control Act (22 U.S.C. 2798(a)), Section 11C(a) of the Export Administration Act of 1979 (50 U.S.C. app. 2410c(a)), Executive Order 12851 of June 11, 1993, and State Department Delegation Authority No. 145 of February 4, 1980, as amended, the United States Government determined that the following foreign entities have engaged in chemical weapons proliferation activities that require the imposition of the sanctions described in Section 81(c) of the Arms Export Control Act (22 U.S.C. 2798(c)) and Section 11C(c) of the Export Administration Act of 1979 (50 U.S.C. app. 2410(c)):

1. Hans-Joachim Rose (German citizen)

2. Rose Import-Export GMBH (German company)

Accordingly, the following sanctions are being imposed:

(A) Procurement Sanction. The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned entities; and

(B) Import Sanction. The importation into the United States of products produced by the sanctioned entities shall be prohibited.

Sanctions on each entity described above may apply to firms or other entities with which that entity is associated. Questions as to whether a particular transaction is affected by the sanctions should be referred to the contact listed above. The sanctions shall commence on September 25, 1997. They will remain in place for at least one year and until further notice.

These measures shall be implemented by the responsible agencies as provided in the Executive Order 12851 of June 11, 1993.

Dated: September 26, 1997.

Thomas E. McNamara,

Assistant Secretary of State for Political-Military Affairs.

[FR Doc. 97–26305 Filed 10–2–97; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF STATE

[Public Notice 2608]

Bureau of Oceans and International Environmental and Scientific Affairs; Notice of a Public Meeting Regarding Government Activities on International Harmonization of Chemical Classification and Labeling Systems

AGENCY: Bureau of Ocenans and International Envoronmental and Scientific Affairs (OES), Department of State.

SUMMARY: This public meeting will provide an update on current activities related to international harmonization since the previous public meeting, conducted July 30, 1997. (See Department of State Public Notice 2570, on page 38337 of the **Federal Register** of July 17, 1997.) The meeting will also offer interested organizations and individuals the opportunity to provide information and views for consideration in the development of U.S. government policy positions. For more complete information on the harmonization process, please refer to State Department Public Notice 2526, pages 15951–15957 of the **Federal Register** of April 3, 1997.

The meeting will take place from 10 am until noon on October 17 in Room S4215 ABC, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, D.C. Attendees should use the entrance at C and Third Streets NW. To facilitate entry, please have a picture ID available and/or a U.S. government building pass if applicable.

FOR FURTHER INFORMATION CONTACT: For further information or to submit written comments or information, please contact Mary Frances Lowe, U.S. Department of State, OES/ENV, Room 4325, 2201 C Street NW, Washington D.C. 20420. Phone (202) 647–9266, fax (202) 647–5947.

SUPPLEMENTARY INFORMATION: The Department of State is announcing a public meeting of the interagency committee concerned with the international harmonization of chemical hazard classification and labeling systems. The purpose of the meeting is to provide interested groups and individuals with an update on activities since the July 30 public meeting, a preview of key upcoming international meetings, and an opportunity to submit additional information and comments for consideration in developing U.S. government positions. Representatives of the following agencies participate in the interagency group: the Department of State, the Environmental Protection Agency, the Department of

Transportation, the Occupational Safety and Health Administration, the Consumer Product Safety Commission, the Food and Drug Administration, the Department of Commerce, the Department of Agriculture, the Office of the U.S. Trade Representative, and the National Institute of Environmental Health Sciences.

The Agenda of the public meeting will include:

1. Introduction
2. Reports on recent international meetings
   —Meeting of the Organization for Economic Cooperation and Development (OECD) Advisory Group on Harmonization, October 1–3, 1997, in Paris, France. The agenda for this meeting includes review and discussion of OECD health and environmental hazard classification proposals.
3. Preparation for upcoming meetings
   —Meeting of the Coordinating Group for the Harmonization of Chemical Classification Systems (CG/HCCS), November 24–26, 1997, in Toronto, Canada. The agenda for this meeting includes further consideration of the clarification of the scope of the GHS and of the appropriate institutional arrangements for updating and maintaining the system. Papers for the meeting are expected to become available in early October and will be placed in the public docket, described below.
4. Public Comments
5. Concluding Remarks

Participants in the meeting may submit written comments as well as speak on topics relating to harmonization of chemical classification and labeling systems. All written comments will be placed in the public docket (OSHA docket H–022H). The docket is open from 10 am until 4 pm, Monday through Friday, and is located at the Department of Labor, Room 2625, 200 Constitution Avenue NW, Washington, D.C. (Telephone: 202–219–7894; Fax: 202–219–5046). The public may also consult the docket to review previous **Federal Register** notices, comments received to date, a working ''thought starter'' document of the CG/HCCS on the scope of the harmonization effort, U.S. government and stakeholder comments on the ''though starter'' scope clarification, Questions and Answers about the GHS, and a response to comments on the April 3 **Federal Register** notice.

Dated: September 22, 1997.

Michael Metelits,

Director, Office of Environmental Policy, Bureau of Oceans and International Environmental and Scientific Affairs.

[FR Doc. 97–26236 Filed 10–2–97; 8:45 am]

BILLING CODE 4710–09–M

STATE JUSTICE INSTITUTE

Grant Guideline

AGENCY: State Justice Institute.

ACTION: Final grant guideline.

SUMMARY: This guideline sets forth the administrative, programmatic, and financial requirements attendant to Fiscal Year 1998 State Justice Institute grants, cooperative agreements, and contracts.

EFFECTIVE DATE: October 3, 1997.

FOR FURTHER INFORMATION CONTACT: David I. Tevelin, Executive Director, or Richard Van Duizend, Deputy Director, State Justice Institute, 1650 King St. (Suite 600), Alexandria, VA 22314, by phone ((703) 684–6100), fax ((703) 684–7618), or e-mail (SJI@clark.net). The guideline, forms, and other information about SJI and its grants are available on the Institute's web site at http://www.clark.net/pub/sji/.

SUPPLEMENTARY INFORMATION: Pursuant to the State Justice Institute Act of 1984, 42 U.S.C. 10701, *et seq.*, as amended, the Institute is authorized to award grants, cooperative agreements, and contracts to State and local courts, nonprofit organizations, and others for the purpose of improving the quality of justice in the State courts of the United States.

Status of FY 1998 Appropriations

The Senate has approved an FY 1998 appropriation for SJI of $13.55 million. The House Appropriations Committee has approved a $3 million appropriation. A House-Senate conference will determine the Institute's final appropriation later this fall. The scope of the grant program in this Guideline and the funding targets noted for specific programs may be adjusted depending on the final funding figure.

Types of Grants Available and Funding Schedules

The SJI grant program is designed to be responsive to the most important needs of the State courts. To meet the full range of the courts' diverse needs, the Institute offers five different categories of grants. The types of grants available in FY 1998 and the funding cycles for each program are provided below:

Project Grants

These grants are awarded to support innovative education, research, demonstration, and technical assistance projects that can improve the administration of justice in State courts nationwide. Except for ''Single Jurisdiction'' project grants awarded under section II.C. (see below), project grants are intended to support innovative projects of national significance. As provided in section V. of the Guideline, project grants may ordinarily not exceed $200,000 a year; however, grants in excess of $150,000 are likely to be rare, and awarded only to support projects likely to have a significant national impact.

Applicants must ordinarily submit a concept paper (see section VI.) and an application (see section VII.) in order to obtain a project grant. As indicated in Section VI.C., the Board may make an ''accelerated'' grant of less than $40,000 on the basis of the concept paper alone when (1) the need for the project is clear and (2) an application would likely provide little additional information about the operation of the project.

The FY 1998 mailing deadline for most project grant concept papers is November 24, 1997. Papers must be postmarked or bear other evidence of submission by that date. The Board of Directors will meet in late February 1998 to invite formal applications based on the most promising concept papers. Applications will be due in May and awards will be approved by the Board in July.

Special funding cycles are established for concept papers that follow up on the Symposium on the Future of the Juvenile Courts (see section II.B.2.h.), the National Conference on Full Faith and Credit (see section II.B.2.i.), and the National Sentencing Symposium (see section II.B.2.k.); and papers that implement the national agenda on assuring prompt and affordable justice (see section II.B.2.e.). Those concept papers must be mailed by March 12, 1998.

Single Jurisdiction Project Grants

Section II.C. of the Guideline allocates funds for two types of ''Single Jurisdiction'' grants.

Section II.C.1. reserves up to $300,000 for Projects Addressing a Critical Need of a Single State or Local Jurisdiction. To receive a grant under this program, an applicant must demonstrate that (1) the proposed project is essential to meeting a critical need of the jurisdiction and (2) the need cannot be met solely with State and local resources within the foreseeable future.

Applicants are encouraged to submit proposals to replicate approaches or programs that have been evaluated as effective under an SJI grant. Examples of projects that could be replicated are listed in Appendix IV. See ''Issues Raised for Comment'' below, about continuation of the Replication grant program.

Section II.C.2. reserves up to $400,000 for Technical Assistance Grants. Under this program, a State or local court may receive a grant of up to $30,000 to engage outside experts to provide technical assistance to diagnose, develop, and implement a response to a jurisdiction's problems.

Letters of application for a Technical Assistance grant may be submitted at any time. Applicants submitting letters between October 1, 1997 and January 16, 1998 will be notified of the Board's decision by March 27, 1998; those submitting letters between January 17, 1998 and March 13, 1998 will be notified by May 29, 1998; and those submitting letters between March 14, 1998 and June 12, 1998 will be notified by August 28, 1998. Subject to the availability of appropriations in FY 1998, applicants submitting letters between June 13 and September 30, 1998 will be notified of the Board's decision by December 18, 1998.

Curriculum Adaptation Grants

A grant of up to $20,000 may be awarded to a State or local court to replicate or modify a model training program developed with SJI funds. The Guideline allocates up to $100,000 for these grants in FY 1998. See section II.B.2.b.ii.

Letters requesting Curriculum Adaptation grants may be submitted at any time during the fiscal year. However, in order to permit the Institute sufficient time to evaluate these proposals, letters must be submitted no later than 90 days before the projected date of the training program. See section II.B.2.b.ii.(c). See also ''Issues Raised for Comment'' below, about the continuation of the Curriculum Adaptation grant program.

Scholarships

The Guideline allocates up to $200,000 of FY 1998 funds for scholarships to enable judges and court managers to attend out-of-State education and training programs. See section II.B.2.b.iii.

The Guideline establishes four deadlines for scholarship requests: October 1, 1997 for training programs beginning between January 1 and March 31, 1998; January 7, 1998 for programs beginning between April 1 and June 30, 1998; April 1, 1998 for programs beginning between July 1 and September 30, 1998; and July 1, 1998 for programs beginning between October 1 and December 31, 1998.

Renewal Grants

There are two types of renewal grants available from SJI: Continuation grants (see sections III.G., V.C. and D., and IX.A.) and On-going Support grants (see sections III.H., V.C. and D., and IX.B.). Continuation grants are intended to enhance the specific program or service begun during the initial grant period. On-going Support grants may be awarded for up to a three-year period to support national-scope projects that provide the State courts with critically needed services, programs, or products.

The Guideline establishes a target for renewal grants of approximately 25% of the total amount projected to be available for grants in FY 1998. See section IX. Grantees should accordingly be aware that the award of a grant to support a project does not constitute a commitment to provide either continuation funding or on-going support.

An applicant for a continuation or on-going support grant must submit a letter notifying the Institute of its intent to seek such funding, no later than 120 days before the end of the current grant period. The Institute will then notify the applicant of the deadline for its renewal grant application. See section IX.

Special Interest Categories

The Guideline includes 12 Special Interest categories, i.e., those topics that the Board has identified as being of particular importance to the State courts this year. The selection of these categories was based on the Board and staff's experience and observations over the past year; the recommendations received from judges, court managers, lawyers, members of the public, and other groups interested in the administration of justice; and the issues identified in recent years' concept papers and applications.

Section II.B.2. of the Guideline includes the following Special Interest categories:

Improving Public Confidence in the Courts;
Education and Training for Judges and Other Key Court Personnel (this category includes Curriculum Adaptation grants, Scholarships for Judges and Key Court Personnel, and National Conferences);
Dispute Resolution and the Courts;
Application of Technology;
Court Management, Financing, and Planning;
Resolution of Current Evidentiary Issues;
Substance Abuse and the Courts;
Children and Families in Court;
Improving the Courts' Response to Domestic Violence;
Improving Sentencing Practices;
Improving Court Security; and
The Relationship Between State and Federal Courts.

Conferences

The Institute is soliciting proposals to conduct two major national conferences: a National Symposium on the Future of Judicial Education, and a National Conference on Unrepresented Litigants in Court. See section II.B.2.b.iv.

Issues Raised for Comment

In the Proposed Guideline published for public comment on August 20 (62 FR 44307), SJI requested comment on three issues: consultant rates, and the continuation of the Curriculum Adaptation and Replication grant programs.

Consultant Rates

The Proposed Guideline sought comment on the Institute's general approach to examining and approving the compensation paid to consultants working under SJI grants, as well as on three specific sets of questions:

(1) Should SJI lower the maximum consultant rate that can be paid from grant funds to below $900 a day? If so, what is the highest rate that should be permitted? Are there certain criteria that would justify the top rate, wherever it is set?

(2) Should practicing lawyers, as well as other legal and court officials, be expected to provide their services to SJI-supported grants without compensation? What circumstances might justify an exception to this expectation?

(3) Are there other approaches that might better balance SJI's need to exercise financial restraint with its interest in encouraging the highest quality experts to work on Institute-supported projects?

SJI received two comments on this issue, from the National Council of Juvenile and Family Court Judges and the National Center for State Courts. Both comments recommended retaining the $900 daily rate as the maximum ceiling. The Council also observed that ''lawyers practicing in the private sector could and perhaps should offer some of their time to the public sector on a *pro bono* basis.'' The Institute will retain its present approach to approving consultant rates but, absent extraordinary circumstances, will not

approve the payment of SJI funds to a practicing attorney who is participating in a judicial education or court improvement project.

Curriculum Adaptation Grants

In the Proposed Guideline, SJI noted that the number of Curriculum Adaptation (CA) requests submitted in recent years has dropped sharply, from 17 in FY 1995 to 4 in FY 1997. As a result, the amount allocated for CA grants in the Proposed Guideline was reduced from $175,000 in FY 1997 to $100,000 in FY 1998. The Board noted its special interest in receiving comments from State judicial educators about whether the program should be discontinued or whether it might be modified in some way to increase its usefulness.

The Institute received comments from a number of individual State judicial educators as well as the National Association of State Judicial Educators and the National Center for State Courts, all of whom requested that the program be continued. The Final Guideline continues the program, at the $100,000 level.

Replication Grants

Last fiscal year, SJI added the Replication grant program to the Guideline. The program permits State and local courts to request up to $30,000 to adapt programs, procedures, or strategies that have been evaluated as successes under prior SJI grants. No court, however, requested a Replication grant in FY 1997. The Proposed Guideline continued the program, but dropped the $30,000 limitation, which some observers believe may have been too low to accomplish the goals of the program. The Board invited comment, particularly from State and local courts, about whether the program should be discontinued, modified in the way proposed, or modified in some other way to attract more applications.

A number of commenters suggested that not many people knew about the program. The National Center for State Courts endorsed the recommendation that the $30,000 limit be removed. The Final Guideline continues the program as proposed.

No changes other than technical corrections have been made in the Final Guideline.

Recommendations to Grant Writers

Over the past 11 years, Institute staff have reviewed approximately 3,300 concept papers and 1,600 applications. On the basis of those reviews, inquiries from applicants, and the views of the Board, the Institute offers the following recommendations to help potential applicants present workable, understandable proposals that can meet the funding criteria set forth in this Guideline.

The Institute suggests that applicants make certain that they address the questions and issues set forth below when preparing a concept paper or application. Concept papers and applications should, however, be presented in the formats specified in sections VI. and VII. of the Guideline, respectively.

1. What Is the Subject or Problem You Wish To Address

Describe the subject or problem and how it affects the courts and the public. Discuss how your approach will improve the situation or advance the state of the art or knowledge, and explain why it is the most appropriate approach to take. When statistics or research findings are cited to support a statement or position, the source of the citation should be referenced in a footnote or a reference list.

2. What Do You Want To Do

Explain the goal(s) of the project in simple, straightforward terms. The goals should describe the intended consequences or expected overall effect of the proposed project (e.g., to enable judges to sentence drug-abusing offenders more effectively, or to dispose of civil cases within 24 months), rather than the tasks or activities to be conducted (e.g., hold three training sessions, or install a new computer system).

To the greatest extent possible, an applicant should avoid a specialized vocabulary that is not readily understood by the general public. Technical jargon does not enhance a paper.

3. How Will You Do It

Describe the methodology carefully so that what you propose to do and how you would do it are clear. All proposed tasks should be set forth so that a reviewer can see a logical progression of tasks, and relate those tasks directly to the accomplishment of the project's goal(s). When in doubt about whether to provide a more detailed explanation or to assume a particular level of knowledge or expertise on the part of the reviewers, provide the additional information. A description of project tasks also will help identify necessary budget items. All staff positions and project costs should relate directly to the tasks described. The Institute encourages applicants to attach letters of cooperation and support from the courts and related agencies that will be involved in or directly affected by the proposed project.

4. How Will You Know It Works

Include an evaluation component that will determine whether the proposed training, procedure, service, or technology accomplished the objectives it was designed to meet. Concept papers and applications should present the criteria that will be used to evaluate the project's effectiveness; identify program elements which will require further modification; and describe how the evaluation will be conducted, when it will occur during the project period, who will conduct it, and what specific measures will be used. In most instances, the evaluation should be conducted by persons not connected with the implementation of the procedure, training, service, or technique, or the administration of the project.

The Institute has also prepared a more thorough list of recommendations to grant writers regarding the development of project evaluation plans. Those recommendations are available from the Institute upon request.

5. How Will Others Find Out About It

Include a plan to disseminate the results of the training, research, or demonstration beyond the jurisdictions and individuals directly affected by the project. The plan should identify the specific methods which will be used to inform the field about the project, such as the publication of law review or journal articles, or the distribution of key materials. A statement that a report or research findings ''will be made available to'' the field is not sufficient. The specific means of distribution or dissemination as well as the types of recipients should be identified. Reproduction and dissemination costs are allowable budget items.

6. What Are the Specific Costs Involved

The budget in both concept papers and applications should be presented clearly. Major budget categories such as personnel, benefits, travel, supplies, equipment, and indirect costs should be identified separately. The components of ''Other'' or ''Miscellaneous'' items should be specified in the application budget narrative, and should not include set-asides for undefined contingencies.

7. What, if any, Match Is Being Offered?

Courts and other units of State and local government (not including publicly-supported institutions of higher education) are required by the

State Justice Institute Act to contribute a match (cash, non-cash, or both) of at least 50 percent of the grant funds requested from the Institute. All other applicants also are encouraged to provide a matching contribution to assist in meeting the costs of a project.

The match requirement works as follows: If, for example, the total cost of a project is anticipated to be $150,000, a State or local court or executive branch agency may request up to $100,000 from the Institute to implement the project. The remaining $50,000 (50% of the $100,000 requested from SJI) must be provided as match.

Cash match includes funds directly contributed to the project by the applicant, or by other public or private sources. It does not include income generated from tuition fees or the sale of project products. Non-cash match refers to in-kind contributions by the applicant, or other public or private sources. This includes, for example, the monetary value of time contributed by existing personnel or members of an advisory committee (but not the time spent by participants in an educational program attending program sessions). When match is offered, the nature of the match (cash or in-kind) should be explained and, at the application stage, the tasks and line items for which costs will be covered wholly or in part by match should be specified.

8. Which of the Two Budget Forms Should Be Used

Section VII.A.3. of the SJI Grant Guideline encourages use of the spreadsheet format of Form C1 if the application requests $100,000 or more. Form C1 also works well for projects with discrete tasks, regardless of the dollar value of the project. Form C, the tabular format, is preferred for projects lacking a number of discrete tasks, or for projects requiring less than $100,000 of Institute funding. Generally, use the form that best lends itself to representing most accurately the budget estimates for the project.

9. How Much Detail Should Be Included in the Budget Narrative?

The budget narrative of an application should provide the basis for computing all project-related costs, as indicated in section VII.D. of the SJI Grant Guideline. To avoid common shortcomings of application budget narratives, applicants should include the following information:

Personnel estimates that accurately provide the amount of time to be spent by personnel involved with the project and the total associated costs, including current salaries for the designated personnel (e.g., Project Director, 50% for one year, annual salary of $50,000 = $25,000). If salary costs are computed using an hourly or daily rate, the annual salary and number of hours or days in a work-year should be shown.

Estimates for supplies and expenses supported by a complete description of the supplies to be used, the nature and extent of printing to be done, anticipated telephone charges, and other common expenditures, with the basis for computing the estimates included (e.g., 100 reports × 75 pages each × .05/page = $375.00). Supply and expense estimates offered simply as ''based on experience'' are not sufficient.

In order to expedite Institute review of the budget, make a final comparison of the amounts listed in the budget narrative with those listed on the budget form. In the rush to complete all parts of the application on time, there may be many last-minute changes; unfortunately, when there are discrepancies between the budget narrative and the budget form or the amount listed on the application cover sheet, it is not possible for the Institute to verify the amount of the request. A final check of the numbers on the form against those in the narrative will preclude such confusion.

10. What Travel Regulations Apply to the Budget Estimates

Transportation costs and per diem rates must comply with the policies of the applicant organization, and a copy of the applicant's travel policy should be submitted as an appendix to the application. If the applicant does not have a travel policy established in writing, then travel rates must be consistent with those established by the Institute or the Federal Government (a copy of the Institute's travel policy is available upon request). The budget narrative should state which regulations are in force for the project.

The budget narrative also should include the estimated fare, the number of persons traveling, the number of trips to be taken, and the length of stay. The estimated costs of travel, lodging, ground transportation, and other subsistence should be listed and explained separately. It is preferable for the budget to be based on the actual costs of traveling to and from the project or meeting sites. If the points of origin or destination are not known at the time the budget is prepared, an average airfare may be used to estimate the travel costs. For example, if it is anticipated that a project advisory committee will include members from around the country, a reasonable airfare from a central point to the meeting site, or the average of airfares from each coast to the meeting site may be used. Applicants should arrange travel so as to be able to take advantage of advance-purchase price discounts whenever possible.

11. May Grant Funds Be Used To Purchase Equipment?

Generally, grant funds may be used to purchase only the equipment that is necessary to demonstrate a new technological application in a court, or that is otherwise essential to accomplishing the objectives of the project. The budget narrative must list the equipment to be purchased and explain why the equipment is necessary to the success of the project. Written prior approval is required when the amount of computer hardware to be purchased or leased exceeds $10,000, or the software to be purchased exceeds $3000.

12. To What Extent May Indirect Costs Be Included in the Budget Estimates

It is the policy of the Institute that all costs should be budget directly; however, if an applicant has been approved by a Federal agency within the last two years, an indirect cost recovery estimate may be included in the budget. A copy of the approved rate agreement should be submitted as an appendix to the application.

If an applicant does not have an approved rate agreement, an indirect cost rate proposal should be prepared in accordance with Section XI.H.4. of the Grant Guideline, based on the applicant's audited financial statements for the prior fiscal year. (Applicants lacking an audit should budget all project costs directly.) If an indirect cost rate proposal is to be submitted, the budget should reflect estimates based on that proposal. Obviously, this requires that the proposal be completed at the time of application so that the appropriate estimates may be included; however, grantees have until three months after the project start date to submit the indirect cost proposal to the Institute for approval. An indirect cost rate worksheet on computer diskette is available from the Institute upon request.

13. What Meeting Costs May Be Covered With Grant Funds

SJI grant funds may cover the reasonable cost of meeting rooms, necessary audio-visual equipment, meeting supplies, and working meals. However, they cannot be used to reimburse the cost of coffee or other types of refreshment breaks, or for alcoholic beverages.

14. Does the Budget Truly Reflect All Costs Required To Complete the Project

After preparing the program narrative portion of the application, applicants may find it helpful to list all the major tasks or activities required by the proposed project, including the preparation of products, and note the individual expenses, including personnel time, related to each. This will help to ensure that, for all tasks described in the application (e.g., development of a videotape, research site visits, distribution of a final report), the related costs appear in the budget and are explained correctly in the budget narrative.

Recommendations to Grantees

The Institute's staff works with grantees to help assure the smooth operation of the project and compliance with the Guideline. On the basis of monitoring more than 1,300 grants, the Institute staff offers the following suggestions to aid grantees in meeting the administrative and substantive requirements of their grants.

1. After the Grant Has Been Awarded, When Are the First Quarterly Reports Due

Quarterly Progress Reports and Financial Status Reports must be submitted within 30 days after the end of every calendar quarter—i.e. no later than January 30, April 30, July 30, and October 30—regardless of the project's start date. The reporting periods covered by each quarterly report end 30 days before the respective deadline for the report. When an award period begins December 1, for example, the first Quarterly Progress Report describing project activities between December 1 and December 31 will be due on January 30. A Financial Status Report should be submitted even if funds have not been obligated or expended.

By documenting what has happened over the past three months, Quarterly Progress Reports provide an opportunity for project staff and Institute staff to resolve any questions before they become problems, and make any necessary changes in the project time schedule, budget allocations, etc. The Quarterly Project Report should describe project activities, their relationship to the approved timeline, and any problems encountered and how they were resolved, and outline the tasks scheduled for the coming quarter. It is helpful to attach copies of relevant memos, draft products, or other requested information. An original and one copy of a Quarterly Progress Report and attachments should be submitted to the Institute.

Additional Quarterly Progress Report or Financial Status Report forms may be obtained from the grantee's Program Manager at SJI, or photocopies may be made from the supply received with the award.

2. Do Reporting Requirements Differ for Renewal Grants

Recipients of a continuation or on-going support grant are required to submit quarterly progress and financial status reports on the same schedule and with the same information as recipients of a grant for a single new project.

A continuation grant and each yearly grant under an on-going support award should be considered as a separate phase of the project. The reports should be numbered on a grant rather than project basis. Thus, the first quarterly report filed under a continuation grant or a yearly increment of an on-going support award should be designated as number one, the second as number two, and so on, through the final progress and financial status reports due within 90 days after the end of the grant period.

3. What Information About Project Activities should be Communicated to SJI

In general, grantees should provide prior notice of critical project events such as advisory board meetings or training sessions so that the Institute Program Manager can attend if possible. If methodological, schedule, staff, budget allocations, or other significant changes become necessary, the grantee should contact the Program Manager prior to implementing any of these changes, so that possible questions may be addressed in advance. Questions concerning the financial requirements section of the Guideline, quarterly financial reporting, or payment requests, should be addressed to the Grants Financial Manager listed in the award letter.

It is helpful to include the grant number assigned to the award on all correspondence to the Institute.

4. Why Is It Important to Address the Special Conditions That Are Attached to the Award Document

In some instances, a list of special conditions is attached to the award document. Special conditions may be imposed to establish a schedule for reporting certain key information, to assure that the Institute has an opportunity to offer suggestions at critical stages of the project, and to provide reminders of some, but not all of the requirements contained in the Grant Guideline. Accordingly, it is important for grantees to check the special conditions carefully and discuss with their Program Manager any questions or problems they may have with the conditions. Most concerns about timing, response time, and the level of detail required can be resolved in advance through a telephone conversation. The Institute's primary concern is to work with grantees to assure that their projects accomplish their objectives, not to enforce rigid bureaucratic requirements. However, if a grantee fails to comply with a special condition or with other grant requirements, the Institute may, after proper notice, suspend payment of grant funds or terminate the grant.

Sections X., XI., and XII. of the Grant Guideline contain the Institute's administrative and financial requirements. Institute Finance Division staff are always available to answer questions and provide assistance regarding these provisions.

5. What is a Grant Adjustment

A Grant Adjustment is the Institute's form for acknowledging the satisfaction of special conditions, or approving changes in grant activities, schedule, staffing, sites, or budget allocations requested by the project director. It also may be used to correct errors in grant documents, add small amounts to a grant award, or deobligate funds from the grant.

6. What Schedule should be Followed in Submitting Requests for Reimbursements or Advance Payments

Requests for reimbursements or advance payments may be made at any time after the project start date and before the end of the 90-day close-out period. However, the Institute follows the U.S. Treasury's policy limiting advances to the minimum amount required to meet immediate cash needs. Given normal processing time, grantees should not seek to draw down funds for periods greater than 30 days from the date of the request.

7. Do Procedures for Submitting Requests for Reimbursement or Advance Payment Differ for Renewal Grants

The basic procedures are the same for any grant. A continuation grant or the yearly grant under an on-going support award should be considered as a separate phase of the project. Payment requests should be numbered on a grant rather than a project basis. The first request for funds from a continuation grant or a yearly increment under an on-going support award should be designated as number one, the second as

number two, and so on through the final payment request for that grant.

8. If Things Change During the Grant Period, Can Funds Be Reallocated From One Budget Category to Another

The Institute recognizes that some flexibility is required in implementing a project design and budget. Thus, grantees may shift funds among direct cost budget categories. When any one reallocation or the cumulative total of reallocations are expected to exceed five percent of the approved project budget, a grantee must specify the proposed changes, explain the reasons for the changes, and request Institute approval.

The same standard applies to renewal grants. In addition, prior written Institute approval is required to shift leftover funds from the original award to cover activities to be conducted under the renewal award, or to use renewal grant monies to cover costs incurred during the original grant period.

9. What is the 90-Day Close-out Period

Following the last day of the grant, a 90-day period is provided to allow for all grant-related bills to be received and posted, and grant funds drawn down to cover these expenses. No obligations of grant funds may be incurred during this period. The last day on which an expenditure of grant funds can be obligated is the end date of the grant period. Similarly, the 90-day period is not intended as an opportunity to finish and disseminate grant products. This should occur before the end of the grant period.

During the 90 days following the end of the award period, all monies that have been obligated should be expended. All payment requests must be received by the end of the 90-day ''close-out-period.'' Any unexpended monies held by the grantee that remain after the 90-day follow-up period must be returned to the Institute. Any funds remaining in the grant that have not been drawn down by the grantee will be deobligated.

10. Are Funds Granted by SJI ''Federal'' Funds

The State Justice Institute Act provides that, except for purposes unrelated to this question, ''the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.'' 42 U.S.C. § 10704(c)(1). Because SJI receives appropriations from Congress, some grantee auditors have reported SJI grants funds as ''Other Federal Assistance.'' This classification is acceptable to SJI but is not required.

11. If SJI Is Not a Federal Agency, Do OMB Circulars Apply With Respect to Audits

Except to the extent that they are inconsistent with the express provisions of the SJI Grant Guideline, Office of Management and Budget (OMB) Circulars A–110, A–21, A–87, A–88, A–102, A–122, and A–133 are incorporated into the Grant Guideline by reference. Because the Institute's enabling legislation specifically requires the Institute to ''conduct, or require each recipient to provide for, an annual fiscal audit'' (see 42 U.S.C. 10711(c)(1)), the Grant Guideline sets forth options for grantees to comply with this statutory requirement. (See Section XI.J.)

SJI will accept audits conducted in accordance with the Single Audit Act of 1984 as amended and OMB Circular A–133, in satisfaction of the annual fiscal audit requirement. Grantees that are required to undertake these audits in conjunction with Federal grants may include SJI funds as part of the audit even if the receipt of SJI funds would not require such audits. This approach gives grantees an option to fold SJI funds into the governmental audit rather than to undertake a separate audit to satisfy SJI's Guideline requirements.

In sum, educational, governmental and nonprofit organizations that receive payments from the Institute that are sufficient to meet the applicability thresholds of OMB Circular A–133 must have their annual audit conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States rather than with generally accepted auditing standards. Grantees in this category that receive amounts below the minimum threshold referenced in Circular A–133 must also submit an annual audit to SJI, but they would have the option to conduct an audit of the entire grantee organization in accordance with generally accepted auditing standards; include SJI funds in an audit of Federal funds conducted in accordance with the Single Audit Act of 1984 as amended and OMB Circular A–133; or conduct an audit of only the SJI funds in accordance with generally accepted auditing standards. (See Guideline Section XI.J.) A copy of the above-noted circular may be obtained by calling OMB at (202) 395–7250.

12. Does SJI Have a CFDA Number?

Auditors often request that a grantee provide the Institute's Catalog of Federal Domestic Assistance (CFDA) number for guidance in conducting an audit in accordance with Government Accounting Standards.

Because SJI is not a Federal agency, it has not been issued such a number, and there are no additional compliance tests to satisfy under the Institute's audit requirements beyond those of a standard governmental audit.

Moreover, because SJI is not a Federal agency, SJI funds should not be aggregated with Federal funds to determine if the applicability threshold of Circular A–133 has been reached. For example, if in fiscal year 1996 grantee ''X'' received $10,000 in Federal funds from a Department of Justice (DOJ) grant program and $20,000 in grant funds from SJI, the minimum A–133 threshold would not be met. The same distinction would preclude an auditor from considering the additional SJI funds in determining what Federal requirements apply to the DOJ funds.

Grantees who are required to satisfy either the Single Audit Act, OMB Circulars A–128, or A–133 and who include SJI grant funds in those audits, need to remember that because of its status as a private non-profit corporation, SJI is not on routing lists of cognizant Federal agencies. Therefore, the grantee needs to submit a copy of the audit report prepared for such a cognizant Federal agency directly to SJI. The Institute's audit requirements may be found in Section XI.J. of the Grant Guideline.

The following Grant Guideline is adopted by the State Justice Institute for FY 1998:

State Justice Institute Grant Guideline

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I. Background

The Institute was established by Public Law 98–620 to improve the administration of justice in the State courts in the United States. Incorporated in the State of Virginia as a private, nonprofit corporation, the Institute is charged, by statute, with the responsibility to:

A. Direct a national program of financial assistance designed to assure that each citizen of the United States is provided ready access to a fair and effective system of justice;

B. Foster coordination and cooperation with the Federal judiciary;

C. Promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

D. Encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

To accomplish these broad objectives, the Institute is authorized to provide funds to State courts, national organizations which support and are supported by State courts, national judicial education organizations, and other organizations that can assist in improving the quality of justice in the State courts.

The Institute is supervised by an 11-member Board of Directors appointed by the President, by and with the consent of the Senate. The Board is statutorily composed of six judges, a State court administrator, and four members of the public, no more than two of whom can be of the same political party.

Through the award of grants, contracts, and cooperative agreements, the Institute is authorized to perform the following activities:

A. Support research, demonstrations, special projects, technical assistance, and training to improve the administration of justice in the State courts;

B. Provide for the preparation, publication, and dissemination of information regarding State judicial systems;

C. Participate in joint projects with Federal agencies and other private grantors;

D. Evaluate or provide for the evaluation of programs and projects funded by the Institute to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have contributed to improving the quality of justice in the State courts;

E. Encourage and assist in furthering judicial education;

F. Encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

G. Be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

II. Scope of the Program

During FY 1998, the Institute will consider applications for funding support that address any of the areas specified in its enabling legislation. The Board, however, has designated 12 program categories as being of ''special interest.'' See section II.B.

A. Authorized Program Areas

The Institute is authorized to fund projects addressing one or more of the following program areas listed in the State Justice Institute Act, the Battered Women's Testimony Act, the Judicial Training and Research for Child Custody Litigation Act, and the International Parental Kidnapping Crime Act.

1. Assistance to State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

2. Education and training programs for judges and other court personnel for the performance of their general duties and for specialized functions, and national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

3. Research on alternative means for using judicial and nonjudicial personnel in court decisionmaking activities, implementation of demonstration programs to test such innovative approaches, and evaluations of their effectiveness;

4. Studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and support to States to implement plans for improved court organization and financing;

5. Support for State court planning and budgeting staffs and the provision of technical assistance in resource allocation and service forecasting techniques;

6. Studies of the adequacy of court management systems in State and local courts, and implementation and evaluation of innovative responses to records management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

7. Collection and compilation of statistical data and other information on the work of the courts and on the work of other agencies which relates to and affects the work of courts;

8. Studies of the causes of trial and appellate court delay in resolving cases, and establishing and evaluating experimental programs for reducing case processing time;

9. Development and testing of methods for measuring the performance of judges and courts, and experiments in the use of such measures to improve the functioning of judges and the courts;

10. Studies of court rules and procedures, discovery devices, and evidentiary standards to identify problems with the operation of such rules, procedures, devices, and standards, and the development of alternative approaches to better reconcile the requirements of due process with the need for swift and certain justice, and testing of the utility of those alternative approaches;

11. Studies of the outcomes of cases in selected areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, and the development, testing, and evaluation of alternative approaches to resolving cases in such problem areas;

12. Support for programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

13. Testing and evaluating experimental approaches to provide increased citizen access to justice, including processes which reduce the cost of litigating common grievances, and alternative techniques and mechanisms for resolving disputes between citizens;

14. Collection and analysis of information regarding the admissibility and quality of expert testimony on the experiences of battered women offered as part of the defense in criminal cases under State law, as well as sources of and methods to obtain funds to pay costs incurred to provide such testimony, particularly in cases involving indigent women defendants;

15. Development of training materials to assist battered women, operators of domestic violence shelters, battered women's advocates, and attorneys to use expert testimony on the experiences of

battered women in appropriate cases, and individuals with expertise in the experiences of battered women to develop skills appropriate to providing such testimony;

16. Research regarding State judicial decisions relating to child custody litigation involving domestic violence;

17. Development of training curricula to assist State courts to develop an understanding of, and appropriate responses to child custody litigation involving domestic violence;

18. Dissemination of information and training materials and provision of technical assistance regarding the issues listed in paragraphs 14–17 above;

19. Development of national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction;

20. Other programs, consistent with the purposes of the State Justice Institute Act, as may be deemed appropriate by the Institute, including projects dealing with the relationship between Federal and State court systems such as where there is concurrent State-Federal jurisdiction and where Federal courts, directly or indirectly, review State court proceedings.

Funds will not be made available for the ordinary, routine operation of court systems or programs in any of these areas.

B. Special Interest Program Categories

1. General Description

The Institute is interested in funding both innovative programs and programs of proven merit that can be replicated in other jurisdictions. Although applications in any of the statutory program areas are eligible for funding in FY 1998, the Institute is especially interested in funding those projects that:

a. Formulate new procedures and techniques, or creatively enhance existing arrangements to improve the courts;

b. Address aspects of the State judicial systems that are in special need of serious attention;

c. Have national significance by developing products, services, and techniques that may be used in other States; and

d. Create and disseminate products that effectively transfer the information and ideas developed to relevant audiences in State and local judicial systems, or provide technical assistance to facilitate the adaptation of effective programs and procedures in other State and local jurisdictions.

A project will be identified as a ''Special Interest'' project if it meets the four criteria set forth above and (1) it falls within the scope of the ''special interest'' program areas designated below, or (2) information coming to the attention of the Institute from the State courts, their affiliated organizations, the research literature, or other sources demonstrates that the project responds to another special need or interest of the State courts.

Concept papers and applications which address a ''Special Interest'' category will be accorded a preference in the rating process. (See the selection criteria listed in sections VI.B., ''Concept Paper Submission Requirements for New Projects,'' and VIII.B., ''Application Review Procedures.'')

2. Specific Categories

The Board has designated the areas set forth below as ''Special Interest'' program categories. The order of listing does not imply any ordering of priorities among the categories.

a. Improving Public Confidence in the Courts: This category includes demonstration, evaluation, research, and education projects designed to improve the responsiveness of courts to public concerns regarding the fairness, accessibility, timeliness, and comprehensibility of the court process, and test innovative methods for increasing the public's confidence in the State courts.

The Institute is particularly interested in supporting innovative projects that examine, develop, and test methods that trial or appellate courts may use to:

- Improve service to individual litigants and trial participants, including innovative methods for handling cases involving unrepresented litigants fairly and effectively; (See also section II.B.2.b.iv.(b) regarding a National Conference on Unrepresented Litigants in the Courts.)
- Test methods for more clearly and effectively communicating information to litigants and the public about judicial decisions, the trial and appellate court process, and court operations;
- Eliminate race, ethnic, and gender bias in the courts;
- Address court-community problems resulting from the influx of legal and illegal immigrants, including projects to inform judges about the effects of recent Federal and State legislation regarding immigrants; design and assess procedures for use in custody, visitation, and other domestic relations cases when key family members or property are outside the United States; and develop protocols to facilitate service of process, the enforcement of orders of judgment, and the disposition of criminal and juvenile cases when a non-U.S. citizen or corporation is involved;
- Demonstrate and evaluate approaches courts can use to implement the concept of restorative justice, including methods for involving the community in the sentencing process, such as community impact statements, community oversight of compliance with community service and probation conditions, or other innovative court-community links focused on the sentencing process;
- Test the impact of methods for improving juror comprehension in criminal and civil cases, such as use of specially qualified juries in complex cases, delivery of instructions throughout the trial, testimony by court-appointed neutral experts, and access to technology in the jury room to permit review of computerized exhibits of evidence presented in the case;
- Determine the incidence and causes of jury nullification and identify appropriate measures that judges can take to induce jurors to follow the law;
- Assess the impact of live television coverage of trials on court proceedings, public understanding, and fairness to litigants, and develop materials to assist jurors in dealing with the media during or following a trial.

Institute funds may not be used to directly or indirectly support legal representation of individuals in specific cases

Previous SJI-supported projects that address these issues include:

Enhancing Court-Community Relationships: A National Town Hall Meeting Videoconference and projects to implement the action plans developed at the conference; educational materials for court employees on serving the public; surveys and focus groups to identify concerns about the courts and assess how courts are serving the needs of the public; a demonstration of the use of community volunteers to monitor adult probationers and to monitor guardianships; evaluation of community-based court programs in New York City; and guidelines for court-annexed day-care systems;

Serving Unrepresented Litigants: Preparing guidebooks for court-based programs to assist pro se litigants and to respond to individuals and groups unwilling to comply with legal and administrative procedures; developing local and Statewide self-service centers, touchscreen computer kiosks, videotapes, and written materials to assist unrepresented litigants; assessing effective and efficient methods for providing legal representation to

indigent parties in criminal and family cases; and examining the methods courts in rural communities can use to assure access and fairness for immigrants;

Eliminating Race and Ethnic Bias in the Courts: Presenting a National Conference on Eliminating Race and Ethnic Bias in the Courts and supporting projects to implement the action plans developed at the conference; examining the applicability of various dispute resolution procedures to different cultural groups; and developing educational programs and materials for judges and court staff on diversity and related issues;

Facilitating the Use of Qualified Court Interpreters: Preparing a manual and other materials for managing and coordinating court interpretation services; developing basic and graduate level curricula and other materials for training and assisting court interpreters; and assessing the feasibility and effectiveness of interpreting in court via the telephone;

Improving Jury Service and Jury System Management: Developing a manual for implementing innovations in jury selection, use, and management; preparing a guide for making juries accessible to persons with disabilities; documenting methods for reducing juror stress; and assessing the effect of allowing jurors to discuss the evidence prior to the deliberations on the verdict.

b. Education and Training for Judges and Other Key Court Personnel: The Institute is interested in supporting an array of projects that will continue to strengthen and broaden the availability of court education programs at the State, regional, and national levels. This category is divided into four subsections: (i) Innovative Educational Programs; (ii) Curriculum Adaptation Projects; (iii) Scholarships; and (iv) National Conferences.

i. *Innovative Educational Programs.* This category includes support for the development and testing of educational programs for judges or court personnel that address key substantive and administrative issues of concern to the nation's courts, or help local courts or State court systems develop or enhance their capacity to deliver quality continuing education. Programs may be designed for presentation at the local, State, regional, or national level. Ordinarily, court education programs should be based on some form of assessment of the needs of the target audience; include clearly stated learning objectives that delineate the new knowledge or skills that participants will acquire; incorporate adult education principles and multiple teaching/learning methods; and result in the development of a curriculum as defined in section III.J.

(a) The Institute is particularly interested in the development of education programs that:

• Include innovative self-directed learning packages for use by judges and court personnel, and distance-learning approaches to assist those who do not have ready access to classroom-centered programs. These packages and approaches should include the appropriate use of various media and technologies such as Internet-based programming, interactive CD-ROM or floppy disk-based programs, videos, or other audio and visual media, supported by written materials or manuals. They also should include a meaningful program evaluation and a self-evaluation process that assesses pre- and post-program knowledge and skills; (See also section II.B.2.b.iv.(a) inviting proposals for a National Symposium on the Future of Court Education.)

• Familiarize faculty with the effective use of instructional technology including methods for effectively presenting information through distance learning approaches including the Internet, videos, and satellite teleconferences;

• Assist local courts, State court systems, and court systems in a geographic region to develop or enhance a comprehensive program of continuing education, training, and career development for judges and court personnel as an integral part of court operations;

• Test the effectiveness of including experiential instructional approaches in court education programs such as field studies and use of community resources; and

• Encourage intergovernmental teambuilding, collaboration, and planning among the judicial, executive, and legislative branches of government, or courts within a metropolitan area or multi-State region; (See also section II.B.2.e.ii., inviting proposals to support teambuilding among courts, criminal justice agencies and service providers.)

(b) The Institute also is interested in supporting the development and testing of curricula on issues of critical importance to the courts, including those listed in the other Special Interest categories described in this Chapter.

ii. *Curriculum Adaptation Projects.* (a) Description of the Program. The Board is reserving up to $100,000 to provide support for projects that adapt and implement model curricula previously developed with SJI support. An illustrative list of the curricula that may be appropriate for the adaptation is contained in Appendix III.

The goal of the Curriculum Adaptation program is to provide State and local courts with sufficient support to modify a model curriculum, course module, or national or regional conference program developed with SJI funds to meet a State's or local jurisdiction's educational needs. Generally, it is anticipated that the adapted curriculum would become part of the grantee's ongoing educational offerings, and that local instructors would receive the training needed to enable them to make future presentations of the curriculum.

Only State or local courts may apply for Curriculum Adaptation funding. Grants to support adaptation of educational programs previously developed with SJI funds are limited to no more than $20,000 each. As with other awards to State or local courts, cash or in-kind match must be provided in an amount equal to at least 50% of the grant amount requested.

(b) Review Criteria. Curriculum Adaptation grants will be awarded on the basis of criteria including: the goals and objectives of the proposed project; the need for outside funding to support the program; the appropriateness of the educational approach in achieving the project's educational objectives; the likelihood of effective implementation and integration into the State's or local jurisdiction's ongoing educational programming; and expressions of interest by the judges and/or court personnel who would be directly involved in or affected by the project. In making curriculum adaptation awards, the Institute will also consider factors such as the reasonableness of the amount requested, compliance with match requirements, diversity of subject matter, geographic diversity, the level of appropriations available in the current year, and the amount expected to be available in succeeding fiscal years.

(c) Application Procedures. In lieu of concept papers and formal applications, applicants should submit a detailed letter and three photocopies. Although there is no prescribed form for the letter, or a minimum or maximum page limit, letters of application should include the following information to assure that each of the review criteria listed above is addressed:

• Project Description. What is the title of the model curriculum to be adapted and who developed it? What are the project's goals and learning objectives? Why is this education program needed at the present time? What program components would be implemented, and what types of modifications, if any,

are anticipated in length, format, and content? Who will be responsible for adapting the model curriculum? Who will the participants be, how many will there be, how will they be recruited, and from where will they come (e.g., from across the State, from a single local jurisdiction, from a multi-State region)?

• Need for Funding. Why are sufficient State or local resources unavailable to fully support the modification and presentation of the model curriculum? What is the potential for replicating or integrating the program in the future using State or local funds, once it has been successfully adapted and tested?

• Likelihood of Implementation. What is the proposed timeline for modifying and presenting the program? Who would serve as faculty and how were they selected? What measures will be taken to facilitate subsequent presentations of the adapted program? (Ordinarily, an independent evaluation of a curriculum adaptation project is not necessary; however, the results of any evaluation should be included in the final report.)

• Expressions of Interest By Judges and/or Court Personnel. Does the proposed program have the support of the court system leadership, and of judges, court managers, and judicial education personnel who are expected to attend? (This may be demonstrated by attaching letters of support.)

• Budget and Matching State Contribution. Applicants should attach a copy of budget Form E (see Appendix V) and a budget narrative (see Section VII.B.) that describes the basis for the computation of all project-related costs and the source of the match offered.

• Chief Justice's Concurrence. Local courts should attach a concurrence form signed by the Chief Justice of the State or his or her designee. (See Form B, Appendix VI.)

Letters of application may be submitted at any time. However, applicants should allow at least 90 days between the date of submission and the date of the proposed program to allow sufficient time for needed planning.

The Board of Directors has delegated its authority to approve Curriculum Adaptation grants to its Judicial Education Committee. The Committee anticipates acting upon applications within 45 days after receipt. Grant funds will be available only after Committee approval, and negotiation of the final terms of the grant.

(d) Grantee Responsibilities. A recipient of a Curriculum Adaptation grant must:

(1) Comply with the same quarterly reporting requirements as other Institute grantees (see Section X.L.);

(2) Include in each grant product a prominent acknowledgment that support was received from the Institute, along with the ''SJI'' logo and a disclaimer paragraph (See section X.Q.); and

(3) Submit two copies of the manuals, handbooks, or conference packets developed under the grant at the conclusion of the grant period, along with a final report that includes any evaluation results and explains how the grantee intends to present the program in the future.

iii. Scholarships for Judges and Court Personnel. The Institute is reserving up to $200,000 to support a scholarship program for State court judges and court managers.

(a) Program Description/Scholarship Amounts. The purposes of the Institute scholarship program are to: enhance the knowledge, skills, and abilities of judges and court managers; enable State court judges and court managers to attend out-of-State educational programs sponsored by national and State providers that they could not otherwise attend because of limited State, local and personal budgets; and provide States, judicial educators, and the Institute with evaluative information on a range of judicial and court-related education programs.

Scholarships will be granted to individuals only for the purpose of attending an out-of-State educational program within the United States. The annual or midyear meeting of a State or national organization of which the applicant is a member does not qualify as an out-of-State educational program for scholarship purposes, even though it may include workshops or other training sessions.

A scholarship may cover the cost of tuition and transportation up to a maximum total of $1,500 per scholarship. (Transportation expenses include round-trip coach airfare or train fare. Recipients who drive to the site of the program may receive $.31/mile up to the amount of the advanced purchase round-trip airfare between their home and the program site.) Funds to pay tuition and transportation expenses in excess of $1,500, and other costs of attending the program such as lodging, meals, materials, and local transportation (including rental cars) at the site of the education program, must be obtained from other sources or be borne by the scholarship recipient.

Scholarship applicants are encouraged to check other sources of financial assistance and to combine aid from various sources whenever possible.

Scholarship recipients are also encouraged to check with their tax advisor to determine whether the scholarship constitutes taxable income under Federal and State law.

(b) Eligibility Requirements. Because of the limited amount of funds available, scholarships can be awarded only to full-time judges of State or local trial and appellate courts; full-time professional, State or local court personnel with management responsibilities; and supervisory and management probation personnel in judicial branch probation offices. Senior judges, part-time judges, quasi-judicial hearing officers including referees and commissioners, State administrative law judges, staff attorneys, law clerks, line staff, law enforcement officers, and other executive branch personnel are not eligible to receive a scholarship.

(c) Application Procedures. Judges and court managers interested in receiving a scholarship must submit the Institute's Judicial Education Scholarship Application Form (Form S1, see Appendix V). An applicant may apply for a scholarship for only one educational program during any one application cycle. Applications must be submitted by:

October 1, 1997, for programs beginning between January 1 and March 31, 1998; January 7, 1998, for programs beginning between April 1 and June 30, 1998; April 1, 1998, for programs beginning between July 1 and September 30, 1998; and July 1, 1998, for programs beginning between October 1 and December 31, 1998; and Subject to the availability of appropriations, October 1, 1998, for programs beginning between January 1 and March 31, 1999.

No exceptions or extensions will be granted. Applicants are encouraged not to wait for the decision on the scholarship to register for the educational program they wish to attend.

(d) Concurrence Requirement. All scholarship applicants must obtain the written concurrence of the Chief Justice of their State's Supreme Court (or the Chief Justice's designee) on the Institute's Judicial Education Scholarship Concurrence form (Form S2, see Appendix V). Court managers, other than elected clerks of court, also must submit a letter of support from their supervisor. The Concurrence form may accompany the application or be sent separately. However, the original signed Concurrence form must be received by the Institute within two weeks after the appropriate application mailing deadline (i.e. by October 15,

1997, or January 21, April 15, July 15, or October 15, 1998). No application will be reviewed if a signed Concurrence form has not been received by the required date.

(e) Review Procedures/Selection Criteria. The Board of Directors has delegated the authority to approve or deny scholarships to its Judicial Education Committee. The Institute intends to notify each applicant whose scholarship has been approved within 60 days after the relevant application deadline. The Committee will reserve sufficient funds each quarter to assure the availability of scholarships throughout the year.

The factors that the Institute will consider in selecting scholarship recipients are:

- The applicant's need for education in the particular course subject and how the applicant would apply the information/skills gained;
- The direct benefits to the applicant's court or the State's court system that would be derived from the applicant's participation in the specific educational program, including a description of the current legal, procedural, administrative, or other problems affecting the State's courts that are related to topics to be addressed at the educational;
- The absence of educational programs in the applicant's State addressing the particular topic;
- How the applicant will disseminate the knowledge gained (e.g., by developing/teaching a course or providing in-service training for judges or court personnel at the State or local level);
- The length of time that the applicant intends to serve as a judge or court manager, assuming reelection or reappointment, where applicable;
- The likelihood that the applicant would be able to attend the program without a scholarship;
- The unavailability of State or local funds to cover the costs of attending the program;
- The quality of the educational program to be attended as demonstrated by the sponsoring organization's experience in judicial education, evaluations by participants or other professionals in the field, or prior SJI support for this or other programs sponsored by the organization;
- Geographic balance;
- The balance of scholarships among types of applicants and courts;
- The balance of scholarships among educational programs; and
- The level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

(f) Non-transferability. A scholarship is not transferable to another individual. It may be used only for the course specified in the application unless the recipient submits a letter requesting to attend a different course. The letter must explain the reasons for the change; the need for the information or skills to be provided by the new course; how the information or skills will be used to benefit the individual, his or her court, and/or the courts of the State; and how the knowledge or skills gained will be disseminated. Requests to use a scholarship for a different course must be approved by the Judicial Education Committee of the Institute's Board of Directors. Ordinarily, decisions on such requests will be made within 30 days after the receipt of the request letter.

(g) Responsibilities of Scholarship Recipients. In order to receive the funds authorized by a scholarship award, recipients must submit a Scholarship Payment Voucher (Form S3) together with a tuition statement from the program sponsor, and a transportation fare receipt (or statement of the driving mileage to and from the recipient's home to the site of the educational program). Recipients also must submit to the Institute a certificate of attendance at the program, an evaluation of the educational program they attended, and a copy of the notice of any scholarship funds received from other sources. A copy of the evaluation must be sent to the Chief Justice of their State.

A State or a local jurisdiction may impose additional requirements on scholarship recipients that are consistent with SJI's criteria and requirements, e.g., a requirement to serve as faculty on the subject at a State- or locally- sponsored judicial education program.

iv. National Conferences. This category includes support for national conferences on topics of major concern to State court judges and personnel across the nation. Applicants are encouraged to consider the use of videoconference and other technologies to increase participation and limit travel expenses in planning and presenting conferences. In planning a conference, applicants should provide for a written, video, or computer-based product that would widely disseminate information, findings, and any recommendations resulting from the conference.

The Institute is particularly interested in supporting:

(a) A National Symposium on the Future of Court Education to provide guidance to the courts, judicial education providers, the Institute, and other grantmaking organizations. The Symposium should provide a forum for discussing:

- The best methods for using technologically-based educational approaches, and the most effective ways of integrating those approaches into effective court education programs;
- The design and implementation of programs that address all adult learning styles;
- The incorporation of educational programs and opportunities as an integral part of on-going court operations;
- The appropriate and effective use of experiential learning approaches;
- The most practical and informative methods for evaluating learning and its impact on the knowledge and skills of individual learners, the effect on the operations of their courts, and the impact on the quality of the services provided to those who use the courts; and
- How judicial education may change over the next 10 to 20 years, strategic plans for realizing those changes, and recommendations for how SJI, other grantmakers, and adult education providers can assist in implementing those changes.

(b) A National Conference on Unrepresented Litigants in Court involving judges, court managers, policymakers, bar leaders, scholars and the public, to:

- Develop a clearer understanding of the proportion and nature of litigants who choose to represent themselves in courts;
- Obtain information about the nature and effectiveness of innovative programs, procedures, programs, and materials developed by jurisdictions throughout the country;
- Identify problem areas that remain; and
- Prepare action plans and recommendations on how to address those problems at the local, State, and national levels.

c. Dispute Resolution and the Courts: This category includes research, evaluation, and demonstration projects to evaluate or enhance the effectiveness of court-connected dispute resolution programs. The Institute is interested in projects that facilitate comparison among research studies by using similar measures and definitions; address the nature and operation of ADR programs within the context of the court system as a whole; and compare dispute resolution processes to attorney settlement as well as trial. Specific topics of interest include:

• Determining the appropriate timing for referrals to dispute resolution services to enhance settlements and reduce time to disposition;

• Assessing the effect of different referral methods including any differences in outcome between voluntary and mandatory referrals;

• Comparing the appropriateness and effectiveness of facilitative and evaluative mediation in various types of cases;

• Testing innovative approaches that provide rural courts and other under-served areas with adequate court-connected dispute resolution services;

• Evaluating innovative court-connected dispute resolution programs for resolving specific types of cases such as guardianship petitions, probate proceedings, land-use disputes, and complex and multi-party litigation;

• Testing of methods that courts can use to assure the quality of court-connected dispute resolution programs; and

• Developing guidelines on what actions by non-lawyer mediators may constitute the unauthorized practice of law.

Applicants should be aware that the Institute will not provide operational support for on-going ADR programs or start-up costs of non-innovative ADR programs. Courts also should be advised that it is preferable for the applicant to use its funds to support the operational costs of an innovative program and request Institute funds to support related technical assistance, training, and evaluation elements of the program.

In previous funding cycles, the Institute has supported projects to evaluate the use of mediation in civil, domestic relations, juvenile, medical malpractice, appellate, and minor criminal cases, as well as in resolving grievances of court employees. SJI grants also have supported assessments of the impact of private judging on State courts; multi-door courthouse programs; arbitration of civil cases; screening and intake procedures for mediation; the relationship of mediator training and qualifications to case outcome and party satisfaction; early referrals to mediation in divorce proceedings; and trial and appellate level civil settlement programs.

In addition, SJI has supported two national conferences on court-connected dispute resolution; a national ADR resource center and a national database of court-connected dispute resolution programs; training programs for judges and mediators; the testing of Statewide and trial court-based ADR monitoring/evaluation systems and implementation manuals; the promulgation and implementation of principles and policies regarding the qualifications, selection, and training of court-connected neutrals; development of standards for court-annexed mediation programs; and an examination of the applicability of various dispute resolution procedures to different cultural groups.

d. Application of Technology: This category includes the testing of innovative applications of technology to improve the operation of court management systems and judicial practices at both the trial and appellate court levels.

The Institute seeks to support local experiments with promising but untested applications of technology in the courts that include an evaluation of the impact of the technology in terms of costs, benefits, and staff workload, and a training component to assure that staff is appropriately educated about the purpose and use of the new technology. In this context, ''untested'' refers to novel applications of technology developed for the private sector and other fields that have not previously been applied to the courts.

The Institute is particularly interested in supporting efforts to:

• Evaluate the use of the Internet for case and document filing, and develop model rules governing electronic filing and notice;

• Establish standards for judicial electronic data interchange (EDI), and test local, Statewide, and/or interstate demonstrations of the courts' use of EDI;

• Demonstrate and evaluate the use of videoconferencing technology to present testimony by witnesses in remote locations, and appellate arguments (but see the limitations specified below); and

• Assess the impact of the use of multimedia CD–ROM-based briefs on the courts, parties, counsel, and the trial or appellate process.

Ordinarily, the Institute will not provide support for the purchase of equipment or software in order to implement a technology that is commonly used by courts, such as videoconferencing between courts and jails, optical imaging for recordkeeping, and automated management information systems. (See also section XI.H.2.b. regarding other limits on the use of grant funds to purchase equipment and software.)

In previous funding cycles, grants have been awarded to support projects that: demonstrate and evaluate the availability of electronic forms and information on the Internet to assist pro se litigants; access to case data via the Internet; electronic filing and document transfer; an electronic document management system; a court management information display system; the integration of bar-coding technology with an existing automated case management system; an on-bench automated system for generating and processing court orders; an automated judicial education management system; a document management system for small courts using imaging technology; a computerized citizen intake and referral service; an ''analytic judicial desktop system'' to assist judges in making sentencing decisions; and the use of automated teller machines for paying jurors.

Grants have also supported national court technology conferences; a court technology laboratory to provide judges and court managers an opportunity to test automated court-related hardware and software; a technical information service to respond to specific inquiries concerning court-related technologies; development of recommendations for electronic transfer of court documents, model rules on the use of computer-generated demonstrative evidence and electronic documentary evidence, and guidelines on privacy and public access to electronic court information and on court access to the information superhighway; implementation and evaluation of a Statewide automated integrated case docketing and record-keeping system; and computer simulation models to assist State courts in evaluating potential strategies for improving civil caseflow.

e. Court Planning, Management, Financing: The Institute is interested in supporting projects that explore emerging issues that will affect the State courts as they enter the 21st Century, as well as projects that develop and test innovative approaches for managing the courts, securing and managing the resources required to fully meet the responsibilities of the judicial branch, and institutionalizing long-range planning processes. In particular the Institute is interested in:

i. Demonstration, evaluation, education, research, and technical assistance projects to:

• Develop, implement, and assess innovative case management techniques for specialized calendars including but not limited to drug courts, domestic violence courts, juvenile courts, and family courts;

• Facilitate communication, information sharing, and coordination between the juvenile and criminal courts;

• Assess the effects of innovative management approaches designed to assure quality services to court users;

• Strengthen the leadership skills of presiding judges and court managers;

• Develop and test methods for facilitating and implementing change and for encouraging excellence in court operations;

• Demonstrate and assess the effective use of staff teams in court operations;

• Institutionalize long-range planning approaches in individual States and local jurisdictions, including development of an ongoing internal capacity to conduct environmental scanning, trends analysis, and benchmarking; and

• Develop and test mechanisms for linking assessments of effectiveness such as the Trial Court Performance Standards to fiscal planning and budgeting, including service efforts and accomplishments approaches (SEA), performance audits, and performance budgeting; and

• Test innovative programs and procedures for providing clear and open communications between the judicial and legislative branches of government.

ii. Education, technical assistance, and other projects to facilitate the establishment, maintenance, and institutionalization of effective partnerships among courts, criminal justice agencies, treatment providers, and other organizations (e.g., shelters for victims of domestic violence) that promote effective responses to particular types of cases or classes of offenders. These partnerships can take many forms such as drug courts, family violence coordinating councils, sex offender management teams, and intermediate sanctions working groups. Although many jurisdictions have already undertaken one or more such team efforts, the promise of these collaborations has too often been squandered as a result of the difficulties the participating courts and agencies face in reconciling their distinct and, in some cases, adversarial responsibilities with the idea of working together toward a common goal.

The Institute anticipates joining together with several Federal grant agencies to support one or more teambuilding projects that will help each agency achieve its respective statutory mission. These activities could include:

• Preparing and presenting educational programs to foster development of effective teams;

• Delivering on-site technical assistance to develop a team or enhance an existing partnership;

• Providing information on teambuilding through a national resource center; and

• Preparing manuals, guides, and other written and visual products to assist the development and operation of effective teams.

Applicants should address how they would enter into collaborative relationships with other organizations to provide the diverse services and the full range of necessary expertise to interested jurisdictions in a timely fashion.

iii. Demonstration, evaluation, education, technical assistance, and research projects to implement the National Agenda on Assuring Prompt and Affordable Justice being developed under grant no. SJI–97–004, due to be completed this fall. The key elements of the agenda will be published in the winter issue of SJI News. Concept papers addressing this topic must be mailed by March 12, 1998.

iv. The preparation of ''think pieces'' exploring possible changes in the court process or judicial administration and their implications for judges, court managers, policymakers, and the public. Grants supporting such projects are limited to no more than $10,000. The resulting essay should be directed to the court community and be of publishable quality.

Possible topics include, but are not limited to: what the new ''community courts'' can learn from the old justice of the peace courts; the ramifications of ''virtual trials'' (i.e. proceedings in which one or more trial participants including the parties, counsel, witnesses, the judge, and the jury may not be physically in the courtroom); the implications of the use of technology-enhanced courtroom presentations, especially when there is an imbalance of resources among the parties; the appropriateness of modifying methods of selecting, qualifying, and using juries; and the uses of technology to better prepare and inform jurors.

In previous funding cycles, the Institute has supported national and Statewide ''future and the courts'' conferences and training; curricula, guidebooks, a video on visioning, and a long-range planning guide for trial courts; and technical assistance to courts conducting futures and long-range planning.

SJI has also supported executive management programs for teams of judges and court administrators; a test of the feasibility of implementing the Trial Court Performance Standards in four States; Appellate Court Performance Standards and Measures; a TQM guidebook and training materials for trial courts; revision of the Standards on Judicial Administration; projects identifying the causes of delay in trial and appellate courts; the preparation of a national agenda for reducing litigation cost and delay; the testing of various types of weighted caseload systems; a National Interbranch Conference on Funding the State Courts; and National Symposia on Court Management.

f. Resolution of Current Evidentiary Issues: This category includes educational programs, the development of model rules and jury instructions, and other projects to assist judges in deciding questions regarding:

• The admissibility and effectiveness of new forms of demonstrative evidence, including computer simulations;

• The admissibility and weight to be given to complex scientific or technical evidence under the standards set forth in *Daubert* v. *Merrell Dow Pharmaceuticals, Inc.;*

• The admissibility of genetic evidence generally, and the findings of the 1996 National Academy of Sciences report evaluating forensic DNA evidence, in particular; and

• The appropriateness of awards of punitive damages.

In previous funding cycles, the Institute has supported the analysis of issues related to the use of expert testimony in criminal cases involving domestic violence; a computer-assisted training program on evidentiary problems for juvenile and family court judges; training on medical/legal and scientific evidence issues and regional seminars on evidentiary questions; a videotape and other materials on scientific evidence; a workshop on the use of DNA evidence in criminal proceedings; and benchbooks on evidentiary issues pertaining to psychiatric evidence and testimony, and to testimony by child witnesses.

g. Substance Abuse: This category includes education, technical assistance, research, and evaluation projects to assist courts in handling a large volume of substance abuse-related criminal, civil, juvenile, and domestic relations cases fairly and expeditiously

The Institute is particularly interested in projects to:

• Assess the effect of managed health-care plans on the availability and cost of drug treatment services for court-enforced treatment programs, and assist courts in shaping managed care plans to enhance the availability of necessary services at a reasonable cost;

• Prepare and test measures, forms, and other tools to facilitate self-evaluation of court-enforced substance abuse treatment programs; and

• Develop and deliver educational programs or technical assistance to help courts in designing, managing, or evaluating drug court programs for

adults or juveniles. (This does not include providing support for planning, establishing, operating, or enhancing a local drug court. Applicants interested in obtaining such operational support should contact the Drug Court Program Office, Office of Justice Programs, U.S. Department of Justice.)

The Institute has supported the presentation of the 1995 National Symposium on the Implementation and Operation of Court-Enforced Drug Treatment Programs as well as the 1991 National Conference on Substance Abuse and the Courts, and efforts to implement the State and local plans developed at these Conferences.

It has also supported projects to evaluate court-enforced treatment programs, special court-ordered programs for women offenders, and other court-based alcohol and drug assessment programs; test the applicability of drug courts in non-urban sites; involve community groups and families in drug court programs; assess the impact of legislation and court decisions dealing with drug-affected infants; develop strategies for coping with increasing caseload pressures, and benchbooks and other educational materials on child abuse and neglect cases involving parental substance abuse and appropriate sentences for pregnant substance abusers; test the use of a dual diagnostic treatment model for domestic violence cases in which substance abuse was a factor; and present local and regional educational programs for judges and other court personnel on substance abuse and its treatment. In addition, SJI has supported an information system that permits courts, criminal justice agencies, and drug treatment providers to share information electronically.

h. Children and Families in Court: This category includes education, demonstration, evaluation, technical assistance, and research projects to identify and inform judges of innovative, effective approaches for handling cases involving children and families. The Institute is particularly interested in projects that:

i. Assist courts in addressing the special needs of children in cases involving family violence including the development and testing of innovative protocols, procedures, educational programs, and other measures for improving the capacity of courts to:

- Coordinate and adjudicate child custody and family violence cases involving the same family;
- Determine and address the service needs of children exposed to family violence and the methods for mitigating those effects when issuing protection, custody, visitation, or other orders; and
- Adjudicate and monitor child abuse and neglect litigation and reconcile the need to protect the child with the requirement to make reasonable efforts to maintain or reunite the family.

ii. Enhance the fairness and effectiveness of proceedings regarding a juvenile accused of committing a delinquent or criminal offense, including projects that:

- Prepare and test curricula and materials for judges on how to manage cases involving gang members fairly, safely, and effectively, including the use of appropriate procedures for determining pre-adjudication release, protecting witnesses, and developing effective dispositions;
- Develop and test effective approaches for the detention, adjudication, and disposition of juveniles under age 13 who are accused of involvement in a violent offense; and
- Develop and test effective policies, procedures, and educational materials for judges regarding cases in which a juvenile is tried as an adult.

iii. Improve the fairness and effectiveness of proceedings to determine custody, visitation, and support issues, including projects that develop and test guidelines, curricula, and other materials to assist trial judges in:

- Determining the best interest of a child;
- Enforcing visitation orders fairly and effectively; and
- Establishing and enforcing custody, and support orders in cases in which a child's parents were never married to each other.

iv. Improve the effectiveness and operating efficiency of juvenile and family courts, including projects to:

- Develop and test innovative techniques for improving communication, sharing information, and coordinating juvenile and criminal courts and divisions; and
- Implement the action agenda developed at the National Symposium on Reviewing the Past and Looking Toward the Future of the Juvenile Court held in Reno, Nevada on September 28—October 1, 1997. The key elements in the agenda will be published in the winter issue of SJI News. Concept papers addressing this topic must be mailed by March 12, 1998.

In previous funding cycles, the Institute supported national and State conferences on courts, children, and the family; a review of juvenile courts in light of the upcoming 100th anniversary of the founding of the first juvenile court; validation of a risk assessment tool for juvenile offenders; a symposium on the resolution of interstate child welfare issues; and educational materials on the questioning of child witnesses, making reasonable efforts to preserve families, adjudicating allegations of child sexual abuse when custody is in dispute, child victimization, handling child abuse and neglect cases when parental substance abuse is involved, and on children as the silent victims of spousal abuse.

Other Institute grants have supported the development of computer-based training on the Uniform Interstate Family Support Act, and the examination of supervised visitation programs, effective court responses when domestic violence and custody disputes coincide, and foster care review procedures.

In addition, the Institute has supported projects to enhance coordination of cases involving the same family that are being heard in different courts; assist States considering establishment of a family court; develop national and State-based training materials for guardians ad litem; examine the authority of the juvenile court to enforce treatment orders and the role of juvenile court judges; test the use of differentiated case management in juvenile court; and develop innovative approaches for coordinating services for children and youth.

i. Improving the Courts' Response to Domestic Violence: This category includes innovative education, demonstration, technical assistance, evaluation, and research projects to improve the fair and effective processing, consideration, and disposition of cases concerning domestic violence and gender-related violent crimes, including projects on:

- The effective use and enforcement of intra-and inter-State protective orders including implementation of the court-related findings and recommendations resulting from the National Conference on Full Faith and Credit: A Passport to Safety to be held in Albuquerque, NM in October, 1997. The key findings and recommendations from the conference will be published in the winter issue of SJI News. Concept papers proposing projects that follow up on the conference must be mailed by March 12, 1998;
- The effective use of information contained in protection order files stored in court electronic databases consistent with the protection of the privacy and safety of victims of violence;
- The effectiveness of specialized calendars or divisions for considering

domestic violence cases and related matters, including their impact on victims, offenders, and court operations;

- Determining when it may be appropriate to refer a case involving family violence for mediation and what procedures and safeguards should be employed;
- Effective ways to coordinate the response to domestic violence and gender-related crimes of violence among courts, criminal justice agencies, and social services programs, and to assure that courts are fully accessible to victims of domestic violence and other gender-related violent crimes;
- Special precautions that should be taken and information that should be provided when participants referred by the court to a parent education program may include parents from violent homes; and
- Effective sentencing approaches in cases involving domestic violence and other gender-related crimes.

Institute funds may not be used to provide operational support to programs offering direct services or compensation to victims of crimes. (Applicants interested in obtaining such operational support should contact the Office for Victims of Crime (OVC), Office of Justice Programs, U.S. Department of Justice, or the agency in their State that awards OVC funds to State and local victim assistance and compensation programs.)

In previous funding cycles, the Institute supported national and State conferences on family violence and the courts as well as projects to implement the action plans developed at these conferences; symposia and guides on the implementation of the full faith and credit requirements included in the Violence Against Women Act; curricula for judges on a range of topics regarding the handling of family violence, rape, and sexual assault cases; and preparation of descriptions of innovative court practices in family violence cases, including programs for battered mothers and their children, and procedures for coordinating multiple cases involving a single family.

The Institute also has funded evaluations of the effectiveness of specialized domestic violence calendars, court-ordered treatment for family violence offenders, the use of alternatives to adjudication in child abuse cases, and procedures to improve the effectiveness of civil protection orders for family violence victims; development of recommendations on how to improve access to rural courts for victims of family violence, and to collect and report dispositional and other data concerning family violence cases; research and judicial education on the use of mediation in domestic relations cases involving allegations of violence, the relevancy of culture in adjudicating and disposing of family violence cases, and effective sentencing of sex offenders; videotapes and other educational programs for the parties in divorce actions and their children; analyses of the issues related to the use of expert testimony in criminal cases involving domestic violence; and development of electronic links among courts, criminal justice agencies, and service providers to share information and assist victims of violence.

j. Improving Sentencing Practices. This category includes education, demonstration, technical assistance, evaluation, and research projects to address and implement the findings and recommendations reached at the National Symposium on Sentencing: The Judicial Response to Crime, to be held in San Diego, CA on November 1–4, 1997. The key findings and recommendations will be published in the winter issue of SJI News. Concept papers submitted under this category must be mailed by March 12, 1998.

k. Improving Court Security. This category includes demonstration, evaluation, technical assistance, education, and research projects to enhance the security of courthouses and the people who use and work in them. The Institute is particularly interested in supporting innovative projects to:

- Develop policies, protocols, and procedures designed to prevent harassment, threats, and incidents endangering the lives and property of judges, court employees, jurors, litigants, witnesses, and other members of the public in court facilities;
- Evaluate innovative applications of technology to prevent courthouse incidents that endanger the lives and property of judges, court personnel, and courtroom participants; and
- Develop and test model training programs that will assist judges and court personnel in protecting their safety and that of jurors, litigants, witnesses, and other members of the public in court facilities, and in managing cases involving individuals or organizations unwilling to cooperate with legal or administrative procedures.

In previous funding cycles, the Institute has supported a demonstration project to organize sharing of court security staff between counties; a court security clearinghouse; and an educational program and benchbook on the common law court movement.

l. The Relationship Between State and Federal Courts: This category includes education, research, demonstration, and evaluation projects designed to facilitate appropriate and effective communication, cooperation, and coordination between State and Federal courts. The Institute is particularly interested in innovative projects that:

i. Develop and test curricula and disseminate information regarding effective methods being used at the trial court, State, and Circuit levels to coordinate cases and administrative activities; and

ii. Develop and test new approaches to:

- Implement the habeas corpus provisions of the Anti-Terrorism Act of 1996;
- Handle capital habeas corpus cases fairly and efficiently;
- Coordinate and process mass tort cases fairly and efficiently at the trial and appellate levels;
- Coordinate the adjudication of related State and Federal criminal cases;
- Coordinate related State and Federal cases that may be brought under the Violence Against Women Act;
- Exchange information and coordinate calendars among State and Federal courts; and
- Share facilities, jury pools, alternative dispute resolution programs, information regarding persons on pretrial release or probation, and court services.

In previous funding cycles, the Institute has supported national and regional conferences on State-Federal judicial relationships, a national conference on mass tort litigation, and the Chief Justices' Special Committee on Mass Tort Litigation.

In addition, the Institute has supported projects testing the use common electronic filing process for the State and Federal courts in New Mexico, and other methods of State and Federal trial and appellate court cooperation; developing judicial impact statement procedures for national legislation affecting State courts; establishing procedures for facilitating certification of questions of law; assessing the impact on the State courts of diversity cases and cases brought under section 1983, the procedures used in Federal habeas corpus review of State court criminal cases, and the factors that motivate litigants to select Federal or State courts; and the mechanisms for transferring cases between Federal and State courts, as well as the methods for effectively consolidating, deciding, and managing complex litigation.

The Institute has also supported a clearinghouse of information on State constitutional law decisions; educational programs for State judges on coordination of Federal bankruptcy

cases with State litigation; and the assignment of specialized law clerks to trial courts hearing capital cases in order to improve the fairness and efficiency of death penalty litigation at the trial level.

C. Single Jurisdiction Projects

The Board will consider supporting a limited number of projects submitted by State or local courts that address the needs of only the applicant State or local jurisdiction. The Institute has established two categories of Single Jurisdiction Projects:

1. Projects Addressing a Critical Need of a Single State or Local Jurisdiction

a. Description of the Program. The Board will set aside up to $300,000 to support projects submitted by State or local courts that address the needs of only the applicant State or local jurisdiction. A project under this section may address any of the topics included in the Special Interest Categories or Statutory Program Areas.

Concept papers for single jurisdiction projects may be submitted by a State court system, an appellate court, or a limited or general jurisdiction trial court. All awards under this category are subject to the matching requirements set forth in section X.B.1.

In particular, the Institute is interested in awarding replication grants to support the implementation of programs, procedures, or strategies that have been developed, demonstrated, or evaluated by SJI-supported projects. (A list of examples of such projects is contained in Appendix IV.) Ordinarily, the Institute will not provide support solely for the purchase of equipment or software.

b. Application Procedures. Concept papers and applications requesting funds for projects under this section must meet the requirements of sections VI. (''Concept Paper Submission Requirements for New Projects'') and VII. (''Application Requirements''), respectively, and must demonstrate that:

i. The proposed project is essential to meeting a critical need of the jurisdiction; and

ii. The need cannot be met solely with State and local resources within the foreseeable future.

2. Technical Assistance Grants

a. Description of the Program. The Board will set aside up to $400,000 to support the provision of technical assistance to State and local courts. The exact amount to be awarded for these grants will depend on the number and quality of the applications submitted in this category and other categories of the Guideline. The Committee will reserve sufficient funds each quarter to assure the availability of technical assistance grants throughout the year. The program is designed to provide State and local courts with sufficient support to obtain technical assistance to diagnose a problem, develop a response to that problem, and initiate implementation of any needed changes.

Technical Assistance grants are limited to no more than $30,000 each, and may cover the cost of obtaining the services of expert consultants; travel by a team of officials from one court to examine a practice, program, or facility in another jurisdiction that the applicant court is interested in replicating; or both. Technical assistance grant funds ordinarily may not be used to support production of a videotape. Normally, the technical assistance must be completed within 12 months after the start-date of the grant.

b. Eligibility for Technical Assistance Grants. Only a State or local court may apply for a Technical Assistance grant. As with other awards to State or local courts, cash or in-kind match must be provided equal to at least 50% of the grant amount.

c. Review Criteria. Technical Assistance grants will be awarded on the basis of criteria including: Whether the assistance would address a critical need of the court; the soundness of the technical assistance approach to the problem; the qualifications of the consultant(s) to be hired, or the specific criteria that will be used to select the consultant(s); commitment on the part of the court to act on the consultant's recommendations; and the reasonableness of the proposed budget. The Institute also will consider factors such as the level and nature of the match that would be provided, diversity of subject matter, geographic diversity, the level of appropriations available to the Institute in the current year, and the amount expected to be available in succeeding fiscal years.

The Board has delegated its authority to approve these grants to its Technical Assistance Committee.

d. Application Procedures. In lieu of formal applications, applicants for Technical Assistance grants may submit, at any time, an original and three copies of a detailed letter describing the proposed project and addressing the issues listed below. Letters from an individual trial or appellate court must be signed by the presiding judge or manager of that court. Letters from the State court system must be signed by the Chief Justice or State Court Administrator.

Although there is no prescribed form for the letter nor a minimum or maximum page limit, letters of application should include the following information to assure that each of the criteria is addressed:

i. Need for Funding. What is the critical need facing the court? How will the proposed technical assistance help the court meet this critical need? Why cannot State or local resources fully support the costs of the required consultant services?

ii. Project Description. What tasks would the consultant be expected to perform and how would they be accomplished? Which organization or individual would be hired to provide the assistance and how was this consultant selected? If a consultant has not yet been identified, what procedures and criteria would be used to select the consultant? (Applicants are expected to follow their jurisdiction's normal procedures for procuring consultant services.) What is the time frame for completion of the technical assistance? How would the court oversee the project and provide guidance to the consultant, and who at the court would be responsible for coordinating all project tasks and submitting quarterly progress and financial status reports?

If the consultant has been identified, the applicant should provide a letter from that individual or organization documenting interest in and availability for the project, as well as the consultant's ability to complete the assignment within the proposed time period and for the proposed cost. The consultant must agree to submit a detailed written report to the court and the Institute upon completion of the technical assistance.

iii. Likelihood of Implementation. What steps have been/will be taken to facilitate implementation of the consultant's recommendations upon completion of the technical assistance? For example, if the support or cooperation of specific court officials or committees, other agencies, funding bodies, organizations, or a court other than the applicant will be needed to adopt the changes recommended by the consultant and approved by the court, how will they be involved in the review of the recommendations and development of the implementation plan?

iv. Budget and Matching State Contribution. A completed Form E, ''Preliminary Budget'' (see Appendix V) and budget narrative must be included with the applicant's letter requesting technical assistance. The estimated cost of the technical assistance services should be broken down into the

categories listed on the budget form rather than aggregated under the Consultant/Contractual category.

The budget narrative should provide the basis for all project-related costs, including the basis for determining the estimated consultant costs, if compensation of the consultant is required (e.g., number of days per task times the requested daily consultant rate). Applicants should be aware that consultant rates above $300 per day must be approved in advance by the Institute, and that grant funds cannot be paid to a consultant at a rate in excess of $900 per day.

Ordinarily, attorneys in private practice are expected to provide consulting services to court improvement or education projects on a pro bono basis.

In addition, the budget should provide for submission of two copies of the consultant's final report to the Institute.

Recipients of technical assistance grants do not have to submit an audit, but must maintain appropriate documentation to support expenditures. (See section X.M.)

v. Support for the Project from the State Supreme Court or its Designated Agency or Council. Written concurrence on the need for the technical assistance must be submitted. This concurrence may be a copy of SJI Form B (see Appendix VI) signed by the Chief Justice of the State Supreme Court or the Chief Justice's designee, or a letter from the State Chief Justice or designee. The concurrence may be submitted with the applicant's letter or under separate cover prior to consideration of the application. The concurrence also must specify whether the State Supreme Court would receive, administer, and account for the grant funds, if awarded, or would designate the local court or a specified agency or council to receive the funds directly.

Letters of application may be submitted at any time; however, all of the letters received during a calendar quarter will be considered at one time. Applicants submitting letters between June 14 and September 30, 1997 will be notified of the Board's decision by December 5, 1997; those submitting letters between October 1, 1997 and January 16, 1998 will be notified by March 27, 1998; notification of the Board's decisions concerning letters mailed between January 17 and March 13, 1998, will be made by May 29, 1998; notice of decisions regarding letters submitted between March 14 and June 12, 1998 will be made by August 28, 1998. Subject to the availability of sufficient appropriations for fiscal year 1999, applicants submitting letters between June 13 and September 30, 1998, will be notified by December 18, 1998.

If the support or cooperation of agencies, funding bodies, organizations, or courts other than the applicant, would be needed in order for the consultant to perform the required tasks, written assurances of such support or cooperation should accompany the application letter. Support letters also may be submitted under separate cover; however, to ensure that there is sufficient time to bring them to the attention of the Board's Technical Assistance Committee, letters sent under separate cover must be received not less than two weeks prior to the Board meeting at which the technical assistance requests will be considered (i.e., by October 31, 1997, and February 12, April 17, July 10, 1998, and October 30, 1998).

vi. Grantee Responsibilities. Technical Assistance grant recipients are subject to the same quarterly reporting requirements as other Institute grantees. At the conclusion of the grant period, a Technical Assistance grant recipient must complete a Technical Assistance Evaluation Form. The grantee also must submit to the Institute two copies of a final report that explains how it intends to act on the consultant's recommendations, as well as two copies of the consultant's written report.

III. Definitions

The following definitions apply for the purposes of this guideline:

A. Institute

The State Justice Institute.

B. State Supreme Court

The highest appellate court in a State, or, for the purposes of the Institute program, a constitutionally or legislatively established judicial council that acts in place of that court. In States having more than one court with final appellate authority, State Supreme Court shall mean that court which also has administrative responsibility for the State's judicial system. State Supreme Court also includes the office of the court or council, if any, it designates to perform the functions described in this Guideline.

C. Designated Agency or Council

The office or judicial body which is authorized under State law or by delegation from the State Supreme Court to approve applications for funds and to receive, administer, and be accountable for those funds.

D. Grantee

The organization, entity, or individual to which an award of Institute funds is made. For a grant based on an application from a State or local court, grantee refers to the State Supreme Court or its designee.

E. Subgrantee

A State or local court which receives Institute funds through the State Supreme Court.

F. Match

The portion of project costs not borne by the Institute. Match includes both in-kind and cash contributions. Cash match is the direct outlay of funds by the grantee to support the project. In-kind match consists of contributions of time, services, space, supplies, etc., made to the project by the grantee or others (e.g., advisory board members) working directly on the project. Under normal circumstances, allowable match may be incurred only during the project period. When appropriate, and with the prior written permission of the Institute, match may be incurred from the date of the Board of Directors' approval of an award. Match does not include project-related income such as tuition or revenue from the sale of grant products, or the time of participants attending an education program. Amounts contributed as cash or in-kind match may not be recovered through the sale of grant products during or following the grant period.

G. Continuation Grant

A grant of no more than 24 months to permit completion of activities initiated under an existing Institute grant or enhancement of the products or services produced during the prior grant period.

H. On-Going Support Grant

A grant of up to 36 months to support a project that is national in scope and that provides the State courts with services, programs or products for which there is a continuing critical need.

I. Human Subjects

Individuals who are participants in an experimental procedure or who are asked to provide information about themselves, their attitudes, feelings, opinions and/or experiences through an interview, questionnaire, or other data collection technique.

J. Curriculum

The materials needed to replicate an education or training program developed with grant funds including, but not limited to: The learning

objectives; the presentation methods; a sample agenda or schedule; an outline of presentations and other instructors' notes; copies of overhead transparencies or other visual aids; exercises, case studies, hypotheticals, quizzes and other materials for involving the participants; background materials for participants; evaluation forms; and suggestions for replicating the program including possible faculty or the preferred qualifications or experience of those selected as faculty.

K. Products

Tangible materials resulting from funded projects including, but not limited to: Curricula; monographs; reports; books; articles; manuals; handbooks; benchbooks; guidelines; videotapes; audiotapes; computer software; and CD–ROM disks.

IV. Eligibility for Award

In awarding funds to accomplish these objectives and purposes, the Institute has been authorized by Congress to award grants, cooperative agreements, and contracts to State and local courts and their agencies (42 U.S.C. 10705(b)(1)(A)); national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments (42 U.S.C. 10705 (b)(1)(B)); and national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments (42 U.S.C. 10705(b)(1)(C)).

An applicant will be considered a national education and training applicant under section 10705(b)(1)(C) if: (1) The principal purpose or activity of the applicant is to provide education and training to State and local judges and court personnel; and (2) the applicant demonstrates a record of substantial experience in the field of judicial education and training.

The Institute also is authorized to make awards to other nonprofit organizations with expertise in judicial administration, institutions of higher education, individuals, partnerships, firms, corporations, and private agencies with expertise in judicial administration, provided that the objectives of the relevant program area(s) can be served better. In making this judgment, the Institute will consider the likely replicability of the projects' methodology and results in other jurisdictions. For-profit organizations are also eligible for grants and cooperative agreements; however, they must waive their fees.

The Institute may also make awards to Federal, State or local agencies and institutions other than courts for services that cannot be adequately provided through nongovernmental arrangements.

In addition, the Institute may enter into inter-agency agreements with other public or private funders to support projects consistent with the purpose of the State Justice Institute Act.

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court or its designated agency or council. The latter shall receive all Institute funds awarded to such courts and be responsible for assuring proper administration of Institute funds, in accordance with section XI.B.2. of this Guideline. A list of persons to contact in each State regarding approval of applications from State and local courts and administration of Institute grants to those courts is contained in Appendix I.

V. Types of Projects and Grants; Size of Awards

A. Types of Projects

Except as expressly provided in section II.B.2.b. and II.C. above, the Institute has placed no limitation on the overall number of awards or the number of awards in each special interest category. The general types of projects are:

1. Education and training;
2. Research and evaluation;
3. Demonstration; and
4. Technical assistance.

B. Types of Grants

The Institute has established the following types of grants:

1. Project grants (See sections II.B., and C.1., VI., and VII.).
2. Continuation grants (See sections III.H. and IX.A).
3. On-going Support grants (See sections III.I. and IX.B.).
4. Technical Assistance grants (See section II.C.2).
5. Curriculum Adaptation grants (See section II.B.2.b.ii.).
6. Scholarships (See section II.B.2.b.iii).

C. Maximum Size of Awards

1. Except as specified below, applications for new project grants and applications for continuation grants may request funding in amounts up to $200,000, although new and continuation awards in excess of $150,000 are likely to be rare and to be made, if at all, only for highly promising proposals that will have a significant impact nationally.

2. Applications for on-going support grants may request funding in amounts up to $600,000 over three years, although awards in excess of $450,000 are likely to be rare. At the discretion of the Board, the funds for on-going support grants may be awarded either entirely from the Institute's appropriations for the fiscal year of the award or from the Institute's appropriations for successive fiscal years beginning with the fiscal year of the award. When funds to support the full amount of an on-going support grant are not awarded from the appropriations for the fiscal year of award, funds to support any subsequent years of the grant will be made available upon (1) the satisfactory performance of the project as reflected in the Quarterly Progress Reports required to be filed and grant monitoring; (2) the availability of appropriations for that fiscal year; and (3) the Board of Directors' determination that the project continues to fall within the Institute's priorities.

3. Applications for technical assistance grants may request funding in amounts up to $30,000.

4. Applications for curriculum adaptation grants may request funding in amounts up to $20,000.

5. Applications for scholarships may request funding in amounts up to $1,500.

D. Length of Grant Periods

1. Grant periods for all new and continuation projects ordinarily will not exceed 15 months.

2. Grant periods for on-going support grants ordinarily will not exceed 36 months.

3. Grant periods for technical assistance grants and curriculum adaptation grants ordinarily will not exceed 12 months.

VI. Concept Paper Submission Requirements for New Projects

Concept papers are an extremely important part of the application process because they enable the Institute to learn the topics of primary interest to the courts and to explore innovative ideas, without imposing heavy burdens on prospective applicants. The use of concept papers also permits the Institute to better project the nature and amount of grant awards. The concept paper requirement and the submission deadlines for concept papers and applications may be waived by the Executive Director for good cause (e.g., the proposed project could provide a significant benefit to the State courts or the opportunity to conduct the project did not arise until after the deadline).

A. Format and Content

All concept papers must include a cover sheet, a program narrative, and a preliminary budget.

1. The Cover Sheet

The cover sheet for all concept papers must contain:

a. A title describing the proposed project;

b. The name and address of the court, organization, or individual submitting the paper;

c. The name, title, address (if different from that in b.), and telephone number of a contact person who can provide further information about the paper;

d. The letter of the Special Interest Category (see section II.B.2.) or the number of the statutory Program Area (see section II.A.) that the proposed project addresses most directly; and

e. The estimated length of the proposed project.

Applicants requesting the Board to waive the application requirement and approve a grant of less than $40,000 based on the concept paper, should add application waiver requested to the information on the cover page.

2. The Program Narrative

The program narrative of a concept paper should be no longer than necessary, but may exceed eight (8) double-spaced pages on 8½ by 11 inch paper. Margins must be at least 1 inch and type size must be at least 12 point and 12 cpi. The narrative should describe:

a. Why is this project needed and how will it benefit State courts? If the project is to be conducted in a specific location(s), applicants should discuss the particular needs of the project site(s) to be addressed by the project, why those needs are not being met through the use of existing materials, programs, procedures, services, or other resources, and the benefits that would be realized by the proposed site(s).

If the project is not site-specific, applicants should discuss the problems that the proposed project will address, why existing materials, programs, procedures, services, or other resources do not adequately resolve those problems, and the benefits that would be realized from the project by State courts generally.

b. What will be done if a grant is awarded? Applicants should include a summary description of the project to be conducted and the approach to be taken, including the anticipated length of the grant period. Applicants requesting a waiver of the application requirement for a grant of less than $40,000 should explain the proposed methods for conducting the project as fully as space allows, and include a detailed task schedule as an attachment to the concept paper.

c. How will the effects and quality of the project be determined? Applicants should include a summary description of how the project will be evaluated, including the evaluation criteria.

d. How will others find out about the project and be able to use the results? Applicants should describe the products that will result, the degree to which they will be applicable to courts across the nation, and to whom the products and results of the project will be disseminated in addition to the SJI-designated libraries (e.g., State chief justices, specified groups of trial judges, State court administrators, specified groups of trial court administrators, State judicial educators, or other audiences).

3. The Budget

a. Preliminary Budget. A preliminary budget must be attached to the narrative that includes the information specified on Form E included in Appendix VI of this Guideline. Applicants should be aware that prior written Institute approval is required for any consultant rate in excess of $300 per day, and that Institute funds may not be used to pay a consultant in excess of $900 per day. (See section XI.H.2.c)

b. Concept Papers Requesting Accelerated Award of a Grant of Less than $40,000. Applicants requesting a waiver of the application requirement and approval of a grant based on a concept paper under section VI.C., must attach to Form E (see Appendix VI) a budget narrative that explains the basis for each of the items listed, and indicates whether the costs would be paid from grant funds, through a matching contribution, or from other sources.

4. Letters of Cooperation or Support

The Institute encourages concept paper applicants to attach letters of cooperation and support from the courts and related agencies that will be involved in or directly affected by the proposed project. Letters of support also may be sent under separate cover. However, in order to ensure that there is sufficient time to bring them to the Board's attention, support letters sent under separate cover must be received no later than January 6, 1998.

5. Page Limits

a. The Institute will not accept concept papers with program narratives exceeding the limits set in sections VI.A.2. The page limit does not include the cover page, budget form, the budget narrative if required under section VI.A.3.b., the task schedule if required under section VI.A.2.b., and any letters of cooperation or endorsements. Additional material should not be attached unless it is essential to impart a clear understanding of the project.

b. Applicants submitting more than one concept paper may include material that would be identical in each concept paper in a cover letter, and incorporate that material by reference in each paper. The incorporated material will be counted against the eight-page limit for each paper. A copy of the cover letter should be attached to each copy of each concept paper.

6. Sample Concept Papers

Sample concept papers from previous funding cycles are available from the Institute upon request.

B. Selection Criteria

1. All concept papers will be evaluated on the basis of the following criteria:

a. The demonstration of need for the project;

b. The soundness and innovativeness of the approach described;

c. The benefits to be derived from the project;

d. The reasonableness of the proposed budget;

e. The proposed project's relationship to one of the ''Special Interest'' categories set forth in section II.B; and

f. The degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions.

''Single jurisdiction'' concept papers submitted pursuant to section II.C. will be rated on the proposed project's relation to one of the ''Special Interest'' categories set forth in section II.B., and on the special requirements listed in section II.C.1.

2. In determining which concept papers will be approved for award or selected for development into full applications, the Institute will also consider the availability of financial assistance from other sources for the project; the amount and nature (cash or in-kind) of the applicant's anticipated match; whether the applicant is a State court, a national court support or education organization, a non-court unit of government, or another type of entity eligible to receive grants under the Institute's enabling legislation (see 42 U.S.C. 10705(b), as amended and section IV above); the extent to which the proposed project would also benefit the Federal courts or help the State

courts enforce Federal constitutional and legislative requirements, and the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

C. Review Process

Concept papers will be reviewed competitively by the Board of Directors. Institute staff will prepare a narrative summary and a rating sheet assigning points for each relevant selection criterion for those concept papers which fall within the scope of the Institute's funding program and merit serious consideration by the Board. Staff will also prepare a list of those papers that, in the judgment of the Executive Director, propose projects that lie outside the scope of the Institute's funding program or are not likely to merit serious consideration by the Board. The narrative summaries, rating sheets, and list of non-reviewed papers will be presented to the Board for its review. Committees of the Board will review concept paper summaries within assigned program areas and prepare recommendations for the full Board. The full Board of Directors will then decide which concept paper applicants should be invited to submit formal applications for funding. The decision to invite an application is solely that of the Board of Directors.

The Board may waive the application requirement and approve a grant based on a concept paper for a project requiring less than $40,000, when the need for and benefits of the project are clear, and the methodology and budget require little additional explanation. Applicants considering whether to request consideration for an accelerated award should make certain that the proposed budget is sufficient to accomplish the project objectives in a quality manner. Because the Institute's experience has been that projects to conduct empirical research or a program evaluation ordinarily require a more thorough explanation of the methodology to be used than can be provided within the space limitations of a concept paper, the Board is unlikely to waive the application requirement for such projects.

D. Submission Requirements

Except as noted below, an original and three copies of all concept papers submitted for consideration in Fiscal Year 1998 must be sent by first class or overnight mail or by courier no later than November 24, 1997.

Concept papers proposing projects on the following topics must be sent by first class or overnight mail or by courier no later than March 12, 1998:

- The National Agenda on Assuring Prompt and Affordable Justice (section II.B.2.e.iii.);
- The action agenda developed at the National Symposium on Reviewing the Past and Looking Toward the Future of the Juvenile Court (section II.B.2.h.iv.);
- The findings and recommendations resulting from the National Conference on Full Faith and Credit: A Passport to Safety (section II.B.2.i.); and
- The findings and recommendations resulting from the National Symposium on Sentencing: The Judicial Response to Crime (section II.B.2.j.)

A postmark or courier receipt will constitute evidence of the submission date. All envelopes containing concept papers should be marked Concept Paper and should be sent to: State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314.

The Institute will send written notice to all persons submitting concept papers, informing them of the Board's decisions regarding their papers and of the key issues and questions that arose during the review process. A decision by the Board not to invite an application may not be appealed, but does not prohibit resubmission of the concept paper or a revision thereof in a subsequent round of funding. The Institute will also notify the designated State contact listed in Appendix I when the Board invites applications that are based on concept papers which are submitted by courts within their State or which specify a participating site within their State.

Receipt of each concept paper will be acknowledged in writing. Extensions of the deadline for submission of concept papers will not be granted.

VII. Application Requirements for New Projects

An application for Institute funding support must include an application form; budget forms (with appropriate documentation); a project abstract and program narrative; a disclosure of lobbying form, when applicable; and certain certifications and assurances. These required application forms are described below will be sent to applicants when an application is invited. Applicants may photocopy the forms to make completion easier.

A. Forms

1. Application Form (Form A)

The application form requests basic information regarding the proposed project, the applicant, and the total amount of funding support requested from the Institute. It also requires the signature of an individual authorized to certify on behalf of the applicant that the information contained in the application is true and complete, that submission of the application has been authorized by the applicant, and that if funding for the proposed project is approved, the applicant will comply with the requirements and conditions of the award, including the assurances set forth in Form D.

2. Certificate of State Approval (Form B)

An application from a State or local court must include a copy of Form B signed by the State's Chief Justice or Chief Judge, the director of the designated agency, or the head of the designated council. The signature denotes that the proposed project has been approved by the State's highest court or the agency or council it has designated. It denotes further that if funding for the project is approved by the Institute, the court or the specified designee will receive, administer, and be accountable for the awarded funds.

3. Budget Forms (Form C or C1)

Applicants may submit the proposed project budget either in the tabular format of Form C or in the spreadsheet format of Form C1. Applicants requesting $100,000 or more are strongly encouraged to use the spreadsheet format. If the proposed project period is for more than a year, a separate form should be submitted for each year or portion of a year for which grant support is requested, as well as for the total length of the project.

In addition to Form C or C1, applicants must provide a detailed budget narrative providing an explanation of the basis for the estimates in each budget category. (See section VII.D.)

If funds from other sources are required to conduct the project, either as match or to support other aspects of the project, the source, current status of the request, and anticipated decision date must be provided.

4. Assurances (Form D)

This form lists the statutory, regulatory, and policy requirements and conditions with which recipients of Institute funds must comply.

5. Disclosure of Lobbying Activities

This form requires applicants other than units of State or local government to disclose whether they, or another entity that is part of the same organization as the applicant, have advocated a position before Congress on any issue, and to identify the specific

subjects of their lobbying efforts. (See section X.D.)

B. Project Abstract

The abstract should highlight the purposes, goals, methods and anticipated benefits of the proposed project. It should not exceed one single-spaced page on 8½ by 11 inch paper.

C. Program Narrative

The program narrative for an application should not exceed 25 double-spaced pages on 8½ by 11 inch paper. Margins must be at least 1 inch, and type size must be at least 12-point and 12 cpi. The page limit does not include the forms, the abstract, the budget narrative, and any appendices containing resumes and letters of cooperation or endorsement. Additional background material should be attached only if it is essential to impart a clear understanding of the proposed project. Numerous and lengthy appendices are strongly discouraged.

The program narrative should address the following topics:

1. Project Objectives

The applicant should include a clear, concise statement of what the proposed project is intended to accomplish. In stating the objectives of the project, applicants should focus on the overall programmatic objective (e.g., to enhance understanding and skills regarding a specific subject, or to determine how a certain procedure affects the court and litigants) rather than on operational objectives (e.g., provide training for 32 judges and court managers, or review data from 300 cases).

2. Program Areas To Be Covered

The applicant should list the Special Interest Category or Categories that are addressed by the proposed project (see section II.B.). If the proposed project does not fall within one of the Institute's Special Interest Categories, the applicant should list the Statutory Program Area or Areas that are addressed by the proposed project. (See section II.A.)

3. Need for the Project

If the project is to be conducted in a specific location(s), the applicant should discuss the particular needs of the project site(s) to be addressed by the project and why those needs are not being met through the use of existing materials, programs, procedures, services, or other resources.

If the project is not site-specific, the applicant should discuss the problems that the proposed project would address, and why existing materials, programs, procedures, services, or other resources do not adequately resolve those problems. The discussion should include specific references to the relevant literature and to the experience in the field.

4. Tasks, Methods and Evaluation

a. Tasks and Methods. The applicant should delineate the tasks to be performed in achieving the project objectives and the methods to be used for accomplishing each task. For example:

i. For research and evaluation projects, the applicant should include the data sources, data collection strategies, variables to be examined, and analytic procedures to be used for conducting the research or evaluation and ensuring the validity and general applicability of the results. For projects involving human subjects, the discussion of methods should address the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and the protection of others who are not the subjects of research but would be affected by the research. If the potential exists for risk or harm to the human subjects, a discussion should be included that explains the value of the proposed research and the methods to be used to minimize or eliminate such risk.

ii. For education and training projects, the applicant should include the adult education techniques to be used in designing and presenting the program, including the teaching/learning objectives of the educational design, the teaching methods to be used, and the opportunities for structured interaction among the participants; how faculty will be recruited, selected, and trained; the proposed number and length of the conferences, courses, seminars, or workshops to be conducted and the estimated number of persons who will attend them; the materials to be provided and how they will be developed; and the cost to participants.

iii. For demonstration projects, the applicant should include the demonstration sites and the reasons they were selected, or if the sites have not been chosen, how they will be identified and their cooperation obtained; and how the program or procedures will be implemented and monitored.

iv. For technical assistance projects, the applicant should explain the types of assistance that will be provided; the particular issues and problems for which assistance will be provided; how requests will be obtained and the type of assistance determined; how suitable providers will be selected and briefed; how reports will be reviewed; and the cost to recipients.

b. Evaluation. Every project design must include an evaluation plan to determine whether the project met its objectives. The evaluation should be designed to provide an objective and independent assessment of the effectiveness or usefulness of the training or services provided; the impact of the procedures, technology, or services tested; or the validity and applicability of the research conducted. In addition, where appropriate, the evaluation process should be designed to provide on-going or periodic feedback on the effectiveness or utility of particular programs, educational offerings, or achievements which can then be further refined as a result of the evaluation process. The plan should present the qualifications of the evaluator(s); describe the criteria, related to the project's programmatic objectives, that will be used to evaluate the project's effectiveness; explain how the evaluation will be conducted, including the specific data collection and analysis techniques to be used; discuss why this approach is appropriate; and present a schedule for completion of the evaluation within the proposed project period.

The evaluation plan should be appropriate to the type of project proposed. For example:

i. Research. An evaluation approach suited to many research projects is a review by an advisory panel of the research methodology, data collection instruments, preliminary analyses, and products as they are drafted. The panel should be comprised of independent researchers and practitioners representing the perspectives affected by the proposed project.

ii. Education and Training. The most valuable approaches to evaluating educational or training programs will serve to reinforce the participants' learning experience while providing useful feedback on the impact of the program and possible areas for improvement. One appropriate evaluation approach is to assess the acquisition of new knowledge, skills, attitudes or understanding through participant feedback on the seminar or training event. Such feedback might include a self-assessment on what was learned along with the participant's response to the quality and effectiveness of faculty presentations, the format of sessions, the value or usefulness of the material presented, and other relevant factors. Another appropriate approach would be to use an independent

observer who might request both verbal and written responses from participants in the program. When an education project involves the development of curricular materials, an advisory panel of relevant experts can be coupled with a test of the curriculum to obtain the reactions of participants and faculty as indicated above.

iii. Demonstration. The evaluation plan for a demonstration project should encompass an assessment of program effectiveness (e.g., How well did it work?); user satisfaction, if appropriate; the cost-effectiveness of the program; a process analysis of the program (e.g., Was the program implemented as designed? Did it provide the services intended to the targeted population?); the impact of the program (e.g., What effect did the program have on the court? What benefits resulted from the program?); and the replicability of the program or components of the program.

iv. Technical Assistance. For technical assistance projects, applicants should explain how the quality, timeliness, and impact of the assistance provided will be determined, and should develop a mechanism for feedback from both the users and providers of the technical assistance.

v. Evaluation plans involving human subjects should include a discussion of the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and the protection of others who are not the subjects of evaluation but would be affected by it. Other than the provision of confidentiality to respondents, human subject protection issues ordinarily are not applicable to participants evaluating an education program.

5. Project Management

The applicant should present a detailed management plan including the starting and completion date for each task; the time commitments to the project of key staff and their responsibilities regarding each project task; and the procedures that will be used to ensure that all tasks are performed on time, within budget, and at the highest level of quality. In preparing the project time line, Gantt Chart, or schedule, applicants should make certain that all project activities, including publication or reproduction of project products and their initial dissemination will occur within the proposed project period. The management plan must also provide for the submission of Quarterly Progress and Financial Reports within 30 days after the close of each calendar quarter (i.e., no later than January 30, April 30, July 30, and October 30).

Applicants should be aware that the Institute is unlikely to approve more than one limited extension of the grant period. Therefore, the management plan should be as realistic as possible and fully reflect the time commitments of the proposed project staff and consultants.

6. Products

The application should contain a description of the products to be developed by the project (e.g., training curricula and materials, videotapes, articles, manuals, or handbooks), including when they will be submitted to the Institute.

a. Dissemination Plan. The application must explain how and to whom the products will be disseminated; describe how they will benefit the State courts, including how they can be used by judges and court personnel; identify development, production, and dissemination costs covered by the project budget; and present the basis on which products and services developed or provided under the grant will be offered to the courts community and the public at large (i.e., whether products will be distributed at no cost to recipients, or if costs are involved, the reason for charging recipients and the estimated price of the product). (See section X.V.) Ordinarily, applicants should schedule all product preparation and distribution activities within the project period. Applicants also must submit a diskette containing a one page abstract summarizing the products resulting from a project in Word, WordPerfect, or ASCII. The abstract should include the grant number and the name of a contact person together with that individual's address, telephone number, and e-mail address (if applicable).

A copy of each product must be sent to the library established in each State to collect the materials developed with Institute support. (A list of these libraries is contained in Appendix II.) To facilitate their use, all videotaped products should be distributed in VHS format.

Twenty copies of all project products must be submitted to the Institute. A master copy of each videotape, in addition to 20 copies of each videotape product, must also be provided to the Institute.

b. Types of Products. The type of product to be prepared depends on the nature of the project. For example, in most instances, the products of a research, evaluation, or demonstration project should include an article summarizing the project findings that is publishable in a journal serving the courts community nationally, an executive summary that will be disseminated to the project's primary audience, or both. Applicants proposing to conduct empirical research or evaluation projects with national import should describe how they will make their data available for secondary analysis after the grant period. (See section X.W.)

The curricula and other products developed by education and training projects should be designed for use outside the classroom so that they may be used again by original participants and others in the course of their duties.

c. Institute Review. Applicants must provide for submitting a final draft of all written grant products to the Institute for review and approval at least 30 days before the products are submitted for publication or reproduction. For products in a videotape or CD-ROM format, applicants must provide for incremental Institute review of the product at the treatment, script, rough-cut, and final stages of development, or their equivalents. No grant funds may be obligated for publication or reproduction of a final grant product without the written approval of the Institute.

d. Acknowledgment, Disclaimer, and Logo. Applicants must also provide for including in all project products a prominent acknowledgment that support was received from the Institute and a disclaimer paragraph based on the example provided in section X.Q. of the Guideline. The ''SJI'' logo must appear on the front cover of a written product, or in the opening frames of a video product, unless the Institute approves another placement.

7. Applicant Status

An applicant that is not a State or local court and has not received a grant from the Institute within the past two years should state whether it is either a national non-profit organization controlled by, operating in conjunction with, and serving the judicial branches of State governments; or a national non-profit organization for the education and training of State court judges and support personnel. See section IV. If the applicant is a nonjudicial unit of Federal, State, or local government, it must explain whether the proposed services could be adequately provided by non-governmental entities.

8. Staff Capability

The applicant should include a summary of the training and experience of the key staff members and

consultants that qualify them for conducting and managing the proposed project. Resumes of identified staff should be attached to the application. If one or more key staff members and consultants are not known at the time of the application, a description of the criteria that will be used to select persons for these positions should be included. The applicant also should identify the person who would be responsible for the financial management and financial reporting for the proposed project.

9. Organizational Capacity

Applicants that have not received a grant from the Institute within the past two years should include a statement describing the capacity of the applicant to administer grant funds including the financial systems used to monitor project expenditures (and income, if any), and a summary of the applicant's past experience in administering grants, as well as any resources or capabilities that the applicant has that will particularly assist in the successful completion of the project.

Unless requested otherwise, an applicant that has received a grant from the Institute within the past two years should describe only the changes in its organizational capacity, tax status, or financial capability that may affect its capacity to administer a grant.

If the applicant is a non-profit organization (other than a university), it must also provide documentation of its 501(c) tax exempt status as determined by the Internal Revenue Service and a copy of a current certified audit report. For purposes of this requirement, ''current'' means no earlier than two years prior to the current calendar year.

If a current audit report is not available, the Institute will require the organization to complete a financial capability questionnaire which must be signed by a Certified Public Accountant. Other applicants may be required to provide a current audit report, a financial capability questionnaire, or both, if specifically requested to do so by the Institute.

10. Statement of Lobbying Activities

Non-governmental applicants must submit the Institute's Disclosure of Lobbying Activities Form that requires them to state whether they, or another entity that is a part of the same organization as the applicant, have advocated a position before Congress on any issue, and identifies the specific subjects of their lobbying efforts.

11. Letters of Cooperation or Support

If the cooperation of courts, organizations, agencies, or individuals other than the applicant is required to conduct the project, the applicant should attach written assurances of cooperation and availability to the application, or send them under separate cover. In order to ensure that there is sufficient time to bring them to the Board's attention, letters of support sent under separate cover must be received no more than 30 days after the deadline for mailing the application.

D. Budget Narrative

The budget narrative should provide the basis for the computation of all project-related costs. When the proposed project would be partially supported by grants from other funding sources, applicants should make clear what costs would be covered by those other grants. Additional background or schedules may be attached if they are essential to obtaining a clear understanding of the proposed budget. Numerous and lengthy appendices are strongly discouraged.

The budget narrative should cover the costs of all components of the project and clearly identify costs attributable to the project evaluation. Under OMB grant guidelines incorporated by reference in this Guideline, grant funds may not be used to pay for coffee breaks during seminars or meetings, or to purchase alcoholic beverages.

1. Justification of Personnel Compensation

The applicant should set forth the percentages of time to be devoted by the individuals who will serve as the staff of the proposed project, the annual salary of each of those persons, and the number of work days per year used for calculating the percentages of time or daily rate of those individuals. The applicant should explain any deviations from current rates or established written organization policies. If grant funds are requested to pay the salary and related costs for a current employee of a court or other unit of government, the applicant should explain why this would not constitute a supplantation of State or local funds in violation of 42 U.S.C. 10706(d)(1). An acceptable explanation may be that the position to be filled is a new one established in conjunction with the project or that the grant funds will be supporting only the portion of the employee's time that will be dedicated to new or additional duties related to the project.

2. Fringe Benefit Computation

The applicant should provide a description of the fringe benefits provided to employees. If percentages are used, the authority for such use should be presented as well as a description of the elements included in the determination of the percentage rate.

3. Consultant/Contractual Services and Honoraria

The applicant should describe the tasks each consultant will perform, the estimated total amount to be paid to each consultant, the basis for compensation rates (e.g., number of days × the daily consultant rates), and the method for selection. Rates for consultant services must be set in accordance with section XI.H.2.c. Honorarium payments must be justified in the same manner as other consultant payments. Prior written Institute approval is required for any consultant rate in excess of $300 per day; Institute funds may not be used to pay a consultant at a rate in excess of $900 per day.

4. Travel

Transportation costs and per diem rates must comply with the policies of the applicant organization. If the applicant does not have an established travel policy, then travel rates must be consistent with those established by the Institute or the Federal Government. (A copy of the Institute's travel policy is available upon request.) The budget narrative should include an explanation of the rate used, including the components of the per diem rate and the basis for the estimated transportation expenses. The purpose of the travel should also be included in the narrative.

5. Equipment

Grant funds may be used to purchase only the equipment that is necessary to demonstrate a new technological application in a court, or that is otherwise essential to accomplishing the objectives of the project. Equipment purchases to support basic court operations ordinarily will not be approved. The applicant should describe the equipment to be purchased or leased and explain why the acquisition of that equipment is essential to accomplish the project's goals and objectives. The narrative should clearly identify which equipment is to be leased and which is to be purchased. The method of procurement should also be described. Purchases for automatic data processing equipment must comply with section XI.H.2.b.

6. Supplies

The applicant should provide a general description of the supplies necessary to accomplish the goals and objectives of the grant. In addition, the applicant should provide the basis for the amount requested for this expenditure category.

7. Construction

Construction expenses are prohibited except for the limited purposes set forth in section X.H.2. Any allowable construction or renovation expense should be described in detail in the budget narrative.

8. Telephone

Applicants should include anticipated telephone charges, distinguishing between monthly charges and long distance charges in the budget narrative. Also, applicants should provide the basis used in developing the monthly and long distance estimates.

9. Postage

Anticipated postage costs for project-related mailings should be described in the budget narrative. The cost of special mailings, such as for a survey or for announcing a workshop, should be distinguished from routine operational mailing costs. The bases for all postage estimates should be included in the justification material.

10. Printing/Photocopying

Anticipated costs for printing or photocopying should be included in the budget narrative. Applicants should provide the details underlying these estimates in support of the request.

11. Indirect Costs

Applicants should describe the indirect cost rates applicable to the grant in detail. If costs often included within an indirect cost rate are charged directly (e.g., a percentage of the time of senior managers to supervise product activities), the applicant should specify that these costs are not included within their approved indirect cost rate. These rates must be established in accordance with section XI.H.4. If the applicant has an indirect cost rate or allocation plan approved by any Federal granting agency, a copy of the approved rate agreement should be attached to the application.

12. Match

The applicant should describe the source of any matching contribution and the nature of the match provided. Any additional contributions to the project should be described in this section of the budget narrative as well. If in-kind match is to be provided, the applicant should describe how the amount and value of the time, services, or materials actually contributed will be documented sufficiently clearly to permit them to be included in an audit of the grant. Applicants should be aware that the time spent by participants in education courses does not qualify as in-kind match.

Applicants that do not contemplate making matching contributions continuously throughout the course of the project or on a task-by-task basis must provide a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions will be made. (See sections III.F., VIII.B., X.B. and XI.D.1.)

E. Submission Requirements

1. Every applicant must submit one set of the application forms with an original signature on Form A and on Form B, if the application is from a State or local court, or on the Disclosure of Lobbying Form if the applicant is not a unit of State or local government. Applicants may send four photocopies of the Program Narrative, Budget Forms (Form C or C–1), Budget Narrative and any appendices; a diskette with this material in Microsoft Word or ASCII format; or transmit the material to the Institute via E-mail. Applicants may not send a portion of the application material in written form (other than the application forms themselves) and a portion in electronic form, or a portion on diskette and a portion via E-mail.

All invited applications based on concept papers submitted by November 24, 1997, must be mailed, sent by courier, or E-Mailed no later than May 8, 1998. All invited applications based on concept papers addressing the topics with a special submission deadline of March 12, 1998, must be mailed, sent by courier, or E-mailed no later than June 18, 1998.

A postmark or courier receipt will constitute evidence of the submission date. Please mark Application on all application package envelopes and send to: State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.

The Institute's E-Mail address is: SJI@clark.net

Receipt of each proposal will be acknowledged in writing. Extensions of the deadline for submission of applications will not be granted. See section VII.C.11. for receipt deadlines for letters of support.

2. Applicants submitting more than one application may include material that would be identical in each application in a cover letter, and incorporate that material by reference in each application. The incorporated material will be counted against the 25-page limit for the program narrative. A copy of the cover letter should be attached to each copy of each application.

VIII. Application Review Procedures

A. Preliminary Inquiries

The Institute staff will answer inquiries concerning application procedures. The staff contact will be named in the Institute's letter acknowledging receipt of the application.

B. Selection Criteria

1. All applications will be rated on the basis of the criteria set forth below. The Institute will accord the greatest weight to the following criteria:

a. The soundness of the methodology;

b. The demonstration of need for the project;

c. The appropriateness of the proposed evaluation design;

d. The applicant's management plan and organizational capabilities;

e. The qualifications of the project's staff;

f. The products and benefits resulting from the project including the extent to which the project will have long-term benefits for State courts across the nation;

g. The degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions.

h. The reasonableness of the proposed budget;

i. The demonstration of cooperation and support of other agencies that may be affected by the project; and

j. The proposed project's relationship to one of the ''Special Interest'' categories set forth in section II.B.

2. In determining which applicants to fund, the Institute will also consider whether the applicant is a State court, a national court support or education organization, a non-court unit of government, or other type of entity eligible to receive grants under the Institute's enabling legislation (see 42 U.S.C. 10705(6) (as amended) and Section IV above); the availability of financial assistance from other sources for the project; the amount and nature (cash or in-kind) of the applicant's match; the extent to which the proposed project would also benefit the Federal courts or help State courts enforce Federal constitutional and legislative requirements; and the level of appropriations available to the Institute in the current year and the amount

expected to be available in succeeding fiscal years.

C. Review and Approval Process

Applications will be reviewed competitively by the Board of Directors. The Institute staff will prepare a narrative summary of each application, and a rating sheet assigning points for each relevant selection criterion. When necessary, applications may also be reviewed by outside experts. Committees of the Board will review applications within assigned program categories and prepare recommendations to the full Board. The full Board of Directors will then decide which applications to approve for a grant. The decision to award a grant is solely that of the Board of Directors.

Awards approved by the Board will be signed by the Chairman of the Board on behalf of the Institute.

D. Return Policy

Unless a specific request is made, unsuccessful applications will not be returned. Applicants are advised that Institute records are subject to the provisions of the Federal Freedom of Information Act, 5 U.S.C. 552.

E. Notification of Board Decision

The Institute will send written notice to applicants concerning all Board decisions to approve, defer, or deny their respective applications and the key issues and questions that arose during the review process. A decision by the Board to deny an application may not be appealed, but does not prohibit resubmission of a proposal based on that application in a subsequent round of funding. The Institute will also notify the designated State contact listed in Appendix I when grants are approved by the Board to support projects that will be conducted by or involve courts in their State.

F. Response to Notification of Approval

Applicants have 30 days from the date of the letter notifying them that the Board has approved their application to respond to any revisions requested by the Board. If the requested revisions (or a reasonable schedule for submitting such revisions) have not been submitted to the Institute within 30 days after notification, the approval may* be automatically rescinded and the application presented to the Board for reconsideration.

IX. Renewal Funding Procedures and Requirements

The Institute recognizes two types of renewal funding as described below—''continuation grants'' and ''on-going support grants.'' The award of an initial grant to support a project does not constitute a commitment by the Institute to renew funding. The Board of Directors anticipates allocating no more than 25% of available FY 1998 grant funds for renewal grants.

A. Continuation Grants

1. Purpose and Scope

Continuation grants are intended to support projects with a limited duration that involve the same type of activities as the previous project. They are intended to enhance the specific program or service produced or established during the prior grant period. They may be used, for example, when a project is divided into two or more sequential phases, for secondary analysis of data obtained in an Institute-supported research project, or for more extensive testing of an innovative technology, procedure, or program developed with SJI grant support.

In order for a project to be considered for continuation funding, the grantee must have completed the project tasks and met all grant requirements and conditions in a timely manner, absent extenuating circumstances or prior Institute approval of changes to the project design. Continuation grants are not intended to provide support for a project for which the grantee has underestimated the amount of time or funds needed to accomplish the project tasks.

2. Application Procedures—Letters of Intent

In lieu of a concept paper, a grantee seeking a continuation grant must inform the Institute, by letter, of its intent to submit an application for such funding as soon as the need for renewal funding becomes apparent but no less than 120 days before the end of the current grant period.

a. A letter of intent must be no more than 3 single-spaced pages on 8½ by 11 inch paper and must contain a concise but thorough explanation of the need for continuation; an estimate of the funds to be requested; and a brief description of anticipated changes in the scope, focus, or audience of the project.

b. Within 30 days after receiving a letter of intent, Institute staff will review the proposed activities for the next project period and inform the grantee of specific issues to be addressed in the continuation application and the date by which the application for a continuation grant must be submitted.

3. Application Format

An application for a continuation grant must include an application form, budget forms (with appropriate documentation), a project abstract conforming to the format set forth in section VII.B., a program narrative, a budget narrative, a disclosure of lobbying form (from applicants other than units of State or local government), and certain certifications and assurances.

The program narrative should conform to the length and format requirements set forth in section VII.C. However, rather than the topics listed in section VII.C., the program narrative of an application for a continuation grant should include:

a. Project Objectives. The applicant should clearly and concisely state what the continuation project is intended to accomplish.

b. Need for Continuation. The applicant should explain why continuation of the project is necessary to achieve the goals of the project, and how the continuation will benefit the participating courts or the courts community generally. That is, to what extent will the original goals and objectives of the project be unfulfilled if the project is not continued, and conversely, how will the findings or results of the project be enhanced by continuing the project?

c. Report of Current Project Activities. The applicant should discuss the status of all activities conducted during the previous project period. Applicants should identify any activities that were not completed, and explain why.

d. Evaluation Findings. The applicant should present the key findings, impact, or recommendations resulting from the evaluation of the project, if they are available, and how they will be addressed during the proposed continuation. If the findings are not yet available, applicants should provide the date by which they will be submitted to the Institute. Ordinarily, the Board will not consider an application for continuation funding until the Institute has received the evaluator's report.

e. Tasks, Methods, Staff and Grantee Capability. The applicant should fully describe any changes in the tasks to be performed, the methods to be used, the products of the project, and how and to whom those products will be disseminated, as well as any changes in the assigned staff or the grantee's organizational capacity. Applicants should include, in addition, the criteria and methods by which the proposed continuation project would be evaluated.

f. Task Schedule. The applicant should present a detailed task schedule and timeline for the next project period.

g. Other Sources of Support. The applicant should indicate why other sources of support are inadequate, inappropriate or unavailable.

4. Budget and Budget Narrative

The applicant should provide a complete budget and budget narrative conforming to the requirements set forth in paragraph VII.D. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered. In addition, the applicant should estimate the amount of grant funds that will remain unobligated at the end of the current grant period.

5. References to Previously Submitted Material

An application for a continuation grant should not repeat information contained in a previously approved application or other previously submitted materials, but should provide specific references to such materials where appropriate.

6. Submission Requirements, Review and Approval Process, and Notification of Decision

The submission requirements set forth in section VII.E., other than the deadline for mailing, apply to applications for a continuation grant. Such applications will be rated on the selection criteria set forth in section VIII.B. The key findings and recommendations resulting from an evaluation of the project and the proposed response to those findings and recommendations will also be considered. The review and approval process, return policy, and notification procedures are the same as those for new projects set forth in sections VIII.C.–VIII.E.

B. On-Going Support Grants

1. Purpose and Scope

On-going support grants are intended to support projects that are national in scope and that provide the State courts with services, programs or products for which there is a continuing critical need. An on-going support grant may also be used to fund longitudinal research that directly benefits the State courts. On-going support grants are subject to the limits on size and duration set forth in V.C.2. and V.D.2. The Board will consider awarding an on-going support grant for a period of up to 36 months. The total amount of the grant will be fixed at the time of the initial award. Funds ordinarily will be made available in annual increments as specified in section V.C.2.

A project is eligible for consideration for an on-going support grant if:

a. The project is supported by and has been evaluated under a grant from the Institute;

b. The project is national in scope and provides a significant benefit to the State courts;

c. There is a continuing critical need for the services, programs or products provided by the project as indicated by the level of use and support by members of the court community;

d. The project is accomplishing its objectives in an effective and efficient manner; and

e. It is likely that the service or program provided by the project would be curtailed or significantly reduced without Institute support.

Each project supported by an on-going support grant must include an evaluation component assessing its effectiveness and operation throughout the grant period. The evaluation should be independent, but may be designed collaboratively by the evaluator and the grantee. The design should call for regular feedback from the evaluator to the grantee throughout the project period concerning recommendations for mid-course corrections or improvement of the project, as well as periodic reports to the Institute at relevant points in the project.

An interim evaluation report must be submitted 18 months into the grant period. The decision to obligate Institute funds to support the third year of the project will be based on the interim evaluation findings and the applicant's response to any deficiencies noted in the report.

A final evaluation assessing the effectiveness, operation of, and continuing need for the project must be submitted 90 days before the end of the 3-year project period. In addition, a detailed annual task schedule must be submitted not later than 45 days before the end of the first and second years of the grant period, along with an explanation of any necessary revisions in the projected costs for the remainder of the project period. (See also section IX.B.3.h.)

2. Letters of Intent

In lieu of a concept paper, a grantee seeking an on-going support grant must inform the Institute, by letter, of its intent to submit an application for such funding as soon as the need for renewal funding becomes apparent but no less than 120 days before the end of the current grant period. The letter of intent should be in the same format as that prescribed for continuation grants in section IX.A.2.a.

3. Format

An application for an on-going support grant must include an application form, budget forms (with appropriate documentation), a project abstract conforming to the format set forth in section VII.B., a program narrative, a budget narrative, and certain certifications and assurances.

The program narrative should conform to the length and format requirements set forth in section VII.C. However, rather than the topics listed in section VII.C., the program narrative of applications for on-going support grants should address:

a. Description of Need for and Benefits of the Project. The applicant should provide a detailed discussion of the benefits provided by the project to the State courts around the country, including the degree to which State courts, State court judges, or State court managers and personnel are using the services or programs provided by the project.

b. Demonstration of Court Support. The applicant should demonstrate support for the continuation of the project from the courts community.

c. Report on Current Project Activities. The applicant should discuss the extent to which the project has met its goals and objectives, identify any activities that have not been completed, and explain why.

d. Evaluation Findings. The applicant should attach a copy of the final evaluation report regarding the effectiveness, impact, and operation of the project, specify the key findings or recommendations resulting from the evaluation, and explain how they will be addressed during the proposed renewal period. Ordinarily, the Board will not consider an application for on-going support until the Institute has received the evaluator's report.

e. Objectives, Tasks, Methods, Staff and Grantee Capability. The applicant should describe fully any changes in the objectives; tasks to be performed; the methods to be used; the products of the project; how and to whom those products will be disseminated; the assigned staff; and the grantee's organizational capacity. The grantee also should describe the steps it will take to obtain support from other sources for the continued operation of the project.

f. Task Schedule. The applicant should present a general schedule for the full proposed project period and a detailed task schedule for the first year of the proposed new project period.

g. Other Sources of Support. The applicant should describe what efforts it

has taken to secure support for the project from other sources and discuss why other sources of support are inadequate, inappropriate, or unavailable.

4. Budget and Budget Narrative

The applicant should provide a complete three-year budget and budget narrative conforming to the requirements set forth in paragraph VII.D., and estimate the amount of grant funds that will remain unobligated at the end of the current grant period. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered. A complete budget narrative should be provided for the full project as well as for each year, or portion of a year, for which grant support is requested. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered. The budget should provide for realistic cost-of-living and staff salary increases over the course of the requested project period. Applicants should be aware that the Institute is unlikely to approve a supplemental budget increase for an on-going support grant in the absence of well-documented, unanticipated factors that clearly justify the requested increase.

5. References to Previously Submitted Material

An application for an on-going support grant should not repeat information contained in a previously approved application or other previously submitted materials, but should provide specific references to such materials where appropriate.

6. Submission Requirements, Review and Approval Process, and Notification of Decision

The submission requirements set forth in section VII.E., other than the deadline for mailing, apply to applications for an on-going support grant. Such applications will be rated on the selection criteria set forth in section VIII.B. The key findings and recommendations resulting from an evaluation of the project and the proposed response to those findings and recommendations will also be considered. The review and approval process, return policy, and notification procedures are the same as those for new projects set forth in sections VIII.C.–VIII.E.

X. Compliance Requirements

The State Justice Institute Act contains limitations and conditions on grants, contracts and cooperative agreements of which applicants and recipients should be aware. In addition to eligibility requirements which must be met to be considered for an award from the Institute, all applicants should be aware of and all recipients will be responsible for ensuring compliance with the following:

A. State and Local Court Systems

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council. The Supreme Court or its designee shall receive, administer, and be accountable for all funds awarded on the basis of such an application. 42 U.S.C. 10705(b)(4). Appendix I to this Guideline lists the person to contact in each State regarding the administration of Institute grants to State and local courts.

B. Matching Requirements

1. All awards to courts or other units of State or local government (not including publicly supported institutions of higher education) require a match from private or public sources of not less than 50% of the total amount of the Institute's award. For example, if the total cost of a project is anticipated to be $150,000, a State court or executive branch agency may request up to $100,000 from the Institute to implement the project. The remaining $50,000 (50% of the $100,000 requested from SJI) must be provided as a match. A cash match, non-cash match, or both may be provided, but the Institute will give preference to those applicants that provide a cash match to the Institute's award. (For a further definition of match, see section III.F.)

The requirement to provide match may be waived in exceptionally rare circumstances upon the request of the Chief Justice of the highest court in the State and approval by the Board of Directors. 42 U.S.C. 10705(d).

2. Other eligible recipients of Institute funds are not required to provide a match, but are encouraged to contribute to meeting the costs of the project. In instances where match is proposed, the grantee is responsible for ensuring that the total amount proposed is actually contributed. If a proposed contribution is not fully met, the Institute may reduce the award amount accordingly, in order to maintain the ratio originally provided for in the award agreement (see sections VIII.B. above and XI.D.).

C. Conflict of Interest

Personnel and other officials connected with Institute-funded programs shall adhere to the following requirements:

1. No official or employee of a recipient court or organization shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which Institute funds are used, where to his/her knowledge he/she or his/her immediate family, partners, organization other than a public agency in which he/she is serving as officer, director, trustee, partner, or employee or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

2. In the use of Institute project funds, an official or employee of a recipient court or organization shall avoid any action which might result in or create the appearance of:

a. Using an official position for private gain; or

b. Affecting adversely the confidence of the public in the integrity of the Institute program.

3. Requests for proposals or invitations for bids issued by a recipient of Institute funds or a subgrantee or subcontractor will provide notice to prospective bidders that the contractors who develop or draft specifications, requirements, statements of work, and/or requests for proposals for a proposed procurement will be excluded from bidding on or submitting a proposal to compete for the award of such procurement.

D. Lobbying

Funds awarded to recipients by the Institute shall not be used, indirectly or directly, to influence Executive orders or similar promulgations by Federal, State or local agencies, or to influence the passage or defeat of any legislation by Federal, State or local legislative bodies. 42 U.S.C. 10706(a).

It is the policy of the Board of Directors to award funds only to support applications submitted by organizations that would carry out the objectives of their applications in an unbiased manner. Consistent with this policy and the provisions of 42 U.S.C. 10706, the Institute will not knowingly award a grant to an applicant that has, directly or through an entity that is part of the same organization as the applicant,

advocated a position before Congress on the specific subject matter of the application.

E. Political Activities

No recipient shall contribute or make available Institute funds, program personnel, or equipment to any political party or association, or the campaign of any candidate for public or party office. Recipients are also prohibited from using funds in advocating or opposing any ballot measure, initiative, or referendum. Officers and employees of recipients shall not intentionally identify the Institute or recipients with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office. 42 U.S.C. 10706(a).

F. Advocacy

No funds made available by the Institute may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities. 42 U.S.C. 10706(b).

G. Prohibition Against Litigation Support

No funds made available by the Institute may be used directly or indirectly to support legal assistance to parties in litigation, including cases involving capital punishment.

H. Supplantation and Construction

To ensure that funds are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used for the following purposes:

1. To supplant State or local funds supporting a program or activity (such as paying the salary of court employees who would be performing their normal duties as part of the project, or paying rent for space which is part of the court's normal operations);
2. To construct court facilities or structures, except to remodel existing facilities or to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or
3. Solely to purchase equipment.

I. Confidentiality of Information

Except as provided by Federal law other than the State Justice Institute Act, no recipient of financial assistance from SJI may use or reveal any research or statistical information furnished under the Act by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

J. Human Research Protection

All research involving human subjects shall be conducted with the informed consent of those subjects and in a manner that will ensure their privacy and freedom from risk or harm and the protection of persons who are not subjects of the research but would be affected by it, unless such procedures and safeguards would make the research impractical. In such instances, the Institute must approve procedures designed by the grantee to provide human subjects with relevant information about the research after their involvement and to minimize or eliminate risk or harm to those subjects due to their participation.

K. Nondiscrimination

No person may, on the basis of race, sex, national origin, disability, color, or creed be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity supported by Institute funds. Recipients of Institute funds must immediately take any measures necessary to effectuate this provision.

L. Reporting Requirements

Recipients of Institute funds, other than scholarships awarded under section II.B.2.b.iii., shall submit Quarterly Progress and Financial Reports within 30 days of the close of each calendar quarter (that is, no later than January 30, April 30, July 30, and October 30). Two copies of each report must be sent. The Quarterly Progress Reports shall include a narrative description of project activities during the calendar quarter, the relationship between those activities and the task schedule and objectives set forth in the approved application or an approved adjustment thereto, any significant problem areas that have developed and how they will be resolved, and the activities scheduled during the next reporting period.

The quarterly financial status report shall be submitted in accordance with section XI.G.2. of this Guideline. A final project progress report and financial status report shall be submitted within 90 days after the end of the grant period in accordance with section XI.K.2. of this Guideline.

M. Audit

Recipients, other than those noted below, must provide for an annual fiscal audit which shall include an opinion on whether the financial statements of the grantee present fairly its financial position and financial operations are in accordance with generally accepted accounting principles. (See section XI.J. of the Guideline for the requirements of such audits.) Recipients of a scholarship, curriculum adaptation, or technical assistance grant are not required to submit an audit, but must maintain appropriate documentation to support all expenditures.

N. Suspension of Funding

After providing a recipient reasonable notice and opportunity to submit written documentation demonstrating why fund termination or suspension should not occur, the Institute may terminate or suspend funding of a project that fails to comply substantially with the Act, the Guideline, or the terms and conditions of the award. 42 U.S.C. 10708(a).

O. Title to Property

At the conclusion of the project, title to all expendable and nonexpendable personal property purchased with Institute funds shall vest in the recipient court, organization, or individual that purchased the property if certification is made to and approved by the Institute that the property will continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act. If such certification is not made or the Institute disapproves such certification, title to all such property with an aggregate or individual value of $1,000 or more shall vest in the Institute, which will direct the disposition of the property.

P. Original Material

All products prepared as the result of Institute-supported projects must be originally-developed material unless otherwise specified in the award documents. Material not originally developed that is included in such products must be properly identified, whether the material is in a verbatim or extensive paraphrase format.

Q. Acknowledgment and Disclaimer

Recipients of Institute funds shall acknowledge prominently on all products developed with grant funds that support was received from the

Institute. The ''SJI'' logo must appear on the front cover of a written product, or in the opening frames of a video product, unless another placement is approved in writing by the Institute. This includes final products printed or otherwise reproduced during the grant period, as well as reprintings or reproductions of those materials following the end of the grant period. A camera-ready logo sheet is available from the Institute upon request.

Recipients also shall display the following disclaimer on all grant products:

This [document, film, videotape, etc.] was developed under [grant/cooperative agreement, number SJI-(insert number)] from the State Justice Institute. The points of view expressed are those of the [author(s), filmmaker(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute.

R. Institute Approval of Grant Products

No grant funds may be obligated for publication or reproduction of a final product developed with grant funds without the written approval of the Institute. Grantees shall submit a final draft of each written product to the Institute for review and approval. These drafts shall be submitted at least 30 days before the product is scheduled to be sent for publication or reproduction to permit Institute review and incorporation of any appropriate changes agreed upon by the grantee and the Institute. Grantees shall provide for timely reviews by the Institute of videotape or CD-ROM products at the treatment, script, rough cut, and final stages of development or their equivalents, prior to initiating the next stage of product development.

S. Distribution of Grant Products

In addition to the distribution specified in the grant application, grantees shall send:

1. Twenty copies of each final product developed with grant funds to the Institute, unless the product was developed under either a curriculum adaptation or a technical assistance grant, in which case submission of 2 copies is required.

2. A mastercopy of each videotape produced with grant funds to the Institute.

3. A one-page abstract to the Institute summarizing the products produced during the project for posting on the Internet together with a diskette containing the abstract in Word, WordPerfect, or ASCII. The abstract should include the grant number, a contact name, address, telephone numbers, and e-mail address (if applicable).

4. One copy of each final product developed with grant funds to the library established in each State to collect materials prepared with Institute support. (A list of these libraries is contained in Appendix II. Labels for these libraries are available from the Institute upon request.) Recipients of curriculum adaptation and technical assistance grants are not required to submit final products to State libraries.

T. Copyrights

Except as otherwise provided in the terms and conditions of an Institute award, a recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an Institute-supported project, but the Institute shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.

U. Inventions and Patents

If any patentable items, patent rights, processes, or inventions are produced in the course of Institute-sponsored work, such fact shall be promptly and fully reported to the Institute. Unless there is a prior agreement between the grantee and the Institute on disposition of such items, the Institute shall determine whether protection of the invention or discovery shall be sought. The Institute will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administered in order to protect the public interest consistent with ''Government Patent Policy'' (President's Memorandum for Heads of Executive Departments and Agencies, February 18, 1983, and statement of Government Patent Policy).

V. Charges for Grant-Related Products/ Recovery of Costs

When Institute funds fully cover the cost of developing, producing, and disseminating a product, (e.g., a report, curriculum, videotape or software), the product should be distributed to the field without charge. When Institute funds only partially cover the development, production, or dissemination costs, the grantee may, with the Institute's prior written approval, recover its costs for developing, producing, and disseminating the material to those requesting it, to the extent that those costs were not covered by Institute funds or grantee matching contributions.

Applicants should disclose their intent to sell grant-related products in both the concept paper and the application. Grantees must obtain the written, prior approval of the Institute of their plans to recover project costs through the sale of grant products. Written requests to recover costs ordinarily should be received during the grant period and should specify the nature and extent of the costs to be recouped, the reason that such costs were not budgeted (if the rationale was not disclosed in the approved application), the number of copies to be sold, the intended audience for the products to be sold, and the proposed sale price. If the product is to be sold for more than $25.00, the written request also should include a detailed itemization of costs that will be recovered and a certification that the costs were not supported by either Institute grant funds or grantee matching contributions.

In the event that the sale of grant products results in revenues that exceed the costs to develop, produce, and disseminate the product, the revenue must continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act that have been approved by the Institute. See sections III.F. and XI.F. for requirements regarding project-related income realized during the project period.

W. Availability of Research Data for Secondary Analysis

Upon request, grantees must make available for secondary analysis a diskette(s) or data tape(s) containing research and evaluation data collected under an Institute grant and the accompanying code manual. Grantees may recover the actual cost of duplicating and mailing or otherwise transmitting the data set and manual from the person or organization requesting the data. Grantees may provide the requested data set in the format in which it was created and analyzed.

X. Approval of Key Staff

If the qualifications of an employee or consultant assigned to a key project staff position are not described in the application or if there is a change of a person assigned to such a position, a recipient shall submit a description of the qualifications of the newly assigned person to the Institute. Prior written approval of the qualifications of the new person assigned to a key staff position

must be received from the Institute before the salary or consulting fee of that person and associated costs may be paid or reimbursed from grant funds.

XI. Financial Requirements

A. Accounting Systems and Financial Records

All grantees, subgrantees, contractors, and other organizations directly or indirectly receiving Institute funds are required to establish and maintain accounting systems and financial records to accurately account for funds they receive. These records shall include total program costs, including Institute funds, State and local matching shares, and any other fund sources included in the approved project budget.

1. Purpose

The purpose of this section is to establish accounting system requirements and offer guidance on procedures which will assist all grantees/subgrantees in:

a. Complying with the statutory requirements for the awarding, disbursement, and accounting of funds;

b. Complying with regulatory requirements of the Institute for the financial management and disposition of funds;

c. Generating financial data which can be used in the planning, management and control of programs; and

d. Facilitating an effective audit of funded programs and projects.

2. References

Except where inconsistent with specific provisions of this Guideline, the following regulations, directives and reports are applicable to Institute grants and cooperative agreements under the same terms and conditions that apply to Federal grantees. These materials supplement the requirements of this section for accounting systems and financial recordkeeping and provide additional guidance on how these requirements may be satisfied. (Circulars may be obtained from OMB by calling 202–395–7250.)

a. Office of Management and Budget (OMB) Circular A–21, Cost Principles for Educational Institutions.

b. Office of Management and Budget (OMB) Circular A–87, Cost Principles for State and Local Governments.

c. Office of Management and Budget (OMB) Circular A–88 (revised), Indirect Cost Rates, Audit and Audit Follow-up at Educational Institutions.

d. Office of Management and Budget (OMB) Circular A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

e. Office of Management and Budget (OMB) Circular A–110, Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-Profit Organizations.

f. Office of Management and Budget (OMB) Circular A–128, Audits of State and Local Governments.

g. Office of Management and Budget (OMB) Circular A–122, Cost Principles for Non-profit Organizations.

h. Office of Management and Budget (OMB) Circular A–133, Audits of Institutions of Higher Education and Other Non-profit Institutions.

B. Supervision and Monitoring Responsibilities

1. Grantee Responsibilities

All grantees receiving direct awards from the Institute are responsible for the management and fiscal control of all funds. Responsibilities include accounting for receipts and expenditures, maintaining adequate financial records, and refunding expenditures disallowed by audits.

2. Responsibilities of State Supreme Court

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council.

The State Supreme Court or its designee shall receive all Institute funds awarded to such courts; be responsible for assuring proper administration of Institute funds; and be responsible for all aspects of the project, including proper accounting and financial recordkeeping by the subgrantee. These responsibilities include:

a. Reviewing Financial Operations. The State Supreme Court or its designee should be familiar with, and periodically monitor, its subgrantees' financial operations, records system and procedures. Particular attention should be directed to the maintenance of current financial data.

b. Recording Financial Activities. The subgrantee's grant award or contract obligation, as well as cash advances and other financial activities, should be recorded in the financial records of the State Supreme Court or its designee in summary form. Subgrantee expenditures should be recorded on the books of the State Supreme Court or evidenced by report forms duly filed by the subgrantee. Non-Institute contributions applied to projects by subgrantees should likewise be recorded, as should any project income resulting from program operations.

c. Budgeting and Budget Review. The State Supreme Court or its designee should ensure that each subgrantee prepares an adequate budget as the basis for its award commitment. The detail of each project budget should be maintained on file by the State Supreme Court.

d. Accounting for Non-Institute Contributions. The State Supreme Court or its designee will ensure, in those instances where subgrantees are required to furnish non-Institute matching funds, that the requirements and limitations of the Guideline are applied to such funds.

e. Audit Requirement. The State Supreme Court or its designee is required to ensure that subgrantees have met the necessary audit requirements set forth by the Institute (see sections X.M. and XI.J).

f. Reporting Irregularities. The State Supreme Court, its designees, and its subgrantees are responsible for promptly reporting to the Institute the nature and circumstances surrounding any financial irregularities discovered.

C. Accounting System

The grantee is responsible for establishing and maintaining an adequate system of accounting and internal controls for itself and for ensuring that an adequate system exists for each of its subgrantees and contractors. An acceptable and adequate accounting system is considered to be one which:

1. Properly accounts for receipt of funds under each grant awarded and the expenditure of funds for each grant by category of expenditure (including matching contributions and project income);

2. Assures that expended funds are applied to the appropriate budget category included within the approved grant;

3. Presents and classifies historical costs of the grant as required for budgetary and evaluation purposes;

4. Provides cost and property controls to assure optimal use of grant funds;

5. Is integrated with a system of internal controls adequate to safeguard the funds and assets covered, check the accuracy and reliability of the accounting data, promote operational efficiency, and assure conformance with any general or special conditions of the grant;

6. Meets the prescribed requirements for periodic financial reporting of operations; and

7. Provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

D. Total Cost Budgeting and Accounting

Accounting for all funds awarded by the Institute shall be structured and executed on a ''total project cost'' basis. That is, total project costs, including Institute funds, State and local matching shares, and any other fund sources included in the approved project budget shall be the foundation for fiscal administration and accounting. Grant applications and financial reports require budget and cost estimates on the basis of total costs.

1. Timing of Matching Contributions

Matching contributions need not be applied at the exact time of the obligation of Institute funds. However, the full matching share must be obligated during the award period, except that, with the prior written permission of the Institute, contributions made following approval of the grant by the Institute's Board of Directors but before the beginning of the grant may be counted as match. Grantees that do not contemplate making matching contributions continuously throughout the course of a project, or on a task-by-task basis, are required to submit a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions will be made. In instances where a proposed cash match is not fully met, the Institute may reduce the award amount accordingly, in order to maintain the ratio originally provided for in the award agreement.

2. Records for Match

All grantees must maintain records which clearly show the source, amount, and timing of all matching contributions. In addition, if a project has included, within its approved budget, contributions which exceed the required matching portion, the grantee must maintain records of those contributions in the same manner as it does the Institute funds and required matching shares. For all grants made to State and local courts, the State Supreme Court has primary responsibility for grantee/subgrantee compliance with the requirements of this section. (See section XI.B.2.)

E. Maintenance and Retention of Records

All financial records, supporting documents, statistical records and all other records pertinent to grants, subgrants, cooperative agreements or contracts under grants shall be retained by each organization participating in a project for at least three years for purposes of examination and audit. State Supreme Courts may impose record retention and maintenance requirements in addition to those prescribed in this chapter.

1. Coverage

The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records. Source documents include copies of all grant and subgrant awards, applications, and required grantee/subgrantee financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under a grant, subgrant or contract, whether they are employed full-time or part-time. Time and effort reports will be required for consultants.

2. Retention Period

The three-year retention period starts from the date of the submission of the final expenditure report or, for grants which are renewed annually, from the date of submission of the annual expenditure report.

3. Maintenance

Grantees and subgrantees are expected to see that records of different fiscal years are separately identified and maintained so that requested information can be readily located. Grantees and subgrantees are also obligated to protect records adequately against fire or other damage. When records are stored away from the grantee's/subgrantee's principal office, a written index of the location of stored records should be on hand, and ready access should be assured.

4. Access

Grantees and subgrantees must give any authorized representative of the Institute access to and the right to examine all records, books, papers, and documents related to an Institute grant.

F. Project-Related Income

Records of the receipt and disposition of project-related income must be maintained by the grantee in the same manner as required for the project funds that gave rise to the income and must be reported to the Institute. (See section XI.G.2.) The policies governing the disposition of the various types of project-related income are listed below.

1. Interest

A State and any agency or instrumentality of a State, including State institutions of higher education and State hospitals, shall not be held accountable for interest earned on advances of project funds. When funds are awarded to subgrantees through a State, the subgrantees are not held accountable for interest earned on advances of project funds. Local units of government and nonprofit organizations that are direct grantees must refund any interest earned. Grantees shall ensure minimum balances in their respective grant cash accounts.

2. Royalties

The grantee/subgrantee may retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the grant provide otherwise.

3. Registration and Tuition Fees

Registration and tuition fees shall be used to pay project-related costs not covered by the grant, or to reduce the amount of grant funds needed to support the project. Registration and tuition fees may be used for other purposes only with the prior written approval of the Institute. Estimates of registration and tuition fees, and any expenses to be offset by the fees, should be included in the application budget forms and narrative.

4. Income From the Sale of Grant Products

When grant funds fully cover the cost of producing and disseminating a limited number of copies of a product, the grantee may, with the written prior approval of the Institute, sell additional copies reproduced at its expense only at a price intended to recover actual reproduction and distribution costs that were not covered by Institute grant funds or grantee matching contributions to the project. When grant funds only partially cover the costs of developing, producing and disseminating a product, the grantee may, with the written prior approval of the Institute, recover costs for developing, reproducing, and disseminating the material to the extent that those costs were not covered by Institute grant funds or grantee matching contributions. If the grantee recovers its costs in this manner, then amounts expended by the grantee to develop, produce, and disseminate the material may not be considered match.

If the sale of products occurs during the project period, the costs and income generated by the sales must be reported on the Quarterly Financial Status Reports and documented in an auditable manner. Whenever possible, the intent to sell a product should be disclosed in

the concept paper and application or reported to the Institute in writing once a decision to sell products has been made. The grantee must request approval to recover its product development, reproduction, and dissemination costs as specified in section X.V.

5. Other

Other project income shall be treated in accordance with disposition instructions set forth in the grant's terms and conditions.

G. Payments and Financial Reporting Requirements

1. Payment of Grant Funds

The procedures and regulations set forth below are applicable to all Institute grant funds and grantees.

a. Request for Advance or Reimbursement of Funds. Grantees will receive funds on a ''Check-Issued'' basis. Upon receipt, review, and approval of a Request for Advance or Reimbursement by the Institute, a check will be issued directly to the grantee or its designated fiscal agent. A request must be limited to the grantee's immediate cash needs. The Request for Advance or Reimbursement, along with the instructions for its preparation, will be included in the official Institute award package.

b. Continuation and On-Going Support Awards. For purposes of submitting Requests for Advance or Reimbursement, recipients of continuation and on-going support grants should treat each grant as a new project and number their requests accordingly (i.e. on a grant rather than a project basis). For example, the first request for payment from a continuation grant or each year of an on-going support would be number 1, the second number 2, etc. (See Recommendations to Grantees in the Introduction for further guidance.)

c. Termination of Advance and Reimbursement Funding. When a grantee organization receiving cash advances from the Institute:

i. Demonstrates an unwillingness or inability to attain program or project goals, or to establish procedures that will minimize the time elapsing between cash advances and disbursements, or cannot adhere to guideline requirements or special conditions;

ii. Engages in the improper award and administration of subgrants or contracts; or

iii. Is unable to submit reliable and/or timely reports; the Institute may terminate advance financing and require the grantee organization to finance its operations with its own working capital. Payments to the grantee shall then be made by check to reimburse the grantee for actual cash disbursements. In the event the grantee continues to be deficient, the Institute may suspend reimbursement payments until the deficiencies are corrected.

d. Principle of Minimum Cash on Hand. Recipient organizations should request funds based upon immediate disbursement requirements. Grantees should time their requests to ensure that cash on hand is the minimum needed for disbursements to be made immediately or within a few days. Idle funds in the hands of subgrantees will impair the goals of good cash management.

2. Financial Reporting

a. General Requirements. In order to obtain financial information concerning the use of funds, the Institute requires that grantees/subgrantees of these funds submit timely reports for review.

Three copies of the Financial Status Report are required from all grantees, other than recipients of scholarships under section II.B.2.b.iii., for each active quarter on a calendar-quarter basis. This report is due within 30 days after the close of the calendar quarter. It is designed to provide financial information relating to Institute funds, State and local matching shares, project income, and any other sources of funds for the project, as well as information on obligations and outlays. A copy of the Financial Status Report, along with instructions for its preparation, will be included in the official Institute Award package. In circumstances where an organization requests substantial payments for a project prior to the completion of a given quarter, the Institute may request a brief summary of the amount requested, by object class, in support of the Request for Advance or Reimbursement.

b. Additional Requirements for Renewal Grants. Grantees receiving a continuation or on-going support grant should number their quarterly Financial Status Reports on a grant rather than a project basis. For example, the first quarterly report for a continuation grant or each year of an on-going support award should be number 1, the second number 2, etc.

3. Consequences of Non-Compliance With Submission Requirements

Failure of the grantee organization to submit required financial and program reports may result in a suspension or termination of grant payments.

H. Allowability of Costs

1. General

Except as may be otherwise provided in the conditions of a particular grant, cost allowability shall be determined in accordance with the principles set forth in OMB Circulars A–87, Cost Principles for State and Local Governments; A–21, Cost Principles Applicable to Grants and Contracts with Educational Institutions; and A–122, Cost Principles for Non-Profit Organizations. No costs may be recovered to liquidate obligations which are incurred after the approved grant period. Copies of these circulars may be obtained from OMB by calling (202) 395–7250.

2. Costs Requiring Prior Approval

a. Pre-agreement Costs. The written prior approval of the Institute is required for costs which are considered necessary to the project but occur prior to the award date of the grant.

b. Equipment. Grant funds may be used to purchase or lease only that equipment which is essential to accomplishing the goals and objectives of the project. The written prior approval of the Institute is required when the amount of automated data processing (ADP) equipment to be purchased or leased exceeds $10,000 or the software to be purchased exceeds $3,000.

c. Consultants. The written prior approval of the Institute is required when the rate of compensation to be paid a consultant exceeds $300 a day. Institute funds may not be used to pay a consultant at a rate in excess of $900 per day. Ordinarily, attorneys in private practice are expected to provide consulting services to court improvement or education projects on a pro bono basis.

3. Travel Costs

Transportation and per diem rates must comply with the policies of the applicant organization. If the applicant does not have an established written travel policy, then travel rates shall be consistent with those established by the Institute or the Federal Government. Institute funds may not be used to cover the transportation or per diem costs of a member of a national organization to attend an annual or other regular meeting of that organization.

4. Indirect Costs

These are costs of an organization that are not readily assignable to a particular project, but are necessary to the operation of the organization and the performance of the project. The cost of operating and maintaining facilities,

depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect costs. It is the policy of the Institute that all costs should be budgeted directly; however, if a recipient has an indirect cost rate approved by a Federal agency as set forth below, the Institute will accept that rate.

a. Approved Plan Available. i. The Institute will accept an indirect cost rate or allocation plan approved for a grantee during the preceding two years by any Federal granting agency on the basis of allocation methods substantially in accord with those set forth in the applicable cost circulars. A copy of the approved rate agreement must be submitted to the Institute.

ii. Where flat rates are accepted in lieu of actual indirect costs, grantees may not also charge expenses normally included in overhead pools, e.g., accounting services, legal services, building occupancy and maintenance, etc., as direct costs.

iii. Organizations with an approved indirect cost rate, utilizing total direct costs as the base, usually exclude contracts under grants from any overhead recovery. The negotiated agreement will stipulate that contracts are excluded from the base for overhead recovery.

b. Establishment of Indirect Cost Rates. In order to be reimbursed for indirect costs, a grantee or organization must first establish an appropriate indirect cost rate. To do this, the grantee must prepare an indirect cost rate proposal and submit it to the Institute within three months after the start of the grant period to assure recovery of the full amount of allowable indirect costs. The rate must be developed in accordance with principles and procedures appropriate to the type of grantee institution involved as specified in the applicable OMB Circular. Copies of OMB Circulars may be obtained directly from OMB by calling (202) 395–7250.

c. No Approved Plan. If an indirect cost proposal for recovery of actual indirect costs is not submitted to the Institute within three months after the start of the grant period, indirect costs will be irrevocably disallowed for all months prior to the month that the indirect cost proposal is received. This policy is effective for all grant awards.

I. Procurement and Property Management Standards

1. Procurement Standards

For State and local governments, the Institute adopts the standards set forth in Attachment O of OMB Circular A–102. Institutions of higher education, hospitals; other non-profit organizations will be governed by the standards set forth in Attachment O of OMB Circular A–110.

2. Property Management Standards

The property management standards as prescribed in Attachment N of OMB Circulars A–102 and A–110 shall be applicable to all grantees and subgrantees of Institute funds except as provided in section X.O.

All grantees/subgrantees are required to be prudent in the acquisition and management of property with grant funds. If suitable property required for the successful execution of projects is already available within the grantee or subgrantee organization, expenditures of grant funds for the acquisition of new property will be considered unnecessary.

J. Audit Requirements

1. Implementation

Each recipient of a grant from the Institute other than a scholarship, curriculum adaptation, or technical assistance grant (including a State or local court receiving a subgrant from the State Supreme Court) shall provide for an annual fiscal audit. The audit may be of the entire grantee organization (e.g., a university) or of the specific project funded by the Institute. Audits conducted in accordance with the Single Audit Act of 1984 as amended and OMB Circular A–133 will satisfy the requirement for an annual fiscal audit. The audit shall be conducted by an independent Certified Public Accountant, or a State or local agency authorized to audit government agencies.

Grantees who receive funds from a Federal agency and who satisfy audit requirements of the cognizant Federal agency should submit a copy of the audit report prepared for that Federal agency to the Institute in order to satisfy the provisions of this section. Cognizant Federal agencies do not send reports to the Institute. Therefore, each grantee must send this report directly to the Institute.

2. Resolution and Clearance of Audit Reports

Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each grant recipient shall have policies and procedures for acting on audit recommendations by designating officials responsible for: follow-up, maintaining a record of the actions taken on recommendations and time schedules, responding to and acting on audit recommendations, and submitting periodic reports to the Institute on recommendations and actions taken.

3. Consequences of Non-Resolution of Audit Issues

It is the general policy of the State Justice Institute not to make new grant awards to an applicant having an unresolved audit report involving Institute awards. Failure of the grantee organization to resolve audit questions may also result in the suspension or termination of payments for active Institute grants to that organization.

K. Close-Out of Grants

1. Definition

Close-out is a process by which the Institute determines that all applicable administrative and financial actions and all required work of the grant have been completed by both the grantee and the Institute.

2. Grantee Close-Out Requirements

Within 90 days after the end date of the grant or any approved extension thereof (See section XI.K.3), the following documents must be submitted to the Institute by the grantee other than a recipient of a scholarship under section II.B.2.b.iii. These reporting requirements apply at the conclusion of any non-scholarship grant, even when the project will receive renewal funding through a continuation or on-going support grant.

a. Financial Status Report. The final report of expenditures must have no unliquidated obligations and must indicate the exact balance of unobligated funds. Any unobligated/unexpended funds will be deobligated from the award by the Institute. Final payment requests for obligations incurred during the award period must be submitted to the Institute prior to the end of the 90-day close-out period. Grantees on a check-issued basis, who have drawn down funds in excess of their obligations/expenditures, must return any unused funds as soon as it is determined that the funds are not required. In no case should any unused funds remain with the grantee beyond the submission date of the final financial status report.

b. Final Progress Report. This report should describe the project activities during the final calendar quarter of the project and the close-out period, including to whom project products have been disseminated; provide a summary of activities during the entire project; specify whether all the objectives set forth in the approved

application or an approved adjustment thereto have been met and, if any of the objectives have not been met, explain the reasons therefor; and discuss what, if anything, could have been done differently that might have enhanced the impact of the project or improved its operation.

3. Extension of Close-out Period

Upon the written request of the grantee, the Institute may extend the close-out period to assure completion of the Grantee's close-out requirements. Requests for an extension must be submitted at least 14 days before the end of the close-out period and must explain why the extension is necessary and what steps will be taken to assure that all the grantee's responsibilities will be met by the end of the extension period.

XII. Grant Adjustments

All requests for program or budget adjustments requiring Institute approval must be submitted in a timely manner by the project director. All requests for changes from the approved application will be carefully reviewed for both consistency with this Guideline and the enhancement of grant goals and objectives.

A. Grant Adjustments Requiring Prior Written Approval

There are several types of grant adjustments which require the prior written approval of the Institute. Examples of these adjustments include:

1. Budget revisions among direct cost categories which, individually or in the aggregate, exceed or are expected to exceed five percent of the approved original budget or the most recently approved revised budget. For the purposes of this section, the Institute will view budget revisions cumulatively.

For continuation and on-going support grants, funds from the original award may be used during the renewal grant period and funds awarded by a continuation or on-going support grant may be used to cover project-related expenditures incurred during the original award period, with the prior written approval of the Institute.

2. A change in the scope of work to be performed or the objectives of the project (see section XII.D.).

3. A change in the project site.

4. A change in the project period, such as an extension of the grant period and/or extension of the final financial or progress report deadline (see section XII.E.).

5. Satisfaction of special conditions, if required.

6. A change in or temporary absence of the project director (see sections XII.F. and G.).

7. The assignment of an employee or consultant to a key staff position whose qualifications were not described in the application, or a change of a person assigned to a key project staff position (see section X.X.).

8. A change in or temporary absence of the person responsible for the financial management and financial reporting for the grant.

9. A change in the name of the grantee organization.

10. A transfer or contracting out of grant-supported activities (see section XII.H.).

11. A transfer of the grant to another recipient.

12. Preagreement costs, the purchase of automated data processing equipment and software, and consultant rates, as specified in section XI.H.2.

13. A change in the nature or number of the products to be prepared or the manner in which a product would be distributed.

B. Request for Grant Adjustments

All grantees and subgrantees must promptly notify their SJI Program Manager, in writing, of events or proposed changes which may require an adjustment to the approved application. In requesting an adjustment, the grantee must set forth the reasons and basis for the proposed adjustment and any other information the program manager determines would help the Institute's review.

C. Notification of Approval/Disapproval

If the request is approved, the grantee will be sent a Grant Adjustment signed by the Executive Director or his designee. If the request is denied, the grantee will be sent a written explanation of the reasons for the denial.

D. Changes in the Scope of the Grant

A grantee/subgrantee may make minor changes in methodology, approach, or other aspects of the grant to expedite achievement of the grant's objectives with subsequent notification of the SJI Program Manager. Major changes in scope, duration, training methodology, or other significant areas must be approved in advance by the Institute.

E. Date Changes

A request to change or extend the grant period must be made at least 30 days in advance of the end date of the grant. A revised task plan should accompany requests for a no-cost extension of the grant period, along with a revised budget if shifts among budget categories will be needed. A request to change or extend the deadline for the final financial report or final progress report must be made at least 14 days in advance of the report deadline (see section XI.K.3.).

F. Temporary Absence of the Project Director

Whenever absence of the project director is expected to exceed a continuous period of one month, the plans for the conduct of the project director's duties during such absence must be approved in advance by the Institute. This information must be provided in a letter signed by an authorized representative of the grantee/subgrantee at least 30 days before the departure of the project director, or as soon as it is known that the project director will be absent. The grant may be terminated if arrangements are not approved in advance by the Institute.

G. Withdrawal of/Change in Project Director

If the project director relinquishes or expects to relinquish active direction of the project, the Institute must be notified immediately. In such cases, if the grantee/subgrantee wishes to terminate the project, the Institute will forward procedural instructions upon notification of such intent. If the grantee wishes to continue the project under the direction of another individual, a statement of the candidate's qualifications should be sent to the Institute for review and approval. The grant may be terminated if the qualifications of the proposed individual are not approved in advance by the Institute.

H. Transferring or Contracting Out of Grant-Supported Activities

A principal activity of the grant-supported project shall not be transferred or contracted out to another organization without specific prior approval by the Institute. All such arrangements should be formalized in a contract or other written agreement between the parties involved. Copies of the proposed contract or agreement must be submitted for prior approval at the earliest possible time. The contract or agreement must state, at a minimum, the activities to be performed, the time schedule, the policies and procedures to be followed, the dollar limitation of the agreement, and the cost principles to be followed in determining what costs, both direct and indirect, are to be allowed. The contract or other written agreement must not affect the grantee's

overall responsibility for the direction of the project and accountability to the Institute.

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David I. Tevelin,

Executive Director.

Appendix I—List of Contacts Regarding Administration of Institute Grants to State and Local Courts

Mr. Frank Gregory, Administrative Director, Administrative Office of the Courts, 300 Dexter Avenue, Montgomery, AL 36130, (205) 834–7990
Ms. Stephanie J. Cole, Administrative Director, Alaska Court System, 303 K Street, Anchorage, AK 99501, (907) 264–0547
Mr. David K. Byers, Administrative Director, Supreme Court of Arizona, 1501 West Washington Street, Suite 411, Phoenix, AZ 85007–3330, (602) 542–9301
Mr. James D. Gingerich, Director, Administrative Office of the Courts, 625 Marshall, Little Rock, AR 72201, (501) 682–9400
Mr. William C. Vickrey, State Court Administrator, Administrative Office of the Courts, 303 Second Street, South Tower, San Francisco, CA 94107, (415) 396–9115
Mr. Steven V. Berson, State Court Administrator, Colorado Judicial Department, 1301 Pennsylvania Street, Suite 300, Denver, CO 80203–2416, (303) 861–1111, ext. 585
Honorable Aaron Ment, Chief Court Administrator, Supreme Court of Connecticut, 231 Capitol Avenue, Drawer N, Station A, Hartford, CT 06106, (860) 566–4461
Mr. Lowell Groundland, Director, Administrative Office of the Courts, Carvel State Office Building, 820 N. French Street, Wilmington, DE 19801, (302) 577–2480
Mr. Ulysses Hammond, Executive Officer, Courts of the District of Columbia, 500 Indiana Avenue, N.W., Washington, D.C. 20001, (202) 879–1700
Mr. Kenneth Palmer, State Courts Administrator, Florida State Courts System, Supreme Court Building, Tallahassee, FL 32399–1900, (904) 922–5081
Mr. Robert L. Doss, Jr., Director, Administrative Office of the Georgia Courts, The Judicial Council of Georgia, 244 Washington Street, S.W., Suite 500, Atlanta, GA 30334–5900, (404) 656–5171
Administrative Director, Superior Court of Guam, Judiciary Building, 120 West O'Brien Drive, Agana, Guam 96910, 011 (671) 475–3544
Mr. Michael F. Broderick, Administrative Director of the Courts, 417 S. King Street, Room 206, Honolulu, HI 96813, (808) 539–4900
Ms. Patricia Tobias, Administrative Director of the Courts, Idaho Supreme Court, 451 West State Street, Boise, ID 83720–0101, (208) 334–2246
Honorable Joseph A. Schillaci, Administrative Director of the Courts, 222 N. LaSalle Street, 13th Floor, Chicago, IL 60601, (312) 793–8191
Ms. Lilia G. Judson, Acting Executive Director, Supreme Court of Indiana, 115 W. Washington, Suite 1080, Indianapolis, IN 46204–3417, (317) 232–2542
Mr. William J. O'Brien, State Court Administrator, Supreme Court of Iowa, State House, Des Moines, IA 50319, (515) 281–5241
Dr. Howard P. Schwartz, Judicial Administrator, Kansas Judicial Center, 301 West 10th Street, Topeka, KS 66612, (913) 296–4873
Mr. Paul F. Isaacs, Administrative Director, Administrative Office of the Courts, 100 Mill Creek Park, Frankfort, KY 40601–9230, (502) 573–2350
Dr. Hugh M. Collins, Judicial Administrator, Supreme Court of Louisiana, 301 Loyola Avenue, Room 109, New Orleans, LA 70112, (504) 568–5747
Mr. James T. Glessner, State Court Administrator, Administrative Office of the Courts, P.O. Box 4820, Downtown Station, Portland, ME 04112–4820, (207) 822–0792
Mr. George B. Riggin, Jr., State Court Administrator, Administrative Office of the Courts, Courts of Appeal Bldg., 361 Rowe Boulevard, Annapolis, MD 21401, (410) 974–2141
Honorable John J. Irwin, Jr., Chief Justice for Administration and Management, The Trial Court, Administrative Office of the Trial Court, Two Center Plaza, Suite 540, Boston, MA 02108, (617) 742–8575
Mr. John D. Ferry, Jr., State Court Administrator, Michigan Supreme Court, 309 N. Washington Square, P.O. Box 30048, Lansing, MI 48909, (517) 373–0130
Ms. Sue K. Dosal, State Court Administrator, Supreme Court of Minnesota, 25 Constitution Avenue, St. Paul, MN 55155, (617) 296–2474
Mr. Richard Patt, Acting Director, Administrative Office of the Courts, Supreme Court of Mississippi, P.O. Box 117, Jackson, MS 39205, (601) 354–7408
Mr. Ron Larkin, State Court Administrator, Supreme Court of Missouri, P.O. Box 104480, Jefferson City, MO 65110, (314) 751–3585
Mr. Patrick A. Chenovick, State Court Administrator, Montana Supreme Court, Justice Building, Room 315, 215 North Sanders, Helena, MT 59620–3001, (406) 444–2621
Mr. Joseph C. Steele, State Court Administrator, Supreme Court of Nebraska, State Capitol Building, Room 1220, Lincoln, NE 68509, (404) 471–3730
Ms. Georgia J. Rohrs, Acting State Court Administrator, Administrative Office of the Courts, Capitol Complex, Carson City, NV 89710, (702) 687–5076
Mr. Donald Goodnow, State Court Administrator, Supreme Court of New Hampshire, Frank Rowe Kenison Building, Concord, NH 03301, (603) 271–2521
Mr. James J. Ciancia, Administrative Director, Administrative Office of the Courts, CN–037, RJH Justice Complex, Trenton, NJ 08625, (609) 984–0275,
Honorable Jonathan Lippman, Chief Administrative Judge, Office of Court Administration, 270 Broadway, New York, NY 10007, (212) 417–2007
Mr. John M. Greacen, State Court Administrator, Administrative Office of the Courts, Supreme Court of New Mexico, Supreme Court Building, Room 25, Sante Fe, NM 87503, (505) 827–4800
Mr. Dallas A. Cameron, Jr., Administrative Director, Administrative Office of the Courts, P.O. Box 2448, Raleigh, NC 27602, (919) 733–7107
Mr. Keithe E. Nelson, State Court Administrator, Supreme Court of North Dakota, State Capitol Building, Bismarck, ND 58505, (701) 328–4216
Mr. Stephan W. Stover, Administrative Director of the Courts, Supreme Court of Ohio, State Office Tower, 30 East Broad Street, Columbus, OH 43266–0419, (614) 466–2653
Mr. Howard W. Conyers, Administrative Director, Administrative Office of the Courts, 1925 N. Stiles, Suite 305, Oklahoma City, OK 73105, (405) 521–2450
Ms. Kingsley Click, State Court Administrator, Supreme Court of Oregon, Supreme Court Building, Salem, OR 97310, (503) 986–5900
Ms. Nancy M. Sobolevitch, Court Administrator, Supreme Court of Pennsylvania 1515 Market Street, Suite 1414, Philadelphia, PA 19102, (215) 560–6337
Dr. Robert C. Harrall, State Court Administrator, Supreme Court of Rhode Island, 250 Benefit Street, Providence, RI 02903, (401) 277–3263
Mr. George A. Markert, Director, South Carolina Court Administration, P.O. Box 50447, Columbia, SC 29250, (803) 734–1800
Mr. Michael L. Buenger, State Court Administrator, Unified Judicial System, 500 East Capitol Avenue, Pierre, SD 57501, (605) 773–3474

Mr. Charles E. Ferrell, Administrative Director of the Courts, Nashville City Center, Suite 600, 511 Union Street, Nashville, TN 37243–0607, (615) 741–2687

Mr. Jerry L. Benedict, Administrative Director, Office of Court Administration of the Texas Judicial System, 205 West 14th Street, Suite 600, Austin, TX 78701, (512) 463–1625

Mr. Daniel Becker, State Court Administrator, Administrative Office of the Courts, 230 South 500 East, Salt Lake City, UT 84102, (801) 578–3800

Mr. Lee Suskin, Court Administrator, Supreme Court of Vermont, 109 State Street, Montpelier, VT 05602, (802) 828–3278

Ms. Viola E. Smith, Clerk of the Court/Administrator, Territorial Court of the Virgin Islands, P.O. Box 70, Charlotte Amalie, St. Thomas, Virgin Islands 00801, (809) 774–6680, ext. 248

Mr. Robert N. Baldwin, Executive Secretary, Supreme Court of Virginia, 100 North Ninth Street, 3rd Floor, Richmond, VA 23219, (804) 786–6455

Ms. Mary C. McQueen, Administrator for the Courts, Supreme Court of Washington, P.O. Box 41174, Olympia, WA 98504, (360) 357–2121

Mr. Ted J. Philyaw, Administrative Director of the Courts, E–400, State Capitol Bldg., 1900 Kanawha Blvd., East Charleston, WV 25305, (304) 558–0145

Mr. J. Denis Moran, Director of State Courts, P.O. Box 1688, Madison, WI 53701–1688, (608) 266–6828

Mr. Allen C. Johnson, Court Administrator, Supreme Court of Wyoming, Supreme Court Building, Cheyenne, WY 82002, (307) 777–7480

Appendix II—SJI Libraries Designated Sites and Contacts

Alabama

Supreme Court Library

Mr. William C. Younger, State Law Librarian, Alabama Supreme Court Bldg., 445 Dexter Avenue, Montgomery, AL 36130, (205) 242–4347

Alaska

Anchorage Law Library

Ms. Cynthia S. Petumenos, State Law Librarian, Alaska Court Libraries, 303 K Street, Anchorage, AL 99501, (907) 264–0583

Arizona

State Law Library

Ms. Arlene Bansal, Collection Development, Research Division, Arizona Dept. of Library, Archives and Public Records, State Law Library, 1501 W. Washington, Phoenix, AZ 85007, (602) 542–4035

Arkansas

Administrative Office of the Courts

Mr. James D. Gingerich, Director, Supreme Court of Arkansas, Administrative Office of the Courts, Justice Building, 625 Marshall, Little Rock, AR 72201–1078, (501) 376–6655

California

Administrative Office of the Courts

Mr. William C. Vickrey, State Court Administrator, Administrative Office of the Courts, 303 Second Street, South Tower, San Francisco, CA 94107, (415) 396–9100

Colorado

Supreme Court Library

Ms. Frances Campbell, Supreme Court Law Librarian, Colorado State Judicial Building, 2 East 14th Avenue, Denver, CO 80203, (303) 837–3720

Connecticut

State Library

Mr. Richard Akeroyd, State Librarian, 231 Capital Avenue, Hartford, CT 06106, (860) 566–4301

Delaware

Administrative Office of the Courts

Mr. Michael E. McLaughlin, Deputy Director, Administrative Office of the Courts, Carvel State Office Building, 820 North French Street, 11th Floor, P.O. Box 8911, Wilmington, DE 19801, (302) 571–2480

District of Columbia

Executive Office, District of Columbia Courts

Mr. Ulysses Hammond, Executive Officer, Courts of the District of Columbia, 500 Indiana Avenue, N.W., Washington, D.C. 20001 (202) 879–1700

Florida

Administrative Office of the Courts

Mr. Kenneth Palmer, State Court Administrator, Florida State Courts System, Supreme Court Building, Tallahassee, FL 32399–1900, (904) 488–8621

Georgia

Administrative Office of the Courts

Mr. Robert Doss, Jr., Administrative Director, Administrative Office of the Courts, The Judicial Council of Georgia, 244 Washington St., S.W.,, Suite 550, Atlanta, GA 30334–5900, (404) 656–5171

Hawaii

Supreme Court Library

Ms. Ann Koto, State Law Librarian, The Supreme Court Law Library, Judiciary Building, P.O. Box 2560, Honolulu, HI 96804, (808) 548–4605

Idaho

AOC Judicial Education Library/State Law Library

Ms. Laura Pershing, State Law Librarian, Idaho State Law Library, Supreme Court Building, 451 West State St., Boise, ID 83720, (208) 334–3316

Illinois

Supreme Court Library

Ms. Brenda Larison, Supreme Court Library, Supreme Court Building, Springfield, IL 62701–1791, (217) 782–2424

Indiana

Supreme Court Library

Ms. Constance Matts, Supreme Court Librarian, Supreme Court Library, State House, Indianapolis, IN 46204, (317) 232–2557

Iowa

Administrative Office of the Court

Dr. Jerry K. Beatty, Executive Director, Judicial, Education & Planning, Administrative Office of the Courts, State Capital Building, Des Moines, IA 50319, (515) 281–8279

Kansas

Supreme Court Library

Mr. Fred Knecht, Law Librarian, Kansas Supreme Court Library, 301 West 10th Street, Topeka, KS 66614, (913) 296–3257

Kentucky

State Law Library

Ms. Sallie Howard, State Law Librarian, State Law Library, State Capital, Room 200–A, Frankfort, KY 40601, (502) 564–4848

Louisiana

State Law Library

Ms. Carol Billings, Director, Louisiana Law Library, 301 Loyola Avenue, New Orleans, LA 70112, (504) 568–5705

Maine

State Law and Legislative Reference Library

Ms. Lynn E. Randall, State Law Librarian, State House Station 43, Augusta, ME 04333, (207) 289–1600

Maryland

State Law Library

Mr. Michael S. Miller, Director, Maryland State Law Library, Court of Appeal Building, 361 Rowe Boulevard, Annapolis, MD 21401, (301) 974–3395

Massachusetts

Middlesex Law Library

Ms. Sandra Lindheimer, Librarian, Middlesex Law Library, Superior Court House, 40 Thorndike Street, Cambridge, MA 02141, (617) 494–4148

Michigan

Michigan Judicial Institute

Mr. Leonard Kowalski, Michigan Judicial Institute, 222 Washington Square North, P.O. Box 30205, Lansing, MI 48909, (517) 334–7804

Minnesota

State Law Library (Minnesota Judicial Center)

Mr. Marvin R. Anderson, State Law Librarian, Supreme Court of Minnesota, 25 Constitution Avenue, St. Paul, MN 55155, (612) 297–2084

Mississippi

Mississippi Judicial College

Leslie Johnson, Director, University of Mississippi, P.O. Box 8850, University, MS 38677, (601) 982–6590

Montana

State Law Library

Ms. Judith Meadows, State Law Librarian, State Law Library of Montana, 215 North Sanders, Helena, MT 59620, (406) 444–3660

Nebraska

Administrative Office of the Courts

Mr. Joseph C. Steele, State Court Administrator, Supreme Court of Nebraska, Administrative Office of the Courts, P.O. Box 98910, Lincoln, NE 68509–8910, (402) 471–3730

Nevada

National Judicial College

Honorable V. Robert Payant, President, National Judicial College, Judicial College Building, University of Nevada, Reno, NV 89550, (702) 784–6747

New Jersey

New Jersey State Library

Mr. Robert L. Bland, Law Coordinator, State of New Jersey, Department of Education, State Library, 185 West State Street, CN520, Trenton, NJ 08625, (609) 292–6230

New Mexico

Supreme Court Library

Mr. Thaddeus Bejnar, Librarian, Supreme Court Library, Post Office Drawer L, Santa Fe, NM 87504, (505) 827–4850

New York

Supreme Court Library

Susan M. Wood, Esq., Principal Law Librarian, New York State Supreme, Court Law Library, Onondaga County Court House, Syracuse, NY 13202, (315) 435–2063

North Carolina

Supreme Court Library

Ms. Louise Stafford, Librarian, North Carolina Supreme, Court Library, P.O. Box 28006, 2 East Morgan Street, Raleigh, NC 27601, (919) 733–3425

North Dakota

Supreme Court Library

Ms. Marcella Kramer, Assistant Law Librarian, Supreme Court Law Library, 600 East Boulevard Avenue, 2nd Floor, Judicial Wing, Bismarck, ND 58505–0530, (701) 224–2229

Northern Mariana Islands

Supreme Court of the Northern Mariana Islands

Honorable Marty W.K. Taylor, Chief Justice, Supreme Court of the Northern Mariana Islands, P.O. Box 2165, Saipan, MP 96950, (670) 234–5275

Ohio

Supreme Court Library

Mr. Paul S. Fu, Law Librarian, Supreme Court Law Library, Supreme Court of Ohio, 30 East Broad Street, Columbus, OH 43266–0419, (614) 466–2044

Oklahoma

Administrative Office of the Courts

Mr. Howard W. Conyers, Director, Administrative Office of the Courts, 1915 North Stiles, Suite 305, Oklahoma City, OK 73105, (405) 521–2450

Oregon

Administrative Office of the Courts

Ms. Kingsley Click, State Court Administrator, Supreme Court of Oregon, Supreme Court Building, 1163 State Street, Salem, OR 97310, (503) 378–6046

Pennsylvania

State Library of Pennsylvania

Ms. Betty Lutz, Head, Acquisitions Section, State Library of Pennsylvania, Technical Services, G46 Forum Building, Harrisburg, PA 17105, (717) 787–4440

Puerto Rico

Office of Court Administration

Alfredo Rivera-Mendoza, Esq., Director, Area of Planning and Management, Office of Court Administration, P.O. Box 917, Hato Rey, PR 00919

Rhode Island

Roger Williams Law School Library

Mr. Kendall Svengalis, Law Librarian, Licht Judicial Complex, 250 Benefit Street, Providence, RI, (401) 254–4546

South Carolina

Coleman Karesh Law Library (University of South Carolina School of Law)

Mr. Bruce S. Johnson, Law Librarian, Associate Professor of Law, Coleman Karesh Law Library, U. S. C. Law Center, University of South Carolina, Columbia, SC 29208, (803) 777–5944

Tennessee

Tennessee State Law Library

Ms. Donna C. Wair, Librarian, Tennessee State Law Library, Supreme Court Building, 401 Seventh Avenue N, Nashville, TN 37243–0609, (615) 741–2016

Texas

State Law Library

Ms. Kay Schleuter, Director, State Law Library, P.O. Box 12367, Austin, TX 78711, (512) 463–1722

U.S. Virgin Islands

Library of the Territorial Court of the Virgin Islands (St. Thomas)

Librarian, The Library, Territorial Court of the Virgin Islands, Post Office Box 70, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00804

Utah

Utah State Judicial Administration Library

Ms. Debbie Christiansen, Utah State Judicial, Administration Library, 230 South 500 East, Suite 300, Salt Lake City, UT 84102, (801) 533–6371

Vermont

Supreme Court of Vermont

Mr. Lee Suskin, Court Administrator, Supreme Court of Vermont, 109 State Street, c/o Pavilion Office Building, Montpelier, VT 05609, (802) 828–3278

Virginia

Administrative Office of the Courts

Mr. Robert N. Baldwin, Executive Secretary, Supreme Court of Virginia, Administrative Offices, 100 North Ninth Street, 3rd Floor, Richmond, VA 23219, (804) 786–6455

Washington

Washington State Law Library

Ms. Deborah Norwood, State Law Librarian, Washington State Law Library, Temple of Justice, P.O. Box 40751, Olympia, WA 98504–0751, (206) 357–2146

West Virginia

Administrative Office of the Courts
Mr. Richard H. Rosswurm, Chief Deputy, West Virginia Supreme Court of Appeals, State Capitol, 1900 Kanawha, Charleston, WV 25305, (304) 348–0145

Wisconsin

State Law Library, Ms. Marcia Koslov, State Law Librarian, State Law Library, 310E State Capitol, P.O. Box 7881, Madison, WI 53707, (608) 266–1424

Wyoming

Wyoming State Law Library

Ms. Kathy Carlson, Law Librarian, Wyoming State Law Library, Supreme Court Building, Cheyenne, WY 82002, (307) 777–7509

National

American Judicature Society

Ms. Clara Wells, Assistant for Information and Library Services, 25 East Washington Street, Suite 1600, Chicago, IL 60602, (312) 558–6900

National Center for State Courts

Ms. Peggy Rogers, Acquisitions/Serials Librarian, 300 Newport Avenue, Williamsburg, VA 23187–8798, (804) 253–2000

Jeritt

Ms. Jennae Rozeboom, Project Director, Judicial Education Reference, Information and Technical Transfer Project (JERITT), Michigan State University, 560 Baker Hall, East Lansing, MI 48824, (517) 353–8603

Appendix III—Illustrative List of Model Curricula

The following list includes examples of curricula that have been developed with support from SJI, that might be—or in some cases have been—successfully adapted for State-based education programs for judges and other court personnel. *Please refer to Section II.B.2.b.ii for information on submitting a letter application for a Curriculum Adaptation Grant.* A list of all SJI-supported education projects is available from the Institute, and on the SJI website —www.clark.net/pub/sji/. Please also check

with the JERITT project (517/353–8603) and with your State SJI-designated library (see Appendix II) for information on other curricula that may be appropriate for your State's needs.

Alternative Dispute Resolution

Judicial Settlement Manual'' from ''Judicial Settlement: Development of a New Course Module, Film, and Instructional Manual'' (National Judicial College: SJI–89–089)

Improving the Quality of Dispute Resolution'' (Ohio State University College of Law: SJI–93–277)

''Comprehensive ADR Curriculum for Judges'' (American Bar Association: SJI–95–002)

''Domestic Violence and Custody Mediation'' (American Bar Association: SJI–96–038)

Court Coordination

''Adjudication of Farm Credit Issues'' (Rural Justice Center: SJI–87–059)

Bankruptcy Issues for State Trial Court Judges'' (American Bankruptcy Institute: SJI–91–027)

''Intermediate Sanctions Handbook: Experiences and Tools for Policymakers'' (Center for Effective Public Policy: IAA–88-NIC–001)

''Regional Conference Cookbook: A Practical Guide to Planning and Presenting a Regional Conference on State-Federal Judicial Relationships'' (U.S. Court of Appeals for the 9th Circuit: SJI–92–087)

Court Management

''Managing Trials Effectively: A Program for State Trial Judges'' (National Center for State Courts/National Judicial College: SJI–87–066/067, SJI–89–054/055, SJI–91–025/026)

''Caseflow Management Principles and Practices'' (Institute for Court Management/ National Center for State Courts: SJI–87–056)

''Judicial Education Curriculum: Teaching Guides on Court Security, and Jury Management and Impanelment'' (Institute for Court Management/National Center for State Courts: SJI–88–053)

''A Manual for Workshops on Processing Felony Dispositions in Limited Jurisdiction Courts'' (National Center for State Courts: SJI–90–052)

''Managerial Budgeting in the Courts''; ''Performance Appraisal in the Courts''; ''Managing Change in the Courts''; ''Court Automation Design,'' ''Case Management for Trial Judges''; ''Trial Court Performance Standards'' (Institute for Court Management/National Center for State Courts: SJI–91–043)

''Implementing the Court-Related Needs of Older Persons and Persons with Disabilities'' (National Judicial College: SJI–91–054)

''Strengthening Rural Courts of Limited Jurisdiction'' and ''Team Training for Judges and Clerks'' (Rural Justice Center: SJI–90–014, SJI–91–082)

''Interbranch Relations Workshop'' (Ohio Judicial Conference: SJI–92–079)

''Integrating Trial Management and Caseflow Management'' (Justice Management Institute: SJI–93–214)

''Leading Organizational Change'' (California Administrative Office of the Courts: SJI–94–068)

''Managing the Complex Case''; ''Privacy Issues in Computerized Record Keeping'' (National Judicial College: SJI–94–142)

''Employment Responsibilities of State Court Judges'' (National Judicial College: SJI–95–025)

''Dealing with the Common Law Courts: A Model Curruculum for Judges and Court Staff'' (Institute for Court Management/ National Center for State Courts: SJI–96–159)

Courts and Communities

''A National Program for Reporting on the Courts and the Law'' (American Judicature Society: SJI–88–014)

''Victim Rights and the Judiciary: A Training and Implementation Project'' (National ''Organization for Victim Assistance: SJI–89–083)

''National Guardianship Monitoring Project: Trainer and Trainee's Manual'' (American Association of Retired Persons: SJI–91–013)

''Access to Justice: The Impartial Jury and the Justice System'' and ''When Implementing the Court-Related Needs of Older People and Persons with Disabilities: An Instructional Guide'' (National Judicial College: SJI–91–054)

''You Are the Court System: A Focus on Customer Service'' (Alaska Court System: SJI–94–048)

''Serving the Public: A Curriculum for Court Employees'' (American Judicature Society: SJI–96–040)

Diversity, Values, and Attitudes

''Troubled Families, Troubled Judges'' (Brandeis University: SJI–89–071)

''The Crucial Nature of Attitudes and Values in Judicial Education'' (National Council of Juvenile and Family Court Judges: SJI–90–058)

''Enhancing Diversity in the Court and Community'' (Institute for Court Management/National Center for State Courts: SJI–91–043)

''Cultural Diversity Awareness in Nebraska Courts'' from ''Native American Alternatives to Incarceration Project'' (Nebraska Urban Indian Health Coalition: SJI–93–028)

''A Videotape Training Program in Ethics and Professional Conduct for Nonjudicial Court Personnel'' and ''The Ethics Fieldbook: Tool For Trainers'' (American Judicature Society: SJI–93–068)

''Court Interpreter Training Course for Spanish Interpreters' (International Institute of Buffalo: SJI–93–075)

''Doing Justice: Improving Equality Before the Law Through Literature-Based Seminars for Judges and Court Personnel'' (Brandeis University: SJI–94–019)

''Race Fairness and Cultural Awareness Faculty Development Workshop'' (National Judicial College: SJI–93–063)

''Indian Welfare Act''; ''Defendants, Victims, and Witnesses with Mental Retardation'' (National Judicial College: SJI–94–142)

''Multi-Cultural Training for Judges and Court Personnel'' (St. Petersburg Junior College: SJI–95–006)

''Ethical Standards for Judicial Settlement: Developing a Judicial Education Module'' (American Judicature Society: SJI–95–082)

Family Violence and Gender-Related Violence Crime

''National Judicial Response to Domestic Violence: Civil and Criminal Curricula'' (Family Violence Prevention Fund: SJI–87–061, SJI–89–070, SJI–91–055).

''Domestic Violence: A Curriculum for Rural Courts'' from ''A Project to Improve Access to Rural Courts for Victims of Domestic Violence'' (Rural Justice Center: SJI–88–081)

''Judicial Training Materials on Spousal Support''; ''Family Violence: Effective Judicial Intervention''; ''Judicial Training Materials on Child Custody and Visitation'' from ''Enhancing Gender Fairness in the State Courts'' (Women Judges' Fund for Justice: SJI–89–062)

''Judicial Response to Stranger and Nonstranger Rape and Sexual Assault'' (National Judicial Education Program to Promote Equality for Women and Men: SJI–92–003)

''Domestic Violence & Children: Resolving Custody and Visitation Disputes'' (Family Violence Prevention Fund: SJI–93–255)

''Adjudicating Allegations of Child Sexual Abuse When Custody Is In Dispute'' (National Judicial Education Program: SJI 95–019)

''Handling Cases of Elder Abuse: Interdisciplinary Curricula for Judges and Court Staff'' (American Bar Association: SJI–93–274)

Health and Science

''Medicine, Ethics, and the Law: Preconception to Birth'' (Women Judges Fund for Justice: SJI–89–062, SJI–91–019)

''Judicial Educator's Workshop Curriculum Guide: Implementing Medical Legal Training'' from Medical Legal Issues in Juvenile and Family Courts (National Council for Juvenile and Family Court Judges: SJI–91–091)

''Environmental Law Resource Handbook'' (University of New Mexico Institute for Public Law: SJI–92–162)

Judicial Education for Appellate Court Judges

''Career Writing Program for Appellate Judges'' (American Academy of Judicial Education: SJI–88–086-P92–1)

''Civil and Criminal Procedural Innovations for Appellate Courts'' (National Center for State Courts: SJI–94–002)

Judicial Education Program and Faculty Development

''The Leadership Institute in Judicial Education'' and ''The Advanced Leadership Institute in Judicial Education'' (University of Memphis: SJI–91–021)

''Faculty Development Instructional Program'' from ''Curriculum Review'' (National Judicial College: SJI–91–039)

Orientation and Mentoring of Judges and Court Personnel

''Manual for Judicial Writing Workshop for Trial Judges'' (University of Georgia/

Colorado Judicial Department: SJI–87–018/019)
''Legal Institute for Special and Limited Jurisdiction Judges'' (National Judicial College: SJI–89–043, SJI–91–040)
''Pre-Bench Training for New Judges'' (American Judicature Society: SJI–90–028)
A Unified Orientation and Mentoring Program for New Judges of All Arizona Trial Courts'' (Arizona Supreme Court: SJI–90–078)
''Court Organization and Structure'' (Institute for Court Management/National Center for State Courts: SJI–91–043)
''Judicial Review of Administrative Agency Decisions'' (National Judicial College: SJI–91–080)
''New Employee Orientation Facilitators Guide'' from ''The Minnesota Comprehensive Curriculum Design and Training Program for Court Personnel'' (Minnesota Supreme Court: SJI–92–155)
''Magistrates Correspondence Course'' (Alaska Court System: SJI–92–156)
''Computer-Assisted Instruction for Court Employes'' (Utah Administrative Office of the Courts: SJI–94–012)
''Bench Trial Skills and Demeanor: An Interactive Manual'' (National Judicial College: SJI 94–058)
''Ethical Issues in the Election of Judges' (National Judicial College: SJI–94–142)

Juveniles and Families in Court

''Innovative Juvenile and Family Court Training'' (Youth Law Center: SJI–87–060, SJI–89–039)
''Fundamental Skills Training Curriculum for Juvenile Probation Officers'' (National Council of Juvenile and Family Court Judges: SJI–90–017)
''Child Support Across State Lines: The Uniform Interstate Family Support Act'' from Uniform Interstate Family Support Act: Development and Delivery of a Judicial Training Curriculum.'' (ABA Center on Children and the Law: SJI 94–321)

Strategic and Futures Planning

''Minding the Courts into the Twentieth Century'' (Michigan Judicial Institute: SJI–89–029)
''An Approach to Long-Range Strategic Planning in the Courts'' (Center for Public Policy Studies: SJI–91–045)

Substance Abuse

''Effective Treatment for Drug-Involved Offenders: A Review & Synthesis for Judges and Court Personnel'' (Education Development Center, Inc.: SJI–90–051)
''Good Times, Bad Times: Drugs, Youth, and the Judiciary'' (Professional Development and Training Center, Inc.: SJI–91–095)
''Gaining Momentum: A Model Curriculum for Drug Courts'' (Florida Office of the State Courts Administrator: SJI–94–291)
''Judicial Response to Substance Abuse: Children, Adolescents, and Families'' (National Council of Juvenile and Family Court Judges: SJI–95–030)

Appendix IV-Illustrative List of Replicable Projects

The following list includes examples of projects undertaken with support from SJI/that might be—or in some cases have been—successfully adapted and replicated in other in other jurisdictions. *Please see Section II.C.1. for information on submitting a concept paper requesting a grant to replicate one of these or another SJI-supported project.* A list of all SJI-supported projects is available from the Institute and on the Institute's website —www.clark.net/pub/sji.

Alternative Dispute Resolution

Computerized Citizen Intake and Referral Service

Grantee: District of Columbia Courts
Contact: Charles Bethell, 500 Indiana Avenue, N.W., Washington, DC 20001, (202) 879–1479
Grant No: SJI–93–211

Application of Technology

File Transfer Technology Application in Use of Court Information
Grantee: South Carolina Bar
Contact: Yvonne Visser, 950 Taylor Street, P.O. Box 608, Columbia, SC 29202–0608, (803) 799–6653
Grant Nos: SJI–91–088; SJI–91–088–P93–1; SJI–91–088–P94–1

Managing Documents with Imaging Technology

Grantee: Alaska Judicial Council
Contact: William T. Cotton, 1029 W. Third Avenue, Suite 201, Anchorage, AK 99501–1917, (907) 279–2526
Grant No: SJI–92–083

Automated Teller Machines for Juror Payment

Grantee: District of Columbia Courts
Contact: Philip Braxton 500, Indiana Avenue, N.W., Washington, DC 20001, (202) 879–1700,
Grant No: SJI–92–139

Children and Families in Court

A Day in Court: A Child's Perspective

Grantee: Massachusetts Trial Court
Contact: Hon. John Irwin, 2 Center Plaza, Boston, MA 02108, (617) 742–8575,
Grant No: SJI–91–079

Parent Education and Custody Effectiveness (PEACE) Program

Grantee: Hofstra University
Contact: Andrew Shephard, 1000 Fulton Avenue, Hampstead, NY 11550–1090, (516) 463–5890
Grant No: SJI–93–265

Court Management and Planning

Measurement of Trial Court Performance

Grantee: Washington Administrative Office for the Courts
Contact: Yvonne Pettus, 1206 S. Quince Street, Olympia, WA 98504
Grant No: SJI–91–017; SJI–91–017–P92–1

Measurement of Trial Court Performance

Grantee: New Jersey Administrative Office of the Courts
Contact: Theodore J. Fetter, CN–037, RJH Justice Complex, Trenton, NJ 08625
Grant No: SJI–91–023; SJI–91–023–P93–1

Measurement of Trial Court Performance

Grantee: Ohio Supreme Court,
Contact: Stephan W. Stover, State Office Tower, 30 East Broad Street, Columbus, OH 43266–0419
Grant No: SJI–91–024; SJI–91–024–P93–1

Measurement of Trial Court Performance

Grantee: Supreme Court of Virginia
Contact: Beatrice Monahan, 100 North Ninth Street Third Floor, Richmond, VA 23219, (804) 786–6455
Grant No: SJI–91–042; SJI–91–042–P93–1

Probate Caseflow Management Project

Grantee: Ohio Supreme Court/Trumball County Probate Court
Contact: Susan Lightbody, 160 High Street, N.W., Warren, OH 44481, (216) 675–2566
Grant No: SJI–92–081; SJI–92–081–P94–1; SJI–92–081–P95–1

Implementing Quality Methods in Court Operations

Grantee: Oregon Supreme Court
Contact: Scott Crampton, Supreme Court Building, Salem, OR 97310, (503) 378–5845
Grant No: SJI–92–170

Implementing Strategic Planning in the Trial Courts

Grantee: Center for Public Policy Studies
Contact: David Price, 999 18th Street, Suite 900, Denver, CO 80202, (303) 863–0900
Grant No: SJI–94–021

Courts and Communities

AARP Volunteers: A Resource for Strengthening Guardianship Services

Grantee: American Association of Retired Persons
Contact: Wayne Moore, 601 E Street, N.W., Washington, DC 20049, (202) 434–2165
Grant Nos: SJI–88–033 /SJI–91–013

Establishing a Consumer Research and Service Development Process Within the Judicial System

Grantee: Supreme Court of Virginia
Contact: Beatrice Monahan, Administrative Offices, Third Floor, 100 North Ninth Street, Richmond, VA 23219, (804) 786–6455
Grant No: SJI–89–068

Housing Court Video Project

Grantee: Association of the Bar of the City of New York
Contact: Marilyn Kneeland, 42 West 44th Street, New York, NY 10036–6690, (212) 382–6620
Grant No: SJI–90–041

Tele-Court: A Michigan Judicial System Public Information Program

Grantee: Michigan Supreme Court
Contact: Judy Bartell, State Court Administrative Office, 611 West Ottawa Street, P.O. Box 30048, Lansing, MI 48909, (517) 373–0130
Grant No: SJI–91–015

Arizona Pro Per Information System (QuickCourt)

Grantee: Arizona Supreme Court
Contact: Jeannie Lynch, Administrative Office of the Court, 1501 West Washington

Street, Suite 411, Phoenix, AZ 85007–3330, (602) 542–9554
Grant No: SJI–91–084

Automated Public Information System

Grantee: California Administrative Office of the Courts
Contact: Mark Greenia, Sacramento Superior and Municipal Court, 303 Second Street, South Tower, San Francisco, CA 94107, (916) 440–7590
Grant No: SJI–91–093

Using Judges and Court Personnel To Facilitate Access to Courts by Limited English Speakers

Grantee: Washington Office of the Administrator for the Courts
Contact: Joanne Moore, 1206 South Quince Street, P.O. Box 41170, Olympia, WA 98504–1170, (206) 753–3365
Grant No: SJI–92–147

Pro se Forms and Instructions Packets

Grantee: Michigan Supreme Court
Contact: Pamela Creighton, 611 W. Ottawa Street, Lansing, MI 48909
Grant No: SJI–94–003

Understanding the Judicial Process: A Curriculum and Community Service Program

Grantee: Drake University
Contact: Timothy Buzzell, Opperman Hall, Des Moines, IA 50311, (515) 271–3205
Grant No: SJI–94–022

Court Self-Service Center

Grantee: Maricopa County Superior Court
Contact: Bob James, 201 W. Jefferson, 4th Floor, Phoenix, AZ 85003, (602) 506–6314
Grant No: SJI–94–324

Sentencing

Court Probation Enhancement Through Community Involvement

Grantee: Volunteers in Prevention, Probation and Prisons, Inc.
Contact: Gerald Dash, 163 Madison, Suite 120, Detroit, MI 48226, (313) 964–1110
Grant No: SJI–91–073

Facilitating the Appropriate Use of Intermediate Sanctions

Grantee: Center for Effective Public Policy
Contact: Peggy McGarry, 8403 Colesville Road, Suite 720, (301) 589–9383
Grant No: SJI–95–078

Substance Abuse

Alabama Alcohol and Drug Abuse Court Referral Officer Program

Grantee: Alabama Administrative Office of the Courts
Contact: Angelo Trimble, 817 South Court Street, Montgomery, AL 36130–0101, (334) 834–7990
Grant Nos: SJI–88–030/SJI–89–080/SJI–90–005

Substance Abuse Assessment and Intervention to Reduce Driving Under the Influence of Alcohol Recidivism

Grantee: California Administrative Office of the Courts c/o El Cajon Municipal Court
Contact: Fred Lear, 250 E. Main Street, El Cajon, CA 92020, (619) 441–4336
Grant No: SJI–88–029/SJI–90–008

Court Referral Officer Program

Grantee: New Hampshire Supreme Court
Contact: Jim Kelley, Supreme Court Building, Concord, NH 03301, (603) 271–2521
Grant No: SJI–92–142

Appendix V

(Form S1)

State Justice Institute

Scholarship Application

This application does not serve as a registration for the course. Please contact the education provider.

Applicant Information

1. Applicant Name: _____
(Last) (First) (M)
2. Position: _____
3. Name of Court: _____
4. Address: _____
Street/P.O. Box
_____
City State Zip Code
5. Telephone No. _____
6. Congressional District: _____

Program Information

7. Course Name: _____
8. Course Dates: _____
9. Course Provider: _____
10. Location Offered: _____

Estimated Expenses: (Please note, scholarships are limited to tuition and transportation expenses to and from the site of the course up to a maximum of $1,500.)

Tuition: $ _____

Transportation: $ _____
(Airfare,trainfare, or if you plan to drive, an amount equal to the approximate distance and mileage rate.)

Amount Requested: $ _____

State Justice Institute

1650 King Street, Suite 600 Alexandria, VA 22314

Additional Information: Please attach a current resume or professional summary, and answer the following questions. (You may attach additional pages if necessary.)

1. How will taking this course benefit you, your court, and the State's courts generally?
2. Is there any education or training currently available through your State on this topic?
3. How will you apply what you have learned? Please include any plans you may have to develop/teach a course on this topic in your jurisdiction/State, provide in-service training, or otherwise disseminate what you have learned to colleagues.
4. Are State or local funds available to support your attendance at the proposed course? If so, what amount(s) will be provided?
5. How long have you served as a judge or court manager?
6. How long do you anticipate serving as a judge or court manager, assuming reelection or reappointment?
7. What continuing professional education programs have you attended in the past year? Please indicate which were mandatory (M) and which were non-mandatory (V).

Statement of Applicant's Commitment

If a scholarship is awarded, I will submit an evaluation of the educational program to the State Justice Institute and to the Chief Justice of my State.

_____
Signature

_____
Date

Please return this form and Form S–2 to: State Justice Institute, 1650 King Street, Suite 600, Alexandria Virginia 22314.

(Form S2)

State Justice Institute

Scholarship Application

Concurrence

I, _____
Name of Chief Justice (or Chief Justice's Designee)
have reviewed the application for a scholarship to attend the program entitled
_____
prepared by _____
Name of Applicant
and concur in its submission to the State Justice Institute. The applicant's participation in the program would benefit the State; the applicant's absence to attend the program would not present an undue hardship to the court; and receipt of a scholarship would not diminish the amount of funds made available by the State for judicial education.

_____
Signature

_____
Name

_____
Title

_____
Date

Appendix VI—Line-Item Budget Form

For Concept Papers, Curriculum Adaptation and Technical Assistance Grant Requests.

Category	SJI funds	Cash match	In-kind match
Personnel	$	$	$
Fringe Benefits	$	$	$

Category	SJI funds	Cash match	In-kind match
Consultant/Contractual	$	$	$
Travel	$	$	$
Equipment	$	$	$
Supplies	$	$	$
Telephone	$	$	$
Postage	$	$	$
Printing/Photocopying	$	$	$
Audit	$	$	$
Other	$	$	$
Indirect Costs (%)	$	$	$
Total	$	$	$

Project Total: $ _____

Financial assistance has been or will be sought for this project from the following other sources:

_____

_____

* Concept papers requesting an acccelerated award, Curriculum Adaptation grant requests, and Technical Assistance grant requests should be accompanied by a budget narrative explaining the basis for each line-item listed in the proposed budget.

Appendix VII

State Justice Institute

Certificate of State Approval

The _____

Name of State Supreme Court or Designated Agency or Council

has reviewed the application entitled _____

prepared by _____

Name of Applicant

approves its submission to the State Justice Institute, and

[ ] agrees to receive and administer and be accountable for all funds awarded by the Institute pursuant to the application.

[ ] designates

_____

Name of Trial or Appellate Court or Agency

as the entity to receive, administer, and be accountable for all funds awarded by the Institute pursuant to the application.

_____

Signature

_____

Name

_____

Title

_____

Date

[FR Doc. 97–26111 Filed 10–2–97; 8:45 am]

BILLING CODE 6820–SC–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week Ending September 26, 1997

Under the provisions of 49 U.S.C. 412 and 414. The following Agreements were filed with the Department of Transportation. Answers may be filed within 21 days of date of filing.

Docket Number: OST–97–2924.

Date Filed: September 23, 1997.

Parties: Members of the International Air Transport Association.

Subject: COMP Telex Mail Vote 891, Fares from Swaziland, Intended effective date: October 13, 1997.

Docket Number: OST–97–2926.

Date Filed: September 23, 1997.

Parties: Members of the International Air Transport Association.

Subject: PTC1 0052 dated August 29, 1997, TC1 Caribbean Resolutions r1–15, PTC1 0054 dated August 29, 1997, TC1 Within South America Resolutions r16–29, Tables—PTC1 Fares 0019 dated August 29, 1997, Tables—PTC1 Fares 0020 dated August 29, 1997, (Minutes, contained in PTC1 0056 dated September 12, 1997, are filed separately this date with the U.S.-related portion of this agreement.), Intended effective date: January 1, 1998.

Docket Number: OST–96–2927.

Date Filed: September 23, 1997.

Parties: Members of the International Air Transport Association.

Subject: PTC23 EUR–SASC 0022 dated September 5, 1997, Europe-South Asian Subcontinent Resos r1–18, Minutes—PTC23 EUR–SASC 0023 dated September 9, 1997, Tables—PTC23 EUR–SASC Fares 0008 dated September 19, 1997, Correction—PTC23 EUR–SASC 0024 dated September 16, 1997, Intended effective date: January 1, 1998.

Docket Number: OST–97–2929.

Date Filed: September 23, 1997.

Parties: Members of the International Air Transport Association.

Subject: PTC2 EUR 0087 dated September 16, 1997 r1–7, PTC2 EUR 0088 dated September 16, 1997 r8, PTC2 EUR 0089 dated September 16, 1997 r9–16, PTC2 EUR 0090 dated September 16, 1997 r17–20, PTC2 EUR 0091 dated September 16, 1997 r21–25, PTC2 EUR 0092 dated September 16, 1997 r26–29, PTC2 EUR 0093 dated September 16, 1997 r30–33, PTC2 EUR 0094 dated September 16, 1997 r34–36, PTC2 EUR 0095 dated September 16, 1997 r37, PTC2 EUR 0096 dated September 16, 1997 r38–39, Within Europe Resos, Minutes—PTC2 EUR 0097 dated September 19, 1997, Minutes—PTC2–EUR 0098 dated September 19, 1997, Intended effective date: as early as October 15, 1997.

Docket Number: OST–97–2930.

Date Filed: September 23, 1997.

Parties: Members of the International Air Transport Association.

Subject: PTC1 0053 dated August 29, 1997, TC1 Longhaul Resolutions r1–51, PTC1 0051 dated August 29, 1997, TC1 Areawide Resolutions r52–56, Minutes—PTC1 0056 dated September 12, 1997, Tables—PTC1 Fares 0021 dated September 12, 1997, Correction—PTC1 0055 dated September 9, 1997, Correction—PTC1 0057 dated September 16, 1997, Intended effective date: January 1, 1998.

Docket Number: OST–97–2928.

Date Filed: September 23, 1997.

Parties: Members of the International Air Transport Association.

Subject: PTC3 Telex Mail Vote 890, Korea-Japan fares r1–10, Intended effective date: October 1, 1997.

Docket Number: OST–97–2938.

Date Filed: September 25, 1997.

Parties: Members of the International Air Transport Association.

Subject: COMP Telex Reso 033f—Hungary, Local Currency Rate Changes—Cargo, Intended effective date: November 1, 1997.

Paulette V. Twine,

Documentary Services.

[FR Doc. 97–26332 Filed 10–2–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending September 26, 1997

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–95–258.
Date Filed: September 24, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 26, 1995.
Description: Application of Lynden Air Cargo LLC requests that its certificate of public convenience and necessity be reissued eliminating the Loken Aviation trade name.

Docket Number: OST–97–2936.
Date Filed: September 25, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 23, 1997.
Description: Application of WINAIR, Inc., pursuant to 49 U.S.C. 41102 and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity to authorize WINAIR to engage in foreign charter air transportation of persons, property and mail.

Docket Number: OST–97–2937.
Date Filed: September 25, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 23, 1997.
Description: Application of WINAIR, Inc., pursuant to 49 U.S.C. 41102 and Subpart Q of the Regulations, for a certificate of public convenience and necessity to authorize WINAIR to engage in interstate charter air transportation of persons, property and mail.

Docket Number: OST–97–2941.
Date Filed: September 25, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 23, 1997.
Description: Application of Planet Airways, Inc., pursuant to 49 U.S.C. 41102 and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing it to engage in Foreign Charter Air Transportation, of persons, property and mail.

Docket Number: OST–97–2940.
Date Filed: September 25, 1997.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 23, 1997.
Description: Application of Planet Airways, Inc., pursuant to 49 U.S.C. 41102, and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing it to engage in interstate charter air transportation of persons, property and mail.

Paulette V. Twine,
Documentary Services.

[FR Doc. 97–26333 Filed 10–2–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Extension of Comment Period and Additional Public Hearings

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of extension of comment period and additional public hearings.

SUMMARY: In accordance with the requirements of the National Environmental Policy Act of 1969, as amended, (NEPA), 42 U.S.C. 4332(2)(C), the FAA is preparing an Environmental Impact Statement (EIS) for terminal Doppler weather radar to serve John F. Kennedy International and LaGuardia Airports. The Draft EIS document was distributed in August 1997. Written requests for the Draft EIS and written comments on the Draft EIS should be submitted as follows: Federal Aviation Administration, Office of the Chief Counsel, Attention: Docket (AGC–200) Docket No. 28365, 800 Independence Avenue, SW, Washington, DC 20591. The comment period has been extended; comments on the Draft EIS will be accepted until November 21, 1997. Additional public hearings will be held Wednesday, November 5, 1997, and Thursday, November 6, 1997.

DATES: The comment period is extended until November 21, 1997. Two additional public meetings will be held; one on November 5, 1997, PS 114—The Belle Harbor School, Belle Harbor, NY; and one on November 6, 1997, PS 236—The Mill Basin School, Brooklyn, NY. For both meetings there will be exhibits and sign-in at 6:30 p.m.; a brief presentation followed by public comments on the Draft EIS will begin at 7:00 p.m.

ADDRESSES: Written comments may be submitted as follows: Federal Aviation Administration, Office of the Chief Counsel, Attention: Docket (AGC–200) Docket No. 28365, 800 Independence Avenue, Washington, DC 20591. The meeting locations are:

1. November 5, 1997, PS 114—The Belle Harbor School, 400 Beach 135th, Belle Harbor, NY 11694.
2. November 6, 1997, PS 236—The Mill Basin School, 6302 Avenue U, Brooklyn, NY 11234.

FOR FURTHER INFORMATION CONTACT: Jerome D. Schwartz, Federal Aviation Administration, Environmental Specialist, Wind Shear Products Team, AND–420, 800 Independence Avenue, SW, Washington, DC 20591, telephone (202) 267–9841.

Issued in Washington, DC on September 30, 1997.

James Link,
Deputy Leader, Integrated Product Team for Surveillance, AND–400.

[FR Doc. 97–26326 Filed 10–2–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Supplement to the Environmental Impact Statement: Gibson, Daviess, Greene, Monroe, Pike, Warrick Counties

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Supplement to the Draft Environmental Impact Statement for the proposed Southwest Indiana Highway Corridor will be prepared.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas N. Head, Program Operations Engineer, Federal Highway Administration, 575 N. Pennsylvania Street, Room 254, Indianapolis, Indiana 46204, Telephone: (317) 226–7487, Fax: 226–7341.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Indiana Department of Transportation will prepare a Supplement to the Draft Environmental Impact Statement for the Southwest Indian Highway Corridor which will connect Bloomington to Evansville. The Draft Environmental Impact Statement was accepted by Federal Highway Administration on

March 27, 1996, and circulated for comments.

Alternatives under consideration include those already discussed in the Draft Environmental Impact Statement and those to be covered in the proposed Supplement.

The Supplement will evaluate additional highway and non-highway economic development alternatives. The Supplement will also discuss environmental impacts associated with secondary impacts of economic development resulting form the proposed action, and will include a revised discussion of purpose and need.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this Supplement to the Draft Environmental Impact Statement should directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding inter-governmental consultation on Federal programs and activities apply to the program)

Douglas N. Head,

Program Operations Engineer, Indianapolis, Indiana.

[FR Doc. 97–26309 Filed 10–2–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 32760 (Sub-No. 24)]

The Burlington Northern and Santa Fe Railway Company; Trackage Rights Exemption; Union Pacific Railroad Company and Southern Pacific Transportation Company

The Union Pacific Railroad Company (UP) and Southern Pacific Transportation Company (SP) have agreed to grant overhead trackage rights and certain local access rights to The Burlington Northern and Santa Fe Railway Company as follows: (a) Over a rail line owned by SP extending from milepost 212.7 near Tower 105 at San Antonio, TX; and (b) over a rail line owned by UP extending from milepost 235.9 near Craig Junction, TX, to milepost 259.8 near SP Junction (Tower 112) via Fratt, TX, a total distance of approximately 25.6 miles, for the purpose of serving CPSB's (City Public Service Board of San Antonio) facilities at Elmendorf, TX. The transaction was expected to be consummated on September 24, 1997.[1]

These trackage rights are related to conditions imposed as part of the UP/SP merger in *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company*, Finance Docket No. 32760 (Decision No. 44) (STB served Aug. 12, 1996); (Decision No. 52) (STB served Sept. 10, 1996); and (Decision No. 61) (STB served Nov. 20, 1996).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32760 (Sub-No. 24), must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001 and served on: Erika Z. Jones, Mayer, Brown & Platt, 2000 Pennsylvania Avenue, N.W., Washington, DC 20006 and Arvid E. Roach II, Covington & Burling, 1201 Pennsylvania Avenue, N.W., P. O. Box 7566, Washington, DC 20044–7566.

Decided: September 26, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26310 Filed 10–2–97; 8:45 am]

BILLING CODE 4915–00–P

[1] Under 49 CFR 1180.4(g)(1), a trackage rights exemption is effective 7 days after the notice is filed. Although applicant indicated that the proposed transaction would be consummated on September 22, 1997, the notice was not filed until September 17, 1997, and thus the proposed transaction could not be consummated before the September 24, 1997 effective date.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33456]

East Penn Railways, Inc.; Lease and Operation Exemption; Southeastern Pennsylvania Transportation Authority

East Penn Railways, Inc. (East Penn), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease and operate a total of approximately 14.9 miles of rail line owned by Southeastern Pennsylvania Transportation Authority, known as the Bethlehem Branch, which includes the portion of the Quakertown Line extending from MP 30.5+/− at Telford, Montgomery County, PA, and MP 45.4+/− at Quakertown, Bucks County, PA, and the right to interchange with Consolidated Rail Corporation south of MP 30.5+/−. The transaction was expected to be consummated on or after September 15, 1997.[1]

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33456, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001 and served on: John K. Fiorilla, Watson, Stevens, Fiorilla & Rutter, 390 George Street, P. O. Box 1185, New Brunswick, NJ 08903.

Decided: September 26, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26311 Filed 10–2–97; 8:45 am]

BILLING CODE 4915–00–P

[1] Under 49 CFR 1150.41(b), the exemption is effective 7 days after the notice is filed. Although applicant indicated that the proposed transaction would be consummated on September 8, 1997, the notice was not filed until September 8, 1997, and thus the proposed transaction could not be consummated before the September 15, 1997 effective date of the exemption. Counsel for East Penn has acknowledged that September 15 was the earliest that the transaction could be consummated.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Bond-Drawback of Tax on Tobacco Products, Cigarette Papers, or Tubes.

DATES: Written comments should be received on or before December 2, 1997 to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Cliff Mullen, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8181.

SUPPLEMENTARY INFORMATION:

Title: Bond-Drawback of Tax on Tobacco Products, Cigarette Papers, or Tubes.

OMB Number: 1512–0118.

Form Number: ATF F 2148 (5200.17).

Abstract: ATF F 2148 (5200.17) is necessary to secure payment for tobacco articles on which a drawback (refund on tariff or other tax) has been claimed and paid. The bond will secure payment in the event that a claim was not lawfully refunded. The bond describes the particular conditions under which the surety company and drawback claimant adhere to a description of what the bond covers. The recordkeeping requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 50.

REQUEST FOR COMMENTS: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 26, 1997.

John W. Magaw,

Director.

[FR Doc. 97–26259 Filed 10–2–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Marks on Equipment and Structures, Marks and Labels on Containers of Beer.

DATES: Written comments should be received on or before December 2, 1997 to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Charles Bacon, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8518.

SUPPLEMENTARY INFORMATION:

Title: Marks on Equipment and Structures, Marks and Labels on Containers of Beer.

OMB Number: 1512–0478.

Recordkeeping Requirement ID Number: ATF REC 5130/3, Marks on Equipment and Structures and ATF REC 5130/4, Marks and Labels on Containers of Beer.

Abstract: Marks, signs and calibrations are necessary on equipment and structures for identifying major equipment for accurate determination of tank contents, and segregation of taxpaid and nontaxpaid beer. Marks and labels on containers of beer are necessary to inform consumers of container contents, and to identify the brewer and place of production. This information collection requires the marking of tanks, containers and signs identifying rooms. Therefore, there is no recordkeeping requirement associated with this collection.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,400.

Estimated Time Per Respondent: 0.

Estimated Total Annual Burden Hours: 1 hour.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the information on respondents, including through the use of automated collection techniques

or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 26, 1997.

John W. Magaw,

Director.

[FR Doc. 97–26260 Filed 10–2–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for License, Collector of Curios and Relics.

DATES: Written comments should be received on or before December 2, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Nicholas Colucci, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8475.

SUPPLEMENTARY INFORMATION:

Title: Application for License, Collector of Curios and Relics.

OMB Number: 1512–0518.

Form Number: ATF F 7CR (5310.16).

Abstract: ATF F 7CR (5310.16) is used by the public when applying for a Federal firearms license to collect curios and relics in interstate and foreign commerce. The information requested on the form establishes eligibility for the license.

Current Actions: Revisions have been made to the form in accordance with new laws and regulations. A new question F. has been added to item 8. A newly created DEFINITIONS section has been added to the back of the form. Definition 1. defines ''Restraining Order'' and Definition 2. defines ''Intimate Partner.'' These revisions are necessitated by the Violent Crime Control and Law Enforcement Act of 1994, which amended the Gun Control Act of 1968 to add a new subsection, 18 U.S.C. Section 922(g)(8). Also, a new question E. has been added to item 9. Definition 3. defines ''Misdemeanor Crime of Domestic Violence.'' These revisions are necessitated by the Omnibus Consolidated Appropriations Act of 1997, which amended the Gun Control Act of 1968 to add a new subsection, 18 U.S.C. Section 922(g)(9). The last revision is the addition of item 10. APPLICANT CERTIFICATION. Item 10. requires the applicant to certify to certain conditions in order to qualify for a Collector of Curios and Relics license.

Type of Review: Extension with changes.

Affected Public: Individuals or households.

Estimated Number of Respondents: 6,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 1,500.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 26, 1997.

John W. Magaw,

Director.

[FR Doc. 97–26261 Filed 10–2–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Usual and Customary Business Records Maintained By Brewers.

DATES: Written comments should be received on or before December 2, 1997 to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Charles Bacon, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8518.

SUPPLEMENTARY INFORMATION:

Title: Usual and Customary Business Records Maintained By Brewers.

OMB Number: 1512–0333.

Recordkeeping Requirement ID Number: ATF REC 5130/1.

Abstract: ATF audits brewers' records to verify production of beer and cereal beverage and to verify the quantity of beer removed subject to tax and removed without payment of tax. The recordkeeping requirement associated with this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is only being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 1,400.

Estimated Time Per Respondent: 0.

Estimated Total Annual Burden Hours: 1 hour.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 26, 1997.

John W. Magaw,

Director.

[FR Doc. 97–26262 Filed 10–2–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Notice of Release/Return of Tobacco Products, Cigarette Papers and Tubes.

DATES: Written comments should be received on or before December 2, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Cliff Mullen, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8181.

SUPPLEMENTARY INFORMATION:

Title: Notice of Release/Return of Tobacco Products, Cigarette Papers and Tubes.

OMB Number: 1512–0116.

Form Number: ATF F 2145 (5200.11).

Abstract: ATF F 2145 (5200.11) documents the removal of tobacco products and cigarette papers and tubes without payment of tax from the custody of U.S. Customs to bonded tobacco products factories and manufacturers of cigarette papers and tubes. The form identifies the establisment that is responsible for the tax on tobacco article products released from Customs custody, products returned and the authorizing Government official. The recordkeeping requirement for this information collection is 3 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 153.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 306.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 26, 1997.

John W. Magaw,

Director.

[FR Doc. 97–26263 Filed 10–2–97; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Request for Disposition of Offense.

DATES: Written comments should be received on or before December 2, 1997 to be assured of consideration.

ADDRESS: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Dottie Morales, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8051.

SUPPLEMENTARY INFORMATION:

Title: Request for Disposition of Offense.

OMB Number: 1512–0390.

Form Number: ATF F 5020.29.

Abstract: The information provided on this form determines whether an applicant is eligible to receive a Federal license or permit. If an applicant applies for a license or permit and has an arrest record charged with a violation of Federal or State law and there is no record present of the disposition of the case(s), the form is sent to the Clerk of the Court or Custodian of Records to ascertain the disposition of the case. Records are kept indefinitely for this information collection.

Current Actions: There are no changes to this information collection and it is

being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 3000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,500.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 26, 1997.

John W. Magaw,

Director.

[FR Doc. 97–26264 Filed 10–2–97; 8:45 am]

BILLING CODE 4810–31–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported For Exhibition Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Lorenzo Lotto: Rediscovered Master of the Renaissance'' (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the National Gallery of Art from on or about November 2, 1997, through on or about March 2, 1998, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

Dated: September 29, 1997.

Les Jin,

General Counsel.

[FR Doc. 97–26291 Filed 10–2––97; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Lorie Nierenberg, Assistant General Counsel, at 202/619–6084. The address is U.S. Information Agency, 301 4th Street, S.W., Room 700, Washington, D.C. 20547–0001.

federal register

Friday
October 3, 1997

Part II

Department of Energy

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products: Test Procedure for Kitchen Ranges, Cooktops, Ovens, and Microwave Ovens; Final Rule

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–94–230]

RIN 1904–AA–52

Energy Conservation Program for Consumer Products: Test Procedure for Kitchen Ranges, Cooktops, Ovens, and Microwave Ovens

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE or the Department) is amending its test procedure for kitchen ranges, cooktops, ovens, and microwave ovens. Generally, this rulemaking incorporates portions of the International Electrotechnical Commission Standard 705 and Amendment 2 thereto, and updates the annual useful cooking energy for kitchen ranges, cooktops, ovens, and microwave ovens.

EFFECTIVE DATES: This rule is effective November 3, 1997. The incorporation by reference of portions of International Electrotechnical Commission Standard 705 (referred to as IEC 705) and Amendment 2 thereto (referred to as Amendment 2) as referenced below is approved by the Director of the Federal Register as of November 3, 1997.

ADDRESSES: The Department of Energy (DOE or the Department) is incorporating by reference the following industry consensus test standard upon publication of this final rule.

1. IEC 705, ''Methods for Measuring the Performance of Microwave Ovens for Household and Similar Purposes,'' Section 4, Methods of Measurement, Paragraph 13 ''Electrical Power Input Measurement,'' and Paragraph 14 ''Efficiency'' (1988).

2. IEC 705, Amendment 2, ''Methods for Measuring the Performance of Microwave Ovens for Household and Similar Purposes,'' Section 4, Methods of Measurement, Paragraph 12 ''Microwave Power Output Measurement'' (1993).

Documents incorporated by reference may be viewed at the Department of Energy Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–3142, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Copies of the International Electrotechnical Commission publications can be obtained from the American National Standards Institute, 11 West 42nd Street, New York, New York 10036, (212) 642–4936.

FOR FURTHER INFORMATION CONTACT: Terry Logee, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0121, (202) 586–1689, FAX (202) 586–4617, terry.logee@ee.doe.gov.

Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0103, (202) 586–7432, francine.pinto@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction
  A. Background
II. Discussion
  A. Cooking Appliances Generally
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  C. Microwave Ovens
III. Determination Concerning the Impact of the Amended Test Procedure on Standards
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  A. Review Under the National Environmental Policy Act of 1969
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  J. Congressional Notification

I. Introduction

A. Background

Part B of Title III of the Energy Policy and Conservation Act, as amended (EPCA or the Act), establishes the Energy Conservation Program for Consumer Products Other Than Automobiles (Program).[1] The products currently subject to this Program (often called hereafter ''covered products'') include kitchen ranges, cooktops, ovens, and microwave ovens, which are the subject of today's notice.

Under the Act, the Program consists essentially of three parts: testing, labeling, and Federal energy conservation standards. The Department, in consultation with the National Institute of Standards and Technology (formerly the National Bureau of Standards), is required to amend or establish new test procedures as appropriate for each of the covered products. Section 323 of EPCA, 42 U.S.C. 6293. The purpose of test procedures is to produce test results which measure energy efficiency, energy use, water use (in the case of showerheads, faucets, water closets and urinals), or estimated annual operating cost of a covered product during a representative average use cycle or period of use. The test procedure must not be unduly burdensome to conduct. Section 323 (b)(3) of EPCA, 42 U.S.C. 6293 (b)(3).

DOE is required to determine to what extent, if any, an amended test procedure would alter the measured energy efficiency, measured energy use, or measured water use of any covered product as determined under the existing test procedure. Section 323(e)(1) of EPCA, 42 U.S.C. 6293(e)(1).

One hundred and eighty days after a test procedure for a product is prescribed or established, no manufacturer, distributor, retailer, or private labeler may make representations with respect to energy use, efficiency, or the cost of energy consumed by products covered by this rule, except as reflected in tests conducted according to the new or amended DOE test procedure and such representations fairly disclose the results of such tests. Section 323(c)(2) of EPCA, 42 U.S.C. 6293(c)(2). Thus, beginning on April 1, 1998, representations with respect to the products covered by this rule must be consistent with this amended test procedure.

On May 10, 1978, the Department published the current test procedure for conventional ranges, cooking tops, ovens, and microwave/conventional ranges, 43 FR 20120. These procedures are codified at 10 CFR Part 430, Subpart B, Appendix I. On March 23, 1995, (60 FR 15330), DOE published a proposed rule to amend the current test procedure.

On July 23, 1997, DOE made available to the public copies of a version of this final rule issued on July 17, 1997. That version was not published in the **Federal Register**. Today, DOE publishes this final rule as a substitute for the version issued on July 17, 1997. Today's final rule contains clarifying, non-substantive changes from the version distributed in July.

[1] Part B of Title III of EPCA, as amended, is referred to in this final rule as ''EPCA'' or the ''Act.'' Part B of Title III has been redesignated as Part A for purposes of codification. It is codified at 42 U.S.C.

II. Discussion

A. Cooking Appliances Generally

1. Combined Component Efficiency

DOE proposed to sum the efficiencies of components to calculate the efficiency of combined components (range, microwave/oven or microwave/range). Two commenters stated that the calculation of energy efficiency for all combined components was incorrect in the proposed test procedure. (AHAM, No. 3 at 3; No. 33 Attachment 2 at 2; July 12, 1995 transcript at 46; Whirlpool, No. 28 at 2.)[2]

DOE has corrected the proposed section 4.3, ''Combined Components,'' by removing the requirement to add efficiencies for combined components. The Final Rule provides no method for calculating the efficiencies for combined components because appropriate usage factors could not be determined.

2. Surface Temperature Probe Tolerance

DOE proposed that the tolerance for the surface temperature probe, Section 2.9.3.5, ''Temperature Indicator System for Measuring Surface Temperatures,'' should be changed to ±0.45°F. Several commenters, stated that the surface temperature probe tolerance of ±0.45°F for surface temperature measurement is overly strict and that the tolerance should be ±1°F as stated in the existing test procedure. (Weizeorick, No.3 at 2; July 12, 1995 Transcript at 45; Whirlpool, No. 28 at 2; and AHAM, No. 33 Attachment 2 at 2.) DOE agrees with these comments and will continue to use a tolerance of ±1°F for the surface temperature probe.

3. Comments Regarding Energy Conservation Standards for Cooking Products

Several commenters included statements on issues concerning standards for cooking products in their written comments. (Whirlpool, No. 28 at 2–3; Weizeorick, No. 3 at 6; Donovan et al., No. 47 at 1–2; AHAM, No. 33 at 2, Attachment 3A and Attachment 3C at 6 and 10; Sharp Electronics, No. 40 at 13.) However, this rulemaking is strictly limited to promulgating test procedures for cooktops, ranges, ovens and microwave ovens. Therefore, these comments are outside the scope of this proceeding and will be addressed in the rulemaking entitled; ''Final Rule Regarding Energy Conservation Standards for Kitchen Ranges, Ovens, and Microwave Ovens,'' Docket No. EE-RM–93–201.

[2] Written comments will be referenced by their assigned number.

B. Cooktops, Ranges and Ovens

1. Annual Useful Cooking Energy

In the proposed rule, DOE proposed to modify the annual useful cooking energy from the existing test procedure for each product class to reflect the change in cooking trends in the United States as follows: electric ovens from 47.09 kWh/yr (169.5 MJ/yr) to 35.5 kWh/yr (105.5 MJ/yr), gas ovens from 160.7 kBtu/yr (169.547 kJ/yr) to 124.2 kBtu/yr (131,038 kJ/yr), electric cooktops from 277.7 kWh/yr (1000 MJ/yr) to 209.4 kWh/yr (752.4 MJ/yr), gas cooktops from 947.5 kBtu/yr (999,600 kJ/yr) to 732.5 kBtu/yr (772,800 kJ/yr).

Several commenters contended that the proposed rule overstated the annual energy use of cooktops, ovens, and ranges. (AHAM, July 12, 1995 transcript at 38, 42–44, 47–48; Weizeorick, No. 3 at 1–3, 5; American Gas Association, No. 25 at 4–5; Whirlpool No. 28 at 1–2; Battelle, No. 46 at 2–6.) AHAM and Whirlpool commented that the annual energy consumption of electric cooktops should be lowered from 209.4 kWh/yr to 157.0 kWh/yr based on a Northern Illinois Gas Study. (AHAM, No. 33 at 2 and Whirlpool, No. 28 at 1.)

In response to these comments, the Lawrence Berkeley National Laboratory (LBNL) analyzed an extensive collection of studies including those identified by commenters to obtain today's revised values of annual useful cooking energy. The studies analyzed include: Gas Research Institute Report: ''Topical Report, Metered Ranges, Cooktops, and Ovens in the Northern Illinois Gas Residential Load Study Data Base,'' GRI–93/0204, July 1993; ''Electric Oven and Cooktop Data Analysis,'' prepared for the Association of Home Appliance Manufacturers by Arthur D. Little, Reference 47066, July 15, 1994; Electric Power Research Institute (CU–6952), ''Residential Energy Usage Comparison Project: An Overview,'' October 1990; Lawrence Berkeley National Laboratory (LBL–33717), ''Baseline Data for the Residential Sector and Development of a Residential Forecasting Database,'' May 1994; Electric Power Research Institute (CU–7392), ''Residential Energy Usage Comparison: Findings,'' August 1991; and Electric Power Research Institute (CU–6487), ''Residential End-Use Energy Consumption: A Survey of Conditional Demand and Estimates,'' October 1989. Copies of these studies are available for inspection in DOE's Freedom of Information Reading Room.

Based on the data from the above-referenced studies, DOE calculated a weighted average of the annual useful cooking energy for all cooking products. For estimates of annual useful cooking energy for conventional electric cooktops and ovens, and also for gas cooktops and ovens, only the latest metered data were included. Data used in the analysis shows the trend in cooking usage has been downward and shows indications that there are regional differences and year-to-year fluctuations in cooking usage. No regional effects were included in this analysis.

Accordingly, DOE has lowered the annual useful cooking energy of each product class in this final rule to make it representative of current United States cooking patterns. These quantities are being lowered to 29.3 kWh/yr for electric ovens, 88.8 kBtu/yr for gas ovens, 173.1 kWh/yr for electric cooktops and 527.6 kBtu/yr for gas cooktops.

2. Elimination of Continuous Flow Calorimeter

In the proposed rule, the Department eliminated the requirement to use a standard continuous flow calorimeter for gas cooking products because of the limited availability of this instrument. This change was favorably received by all commenters. (Weizeorick, No. 3 at 2 and Whirlpool, No. 28 at 2.)

In the final test procedure, DOE allows the manufacturer to choose the instrument to be substituted for the standard continuous flow calorimeter. Additionally, DOE requires in section 2.9.4, ''Heating Value,'' that the heating value of natural or propane gas shall be measured with an instrument and associated indicator readout device of a maximum error no greater than ±.5 percent of the measured value and a resolution of ±.2 percent or less of the full scale reading of the indicator instrument.

3. Convection Mode Testing

In the proposed test procedure, DOE added sections 3.2.1, ''Conventional oven test energy consumption'' and subsection 3.3.5 of section 3.3, ''Recorded Values,'' to include convection mode testing. AHAM, Weizeorick and Whirlpool supported these changes in the final test procedures. (Weizeorick, No. 3 at 4; Whirlpool, No. 33 Attachment 2 at 3; July 12, 1995 transcript at 47; Whirlpool, No. 28 at p.2). In the final test procedure, DOE adopted the changes as originally proposed.

4. Electric Clock

DOE proposed that during testing, the electrical clock which uses energy continuously be disconnected, except for microwave ovens. Weizeorick states that it is impossible to disconnect an

electric clock for ranges that have circuits which control the oven and cooktop unit temperatures in conjunction with a clock. (Weizeorick, No. 3 at 4, AHAM, No. 33 Attachment 2 at 2; July 12, 1995 transcript at 46–47.)

DOE agrees that several ranges employ circuits which control the oven and cooktop unit temperatures in conjunction with a clock that cannot be disconnected. Therefore, several sections of the final test procedure have been modified to address this issue. Section 3.2.1.4, ''Clock Power.'' is modified to state that the power rating or the measurement of a continuously operating clock that is an integral part of the timing or temperature control circuit which cannot be disconnected during the test may be multiplied by the applicable test period to obtain test energy consumption in watt-hours (kJ). This procedure is used to calculate annual clock energy consumption for electric clocks that cannot be disconnected. Language has also been added to the following sections to subtract the energy consumed by the clock during testing when the clock cannot be disconnected: Section 2.1, ''Installation''; section 3.2.1, ''Conventional oven test energy consumption''; section 3.2.1.1, ''Conventional oven average test energy consumption''; section 3.2.1.2, ''Energy consumption of self-cleaning operation'; section 3.2.1.4, ''Clock power''; and section 3.2.2, ''Conventional surface unit test energy consumption.''

5. Number of Self-Cleaning Oven Cycles Per Year

In the existing and proposed test procedure, section 4.1.2.3.1, ''Annual primary energy consumption'' and section 4.1.2.3.2, ''Annual secondary energy consumption for self-cleaning operation of gas ovens,'' DOE uses 11 self-cleaning cycles per year for electric ovens and 7 for gas ovens.

Two commenters stated that DOE's number of self-cleaning cycles of 11 and 7 for gas and electric ovens respectively were too high and it should be 4 for both electric and gas ovens as reflected in internal marketing data. (Weizeorick, No. 3 at 2–3; AHAM, No. 33, Attachment 2 at 2, July 12, 1995 transcript at 45–46; Whirlpool, No. 28 at 2.) In response to several comments, DOE has reduced the number of self-cleaning oven cycles per year for gas and electric ovens. DOE agrees with the figures used by the Gas Research Institute in a 1994 Gas Research Institute Topical Report (GRI–94/0195) and has changed the number of self-cleaning cycles per year to 4 for gas and electric ovens.

6. Change of Symbol Representing Number of Hours Per Year—H_K

In the existing and proposed test procedure, DOE uses the symbol ''H_K'' to represent the number of hours in a year. Weizeorick commented that the symbol ''H_K'' in section 4.1.2.4, ''Annual clock energy consumption'' should be changed to ''A'' because the symbol ''H'' is traditionally used to represent heating values. (Weizeorick, No. 3 at 4.) DOE agrees and is substituting the character ''A'' for ''H_K'' in sections 4.1.2.4, ''Annual clock energy consumption'' and 4.2.2.2, ''Annual energy consumption of any continuously burning gas pilots.''

7. Editorial Error in Section 3.1.1, ''Conventional Oven''

DOE has corrected an editorial error in section 3.1.1, paragraph 2. The following language has been changed: ''If the oven * * *, (180.6 °C) air temperature'' to ''If the oven * * *, (180.6 °C) higher than the room ambient air temperature.''

C. Microwave Ovens

1. Annual Useful Cooking Energy

In its Proposed Rule, DOE proposed to modify the annual useful cooking energy from the existing test procedure for microwave ovens to reflect the change in cooking trends in the United States. Use of microwave ovens was proposed to be increased from 34.2 kWh/yr (123 MJ/yr) to 77.3 kWh/yr (278.3 MJ/yr).

Several commenters contended that the proposal overstated the annual energy consumption of microwave ovens. (AHAM, No. 33 Attachment 2 at 3; Whirlpool, No. 28 at 2–3). Joy Weis Daniel, representing both AHAM and Sharp Electronics Company, stated that DOE should use 100 kWh/yr for annual energy consumption of microwave ovens based on an average of several metered studies. Their recommendation was based on metered studies which included: the Sierra Pacific EIP Study 1988, Southern California Edison 1990, Southern California Edison 1991, Utility Estimates Study 1991, and three studies reported in baseline data 1994. (Daniel, No. 4 at 6; AHAM, No. 33, Attachment 3B; Sharp, No. 40 at 7–9 and Exhibit C.)

In response to these comments, LBNL analyzed the microwave oven studies including those identified by commenters. The studies analyzed include: American Electric Power (AEP)/Residential Energy Consumption Survey (RECS), AEP Report ''Utility Estimates of Household Appliance Electricity Consumption,'' March 16, 1992, reported in RECS ''Household Energy Consumption and Expenditures 1990,'' DOE/EIA–0321(90), February 1993; Southern California Edison, ''Residential Appliance End-Use Survey'' for 1990 and 1991; and the 1988 Sierra Pacific EIP Study included in the Electric Power Research Institute (CU–6487), ''Residential End-Use Energy Consumption: A Survey of Conditional Demand and Estimates,'' October 1989. Copies of these studies are available for inspection in DOE's Freedom of Information Reading Room.

Based on the data from the above-referenced studies, DOE calculated a weighted average of the annual useful cooking energy for microwave ovens. For the estimate of annual useful cooking energy, both conditional demand analyses (CDA) and metered study data were included due to the limited data available. Since the metered studies are only from California, the Department believes it is necessary to include the CDA studies to get broader national representation including New York, Florida, Maryland and Texas. This analysis shows that annual useful cooking energy for microwave ovens is 79.8 kWh/yr. Today's final test procedure reflects this revised value.

2. Microwave Clock Energy

In the proposed rule, DOE included the clock energy in the calculation of annual energy consumption for microwave ovens. It accomplished this by incorporating paragraph 12 of IEC 705 Amendment 2–1993, ''Microwave Power Output Measurement.'' No comments were received. The final rule remains unchanged from the proposed rule.

3. Amend the DOE Test Procedure To Reference Portions of IEC 705 and Amendment 2

In the proposed rule, a definition of IEC 705 was added in section 1.5 and several sections of the test procedure were amended to reference portions of IEC 705 or Amendment 2 as follows: (1) Section 2.1.3, ''Microwave Ovens''; (2) section 2.5, ''Ambient Room Air Temperature''; (3) new section 2.8, ''Microwave Oven Test Load''; (4) section 2.9.3.1, ''Room Temperature Indicating System''; (5) section 2.9.3.4, ''Test Load Temperature''; (6) section 2.9.5, ''Scale''; (7) new section 3.1.3.1, ''Microwave Oven Test Energy or Power Output''; (8) section 3.2.3, ''Microwave Oven Test Energy Consumption and Power Input''; (9) section 4.4.2, ''Microwave Oven Test Power Output''; and (10) section 4.4.4, ''Microwave Oven Cooking Efficiency.'' The final rule reflects these changes. No

comments were received on these proposed changes.

4. Editorial Error in Section 4.4.1

In the proposed test procedure, the equation in section 4.4.1, ''Microwave oven test energy'', yields an answer that is incorrect by a factor of 1000. DOE corrected this problem in the final test procedure by changing the conversion factor ''H_E'' from ''H_E=(3.412 Btu/Wh) 3.6 kJ/Wh to ''H_E=(3,412 Btu/kWh) 3,600 kJ/kWh.''

5. Usage of Watt Meter and Watt-Hour Meter

DOE proposed the continued use of a watt-hour meter during microwave oven operation to measure energy consumption, also known as energy input, while performing the test procedure. DOE stated that the watt-hour meter is more accurate than a watt meter. The watt-hour meter measures all transient energy,[3] whereas the watt meter does not.

Several commenters disagreed with DOE's decision to use a watt-hour meter to determine the energy consumption of microwave ovens. AHAM took the position that a watt meter is sufficient to measure energy consumption. It contended that the power measured by the watt meter multiplied by the duration of the test, which is measured by the stop watch or timer, will yield an accurate measurement of energy consumption. (AHAM, No. 33, Attachment 3A and Attachment 3C; July 12, 1995 transcript at 62.) Sharp Electronics Corporation argued that DOE's claim that the watt-hour meter is more accurate is not supported by data. (Sharp, No. 40 at 5; July 12, 1995 transcript at 60.)

None of the commenters provided any data to demonstrate that the energy consumption calculation based on measurements from a watt meter and timer are comparable in accuracy to those derived directly from a watt-hour meter. Since a watt meter, as is used in IEC 705 to measure power, measures instantaneous power, an accurate energy calculation based on watts measured by a watt meter can only be made by summing instantaneous power measurements over small time increments, thus capturing the energy transients and mimicking a watt-hour meter. While it is possible to calculate energy consumption from measurements of power and time, the IEC test procedure itself does not contain a requirement to determine energy consumption nor does it provide a procedure for making that calculation. The Department believes the more appropriate, more accurate, and less burdensome way to measure energy consumption is by using a watt-hour meter rather than measuring power using a watt meter and a calculation procedure to determine energy consumption. Moreover, the watt-hour meter is typically used to measure electricity use in homes and commercial buildings.

6. Application of the ''Agreement on Technical Barriers to Trade'' Requiring Incorporation of IEC Standard 705

Sharp Electronics Corporation contends that DOE is legally obligated to incorporate IEC 705 and Amendment 2. Sharp relies upon Article 2.4 in the ''Agreement on Technical Barriers to Trade,'' (Agreement) a part of the ''World Trade Organization Agreement,'' to make its argument. Article 2.4 provides that where technical regulations are required and relevant international standards exist or their completion is imminent, member nations shall use such standards as a basis for their technical regulations, with certain exceptions. Sharp claims that IEC 705 constitutes an international technical standard applicable to measuring energy efficiency of microwave ovens. (Sharp, No. 40 at 4–6 and Exhibit B.)

Article 2.4 does not apply to the promulgation of a test procedure. The definition of ''technical regulation'' within the Agreement refers to mandatory product standards. Because a test procedure does not establish product standards, but rather provides the basis for evaluating whether a product meets a standard, a test procedure is not a technical regulation within the definition set forth in the Agreement. Therefore, this test procedure is not subject to the application of Article 2.4.

That DOE's rule incorporates the relevant parts of IEC 705 and Amendment 2 and uses that international test procedure as a basis for its test procedure makes it consistent with Article 5.4 of the ''Agreement on Technical Barriers to Trade,'' the controlling provision on test procedures. Article 5.4 provides that members use the ''relevant parts'' of guides or recommendations issued by international standardizing bodies ''as a basis for their conformity assessment procedures'' (defined by the agreement to include test procedures).

The U.S. World Trade Organization (WTO), Technical Barriers to Trade (TBT) enquiry point (National Institute of Standards and Technology) notified the WTO Secretariat of DOE's proposed rule pursuant to Article 2.9.2 of the TBT agreement entitled, ''Notify Members Through the Secretariat of the Products to be Covered by the Proposed Technical Regulation.'' No comments were received by the U.S. TBT enquiry point.

7. Using IEC 705 Updates To Automatically Amend DOE's Final Test Procedure

DOE proposed to incorporate paragraphs 13 and 14 of the 1988 version of IEC 705 and paragraph 12 of IEC 705, Amendment 2, 1993. Whirlpool commented that DOE should automatically accept changes to the IEC standard as they occur. Whirlpool stated that ''DOE references to the IEC 705 should be referred to as 'the latest reference' '' in order to avoid time consuming notice and comment rulemaking each time ''minor'' changes to the IEC test procedure occur. (Whirlpool, No. 28 at 3.) DOE does not accept Whirlpool's suggestion because adopting the language ''latest reference'' is overly broad and would sweep into the test procedure major as well as ''minor'' changes to the IEC test procedure. Therefore, in this final rule, DOE references the specific version and amendment of the IEC 705 as stated above.

8. Incorporation by Reference of Portions of IEC 705 and Amendment 2

DOE proposed to incorporate by reference paragraphs 13 and 14 of IEC 705 and paragraph 12 of Amendment 2. Two commenters supported DOE's proposal to incorporate by reference portions of IEC 705 and Amendment 2. (AHAM, No. 33 at 2; Whirlpool, No. 28 at 2.) Several commenters, however, took the position that DOE should incorporate IEC 705 in its entirety. (AHAM, No. 33, Attachment 3A and Attachment 3C; Sharp, No. 40 at 3.) DOE did not incorporate IEC 705 in its entirety because it contains other test methods such as heating, cooking and defrosting performance that are not relevant to energy consumption for microwave ovens.

In today's final test procedure , DOE is adopting those portions of IEC 705 and Amendment 2 that are pertinent to its test procedure for microwave ovens. This incorporation by reference is found at Section 430.22, ''Reference Sources.''

The Department is also amending section 430.22, Reference Sources, by adding paragraph (b)(5), ASHRAE standards. These standards were previously incorporated by reference in a final rule on Furnace Test procedures

[3] Transient energy is the energy consumed to warm up the magnetron and any fluctuations during microwave use.

published May 12, 1997 (62 FR 26140). In a Final Rule published May 29, 1997 (62 FR 29222), section 430.22 was amended and the furnace standards previously incorporated by reference were removed. Therefore, this rulemaking is correcting section 430.22 to include the standards previously removed.

III. Determination Concerning the Impact of the Amended Test Procedure on Standards

Section 323(e)(1) of EPCA requires that the Department determine to what extent an amended test procedure would alter the measured energy efficiency or measured energy use of kitchen ranges, ovens, cooktops or microwave ovens as compared with the existing test procedure. The Department has determined that the changes in annual useful cooking energy will decrease calculated annual energy use for electric ovens and cooktops by about 62 percent and for gas ovens and cooktops by about 55 percent. The change in annual useful cooking energy for microwave ovens will result in a 233 percent increase in their calculated annual energy use. Because there are currently no energy efficiency or energy consumption standards, no modification to standards is required under Section 323(e)(2) of EPCA.

IV. Procedural Requirements

A. Review Under the National Environmental Policy Act of 1969

In this rule, the Department will finalize amendments to test procedures that may be used to implement future energy conservation standards for kitchen ranges, cooktops, ovens, and microwave ovens. The Department has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* The rule is covered by Categorical Exclusion A5, for rulemakings that interpret or amend an existing rule without changing the environmental effect, as set forth in the Department's NEPA regulations at Appendix A to Subpart D, 10 CFR part 1021. This final rule will not affect the quality or distribution of energy usage and, therefore, will not result in any environmental impacts. Accordingly, neither an environmental impact statement or an environmental assessment is required.

B. Review Under Executive Order 12866, ''Regulatory Planning and Review''

Today's final rule is not a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). Accordingly, today's action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

C. Review Under the Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that an agency prepare an initial regulatory flexibility analysis for any rule, for which a general notice of proposed rulemaking is required, that would have a significant economic effect on small entities unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605. In the notice of proposed rulemaking, DOE determined that the test procedures would not have a significant economic impact, but rather would provide common testing methods. Therefore, DOE certified that the proposed rule would not if promulgated have a significant economic impact on a substantial number of small entities and that preparation of a regulatory flexibility analysis was not warranted. DOE did not receive any comments on the certification.

D. ''Takings'' Assessment Review

DOE has determined pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), that this regulation, if adopted, would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

E. Federalism Review

Executive Order 12612, ''Federalism,'' 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among various levels of Government. If there are substantial direct effects, then the Executive Order requires preparation of a Federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

The final rule published today would not regulate the States. Accordingly, DOE has determined that preparation of a Federalism assessment is unnecessary.

F. Review Under Section 32 of the Federal Energy Administration Authorization Act of 1974

The test procedure amended today incorporates the International Electrotechnical Commission Publication 705, ''Methods for Measuring the Performance of Microwave Ovens for Household and Similar Purposes,'' Paragraph 13 ''Electrical Power Input Measurement,'' and Paragraph 14 ''Efficiency,'' and Amendment 2–1993, Section 4, Paragraph 12 ''Microwave Power Output Measurement,'' to determine the output power and efficiency for microwave ovens.

Pursuant to Section 301 of the Department of Energy Organization Act (Pub. L. 95–91), DOE is required to comply with Section 32 of the Federal Energy Administration Act of 1974, 15 U.S.C. 788. The Department of Energy is required by Section 32 to notify the public regarding the proposed use of commercial standards in a rulemaking and allow interested persons to make known their views regarding the appropriateness of the use of any particular commercial standard in a notice of proposed rulemaking.

DOE included an invitation for public comment in the notice of proposed rulemaking. Commenters supported the inclusion of IEC 705 and Amendment 2–1993 in the test procedure and no adverse comments were received (see Section II.C.8).

In addition, section 32(c) precludes the Department from incorporating any commercial standard into a rule unless it has consulted with the Attorney General and the Chairman of the Federal Trade Commission (FTC) as to the impact of such standard on competition, and neither individual recommends against its incorporation or use. Pursuant to section 32(c), the Department advised these individuals of its intention to incorporate portions of the above-referenced standards into this final rule. Neither recommended against such incorporation.

G. Review Under the Paperwork Reduction Act of 1980

No new information or record keeping requirements are imposed by this rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

H. Review Under Executive Order 12988, ''Civil Justice Reform''

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of

Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on executive agencies the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of the Executive Order specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and reducing burdens; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of the Executive Order requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE reviewed today's rule under the standards of section 3 of the Executive Order and determined that, to the extent permitted by law, it meets the requirements of those standards.

I. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), 2 U.S.C. 1531 *et seq.*, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in one year.

The Department has determined that this final rule does not include any requirements that would result in the expenditure of money by State, local, and tribal governments. It also would not result in costs to the private sector of $100 million or more in any one year. Therefore, the requirements of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

J. Congressional Notification

Consistent with Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801–808, DOE will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this notice. The report will note the Office of Management and Budget's determination that this rule does not constitute a ''major rule'' under that Act. 5 U.S.C. 801, 804.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances, Incorporation by reference.

Issued in Washington, DC, on September 22, 1997.

Joseph J. Romm,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, Part 430 of Chapter II of Title 10, of the Code of Federal Regulations is amended as follows:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for Part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309.

2. Section 430.22 is amended by revising paragraph (a)(1) and adding paragraph (b)(4) and (b)(5) as follows:

§ 430.22 Reference Sources.

(a) *Materials incorporated by reference.*—(1) *General.* The following standards which are not otherwise set forth in Part 430 are incorporated by reference and made a part of Part 430. The standards listed in this section have been approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The specified versions of the standards are incorporated, and any subsequent amendment to a standard by the standard-setting organization will not affect the DOE test procedures unless and until those test procedures are amended by DOE.

(2) * * *

(b)(1) * * *

(2) * * *

(3) * * *

(4) International Electrotechnical Commission. Copies of the International Electrotechnical Commission Publications can be obtained from the American National Standards Institute, 11 West 42nd Street, New York, New York 10036, (212) 642–4936.

1. IEC 705, ''Methods for Measuring the Performance of Microwave Ovens for Household and Similar Purposes,'' Section 4, Methods of Measurement, Paragraph 13 ''Electrical Power Input Measurement,'' and Paragraph 14 ''Efficiency'' (1988).

2. IEC 705, Amendment 2, ''Methods for Measuring the Performance of Microwave Ovens for Household and Similar Purposes,'' Section 4, Methods of Measurement, Paragraph 12 ''Microwave Power Output Measurement'' (1993).

(5) American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., Publication Sales, 1791 Tullie Circle, NE, Atlanta, GA 30329, (1–800–5–ASHRAE).

1. American National Standards Institute/American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 103–1993, ''Methods of Testing for Annual Fuel Utilization Efficiency of Residential Central Furnaces and Boilers,'' (with Errata of October 24, 1996) except for sections 3.0, 7.2.2.5, 8.6.1.1, 9.1.2.2, 9.5.1.1, 9.5.1.2.1, 9.5.1.2.2, 9.5.2.1, 9.7.1, 10.0, 11.2.12, 11.3.12, 11.4.12, 11.5.12 and appendices B and C.

2. American National Standards Institute Standard Z21.56–1994, ''Gas-Fired Pool Heaters,'' section 2.9.

* * * * *

§ 430.23 [Amended]

3. Section 430.23, Test procedures for measures of energy consumption, is amended as follows:

A. In § 430.23(i)(1)(iii) (second sentence) ''4.3.1, 4.2.2, 4.1.2.5, or 4.1.2.6, 4.4.3, and 4.5.1.3'' is revised to read ''4.3, 4.2.2, 4.1.2, and 4.4.3.''

B. In § 430.23(i)(2) (first sentence) ''4.2.1.3, 4.1.3 and 4.4.2'' is revised to read ''4.2.1, 4.1.3, and 4.4.4.''

C. § 430.23 (i)(3) is removed and reserved.

D. In § 430.23(i)(4) (first sentence) ''4.3.3, 4.2.3, 4.1.4, 4.4.4 and 4.5.3'' is revised to read ''4.3, 4.2.3, 4.1.4, 4.4.5.''

E. In §§ 430.23 (i)(8) and 430.23 (i)(9) remove the phrase ''and (i)(3).''

* * * * *

4. Appendix I to Subpart B of Part 430 is revised to read as follows:

Appendix I to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Conventional Ranges, Conventional Cooking Tops, Conventional Ovens, and Microwave Ovens

1. Definitions

1.1 *Built-in* means the product is supported by surrounding cabinetry, walls, or other similar structures.

1.2 *Drop-in* means the product is supported by horizontal surface cabinetry.

1.3 *Forced convection* means a mode of conventional oven operation in

which a fan is used to circulate the heated air within the oven compartment during cooking.

1.4 *Freestanding* means the product is not supported by surrounding cabinetry, walls, or other similar structures.

1.5 *IEC 705* refers to the test standard published by the International Electrotechnical Commission, entitled ''Method for Measuring the Performance of Microwave Ovens for Household and Similar Purposes,'' Publication 705–1988 and Amendment 2—1993. (See 10 CFR 430.22)

1.6 *Normal nonoperating temperature* means the temperature of all areas of an appliance to be tested are within 5°F (2.8°C) of the temperature that the identical areas of the same basic model of the appliance would attain if it remained in the test room for 24 hours while not operating with all oven doors closed and with any gas pilot lights on and adjusted in accordance with manufacturer's instructions.

1.7 *Primary energy consumption* means either the electrical energy consumption of a conventional electric oven or the gas energy consumption of a conventional gas oven.

1.8 *Secondary energy consumption* means any electrical energy consumption, other than clock energy consumption, of a conventional gas oven.

1.9 *Standard cubic foot (L) of gas* means that quantity of gas that occupies 1 cubic foot (L) when saturated with water vapor at a temperature of 60°F (15.6°C) and a pressure of 30 inches of mercury (101.6 kPa) (density of mercury equals 13.595 grams per cubic centimeter).

1.10 *Thermocouple* means a device consisting of two dissimilar metals which are joined together and, with their associated wires, are used to measure temperature by means of electromotive force.

1.11 *Symbol Usage.* The following identity relationships are provided to help clarify the symbology used throughout this procedure.

A—Number of Hours in a Year
B—Number of Hours Pilot Light Contributes to Cooking
C—Specific Heat
E—Energy Consumed
Eff—Cooking Efficiency
H—Heating Value of Gas
K—Conversion for Watt-hours to Kilowatt hours
K_e—3.412 Btu/Wh, Conversion for Watt-hours to Btu's
M—Mass
n—Number of Units
O—Annual Useful Cooking Energy Output
P—Power
Q—Gas Flow Rate
R—Energy Factor, Ratio of useful Cooking Energy Output to Total Energy Input
S—Number of Self Cleaning Operations per Year
T—Temperature
t—Time
V—Volume of Gas Consumed
W—Weight of Test Block

2. Test Conditions

2.1 *Installation.* A free standing kitchen range shall be installed with the back directly against, or as near as possible to, a vertical wall which extends at least 1 foot above and on either side of the appliance. There shall be no side walls. A drop-in, built-in or wall-mounted appliance shall be installed in an enclosure in accordance with the manufacturer's instructions. These appliances are to be completely assembled with all handles, knobs, guards and the like mounted in place. Any electric resistance heaters, gas burners, baking racks, and baffles shall be in place in accordance with the manufacturer's instructions; however, broiler pans are to be removed from the oven's baking compartment. Disconnect any electrical clock which uses energy continuously, except for those that are an integral part of the timing or temperature controlling circuit of the oven, cooktop, or microwave oven. Do not disconnect or modify the circuit to any other electrical devices or features.

2.1.1 *Conventional electric ranges, ovens, and cooking tops.* These products shall be connected to an electrical supply circuit with voltage as specified in Section 2.2.1 with a watt-hour meter installed in the circuit. The watt-hour meter shall be as described in Section 2.9.1.1.

2.1.2 *Conventional gas ranges, ovens, and cooking tops.* These products shall be connected to a gas supply line with a gas meter installed between the supply line and the appliance being tested, according to manufacturer's specifications. The gas meter shall be as described in Section 2.9.2. Conventional gas ranges, ovens and cooking tops with electrical ignition devices or other electrical components shall be connected to an electrical supply circuit of nameplate voltage with a watt-hour meter installed in the circuit. The watt-hour meter shall be as described in Section 2.9.1.1.

2.1.3 *Microwave ovens.* Install the microwave oven in accordance with the manufacturer's instructions and connect to an electrical supply circuit with voltage as specified in Section 2.2.1. A watt-hour meter and watt meter shall be installed in the circuit and shall be as described in Section 2.9.1.1 and 2.9.1.2. If trial runs are needed to set the ''on'' time for the test, the test measurements are to be separated according to Section 4, Paragraph 12.6 of IEC 705 Amendment 2. (See 10 CFR 430.22)

2.2 *Energy supply.*

2.2.1 *Electrical supply.* Maintain the electrical supply to the conventional range, conventional cooking top, and conventional oven being tested at 240/120 volts except that basic models rated only at 208/120 volts shall be tested at that rating. Maintain the voltage within 2 percent of the above specified voltages. For the microwave oven testing, however, maintain the electrical supply to a microwave oven at 120 volts ±1 volt and at 60 hertz.

2.2.2 *Gas supply.*

2.2.2.1 *Gas burner adjustments.* Conventional gas ranges, ovens, and cooking tops shall be tested with all of the gas burners adjusted in accordance with the installation or operation instructions provided by the manufacturer. In every case, the burner must be adjusted with sufficient air flow to prevent a yellow flame or a flame with yellow tips.

2.2.2.2 *Natural gas.* For testing convertible cooking appliances or appliances which are designed to operate using only natural gas, maintain the natural gas pressure immediately ahead of all controls of the unit under test at 7 to 10 inches of water column (1743.6 to 2490.8 Pa). The regulator outlet pressure shall equal the manufacturer's recommendation. The natural gas supplied should have a heating value of approximately 1,025 Btu's per standard cubic foot (38.2 kJ/L). The actual gross heating value, H_n, in Btu's per standard cubic foot (kJ/L), for the natural gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using equipment that meets the requirements described in Section 2.9.4 or by the use of bottled natural gas whose gross heating value is certified to be at least as accurate a value that meets the requirements in Section 2.9.4.

2.2.2.3 *Propane.* For testing convertible cooking appliances with propane or for testing appliances which are designed to operate using only LP-gas, maintain the propane pressure immediately ahead of all controls of the unit under test at 11 to 13 inches of water column (2740 to 3238 Pa). The regulator outlet pressure shall equal the manufacturer's recommendation. The propane supplied should have a heating value of approximately 2,500 Btu's per standard cubic foot (93.2 kJ/L). The

actual gross heating value, H_p, in Btu's per standard cubic foot (kJ/L), for the propane to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using equipment that meets the requirements described in Section 2.9.4 or by the use of bottled propane whose gross heating value is certified to be at least as accurate a value that meets the requirements described in Section 2.9.4.

2.2.2.4 *Test gas.* A basic model of a convertible cooking appliance shall be tested with natural gas, but may also be tested with propane. Any basic model of a conventional range, conventional cooking top, or conventional oven which is designed to operate using only natural gas as the energy source must be tested with natural gas. Any basic model of a conventional range, conventional cooking top, or conventional oven which is designed to operate using only LP gas as the gas energy source must be tested with propane gas.

2.3 *Air circulation.* Maintain air circulation in the room sufficient to secure a reasonably uniform temperature distribution, but do not cause a direct draft on the unit under test.

2.4 *Setting the conventional oven thermostat.*

2.4.1 *Conventional electric oven.* Install a thermocouple approximately in the center of the usable baking space. Provide a temperature indicator system for measuring the oven's temperature with an accuracy as indicated in Section 2.9.3.2. If the oven thermostat does not cycle on and off, adjust or determine the conventional electric oven thermostat setting to provide an average internal temperature which is 325°±5°F (180.6° ±2.8°C) higher than the room ambient air temperature. If the oven thermostat operates by cycling on and off, adjust or determine the conventional electric oven thermostat setting to provide an average internal temperature which is 325°±5°F (180.6°±2.8°C) higher than the room ambient air temperature. This shall be done by measuring the maximum and minimum temperatures in any three consecutive cut-off/cut-on actions of the electric resistance heaters, excluding the initial cut-off/cut-on action, by the thermostat after the temperature rise of 325°±5°F (180.6° ±2.8°C) has been attained by the conventional electric oven. Remove the thermocouple after the thermostat has been set.

2.4.2 *Conventional gas oven.* Install five parallel-connected weighted thermocouples, one located at the center of the conventional gas oven's usable baking space and the other four equally spaced between the center and the corners of the conventional gas oven on the diagonals of a horizontal plane through the center of the conventional gas oven. Each weighted thermocouple shall be constructed of a copper disc that is 1-inch (25.4 mm) in diameter and ⅛-inch (3.2 mm) thick. The two thermocouple wires shall be located in two holes in the disc spaced ½-inch (12.7 mm) apart, with each hole being located ¼-inch (6.4 mm) from the center of the disc. Both thermocouple wires shall be silver-soldered to the copper disc. Provide a temperature indicator system for measuring the oven's temperature with an accuracy as indicated in Section 2.9.3.2. If the oven thermostat does not cycle on or off, adjust or determine the conventional gas oven thermostat setting to provide an average internal temperature which is 325°±5°F (180.6°±2.8°C) higher than the room ambient air temperature. If the oven thermostat operates by cycling on and off, adjust or determine the conventional gas oven thermostat setting to provide an average internal temperature which is 325°±5°F (180.6±2.8°C) higher than the room ambient air temperature. This shall be done by measuring the maximum and minimum temperatures in any three consecutive cut-off/cut-on actions of the gas burners, excluding the initial cut-off/cut-on action, by the thermostat after the temperature rise of 325°±5°F (180.6°±2.8°C) has been attained by the conventional gas oven. Remove the thermocouples after the thermostat has been set.

2.5 *Ambient room air temperature.* During the test, maintain an ambient room air temperature, T_R, of 77°±9°F (25°±5°C) for conventional ovens and cooking tops, or as indicated in Section 4, Paragraph 12.4 of IEC 705 Amendment 2 for microwave ovens, as measured at least 5 feet (1.5 m) and not more than 8 feet (2.4 m) from the nearest surface of the unit under test and approximately 3 feet (0.9 m) above the floor. The temperature shall be measured with a thermometer or temperature indicating system with an accuracy as specified in Section 2.9.3.1.

2.6 *Normal nonoperating temperature.* All areas of the appliance to be tested shall attain the normal nonoperating temperature, as defined in Section 1.6, before any testing begins. The equipment for measuring the applicable normal nonoperating temperature shall be as described in Sections 2.9.3.1, 2.9.3.2, 2.9.3.3, 2.9.3.4, and 2.9.3.5, as applicable.

2.7 *Test blocks for conventional oven and cooking top.* The test blocks shall be made of aluminum alloy No. 6061, with a specific heat of 0.23 Btu/lb- °F (0.96 kJ/[kg• °C]) and with any temper that will give a czoefficient of thermal conductivity of 1073.3 to 1189.1 Btu-in/h-ft^2- °F (154.8 to 171.5 W/[m• °C]). Each block shall have a hole at its top. The hole shall be 0.08 inch (2.03 mm) in diameter and 0.80 inch (20.3 mm) deep. The manufacturer conducting the test may provide other means which will ensure that the thermocouple junction is installed at this same position and depth.

The bottom of each block shall be flat to within 0.002 inch (0.051 mm) TIR (total indicator reading). Determine the actual weight of each test block with a scale with an accuracy as indicated in Section 2.9.5.

2.7.1 *Conventional oven test block.* The test block for the conventional oven, W_1, shall be 6.25±0.05 inches (158.8±1.3 mm) in diameter, approximately 2.8 inches (71 mm) high and shall weigh 8.5±0.1 lbs (3.86±0.05 kg). The block shall be finished with an anodic black coating which has a minimum thickness of 0.001 inch (0.025 mm) or with a finish having the equivalent absorptivity.

2.7.2 *Small test block for conventional cooking top.* The small test block, W_2, shall be 6.25±0.05 inches (158.8±1.3 mm) in diameter, approximately 2.8 inches (71 mm) high and shall weigh 8.5±0.1 lbs (3.86±0.05 kg).

2.7.3 *Large test block for conventional cooking top.* The large test block for the conventional cooking top, W_3, shall be 9±0.05 inches (228.6±1.3 mm) in diameter, approximately 3.0 inches (76 mm) high and shall weigh 19±0.1 lbs (8.62±0.05 kg).

2.7.4 *Thermocouple installation.* Install the thermocouple such that the thermocouple junction (where the thermocouple contacts the test block) is at the bottom of the hole provided in the test block and that the thermocouple junction makes good thermal contact with the aluminum block. If the test blocks are to be water cooled between tests the thermocouple hole should be sealed, or other steps taken, to insure that the thermocouple hole is completely dry at the start of the next test. Provide a temperature indicator system for measuring the test block temperature with an accuracy as indicated in Section 2.9.3.3.

2.7.5 *Initial test block temperature.* Maintain the initial temperature of the test blocks, T_I, within ±4°F (±2.2°C) of the ambient room air temperature as specified in Section 2.5. If the test block has been cooled (or heated) to bring it to room temperature, allow the block to stabilize for at least 2 minutes after removal from the cooling (or heating)

source, before measuring its initial temperature.

2.8 *Microwave oven test load.*

2.8.1 *Test container.* The test container shall be as specified in Section 4, Paragraph 12.2 of IEC 705 Amendment 2.

2.8.2 *Test water load.* The test water load shall be as specified in Section 4, Paragraph 12.1 of IEC 705 Amendment 2.

2.8.2.1 *Test water load and test container temperature.* Before the start of the test, the oven and the test container shall be at ambient temperature as specified in Section 4, Paragraph 12.4 of IEC 705 Amendment 2. The test water load shall be contained in a chiller (not the test container) and maintained at 18° ± 1.8°F (10° ± 1°C) below the ambient room temperature.

2.9 *Instrumentation.* Perform all test measurements using the following instruments, as appropriate:

2.9.1 *Electrical Measurements.*

2.9.1.1 *Watt-hour meter.* The watt-hour meter for measuring the electrical energy consumption of conventional ovens and cooking tops shall have a resolution of 1 watt-hour (3.6 kJ) or less and a maximum error no greater than 1.5 percent of the measured value for any demand greater than 100 watts. The watt-hour meter for measuring the energy consumption of microwave ovens shall have a resolution of 0.1 watt-hour (0.36 kJ) or less and a maximum error no greater than 1.5 percent of the measured value.

2.9.1.2 *Watt meter.* The watt meter used to measure the conventional oven, conventional range, range clock power or the power input of the microwave oven shall have a resolution of 0.2 watt (0.2 J/s) or less and a maximum error no greater than 5 percent of the measured value.

2.9.2 *Gas Measurements.*

2.9.2.1 *Positive displacement meters.* The gas meter to be used for measuring the gas consumed by the gas burners of the oven or cooking top shall have a resolution of 0.01 cubic foot (0.28 L) or less and a maximum error no greater than 1 percent of the measured value for any demand greater than 2.2 cubic feet per hour (62.3 L/h). If a positive displacement gas meter is used for measuring the gas consumed by the pilot lights, it shall have a resolution of at least 0.01 cubic foot (0.28 L) or less and have a maximum error no greater than 2 percent of the measured value.

2.9.2.2 *Flow meter.* If a gas flow meter is used for measuring the gas consumed by the pilot lights, it shall be calibrated to have a maximum error no greater than 1.5 percent of the measured value and a resolution of 1 percent or less of the measured value.

2.9.3 *Temperature measurement equipment.*

2.9.3.1 *Room temperature indicating system.* The room temperature indicating system shall be as specified in Section 4, Paragraph 12.3 of IEC 705 Amendment 2 for microwave ovens and Section 2.9.3.5 for ranges, ovens and cooktops.

2.9.3.2 *Temperature indicator system for measuring conventional oven temperature.* The equipment for measuring the conventional oven temperature shall have an error no greater than ±4°F (±2.2°C) over the range of 65° to 500°F (18°C to 260°C).

2.9.3.3 *Temperature indicator system for measuring test block temperature.* The system shall have an error no greater than ±2°F (±1.1°C) when measuring specific temperatures over the range of 65° to 330°F (18.3°C to 165.6°C). It shall also have an error no greater than ±2°F (±1.1°C) when measuring any temperature difference up to 240°F (133.3 °C) within the above range.

2.9.3.4 *Test load temperatures.* The thermometer or other temperature measuring instrument used to measure the test water load temperature shall be as specified in Section 4, Paragraph 12.3 of IEC 705 Amendment 2. Use only one thermometer or other temperature measuring device throughout the entire test procedure.

2.9.3.5 *Temperature indicator system for measuring surface temperatures.* The temperature of any surface of an appliance shall be measured by means of a thermocouple in firm contact with the surface. The temperature indicating system shall have an error no greater than ±1°F (±0.6°C) over the range 65° to 90°F (18°C to 32°C).

2.9.4 *Heating Value.* The heating value of the natural gas or propane shall be measured with an instrument and associated readout device that has a maximum error no greater than ±0.5% of the measured value and a resolution of ±0.2% or less of the full scale reading of the indicator instrument. The heating value of natural gas or propane must be corrected for local temperature and pressure conditions.

2.9.5 *Scale.* The scale used for weighing the test blocks shall have a maximum error no greater than 1 ounce (28.4 g). The scale used for weighing the microwave oven test water load shall be as specified in Section 4, paragraph 12.3 of IEC 705 Amendment 2.

3. Test Methods and Measurements

3.1 *Test methods.*

3.1.1 *Conventional oven.* Perform a test by establishing the testing conditions set forth in Section 2, ''TEST CONDITIONS,'' of this Appendix, and adjust any pilot lights of a conventional gas oven in accordance with the manufacturer's instructions and turn off the gas flow to the conventional cooking top, if so equipped. Before beginning the test, the conventional oven shall be at its normal nonoperating temperature as defined in Section 1.6 and described in Section 2.6. Set the conventional oven test block W_1 approximately in the center of the usable baking space. If there is a selector switch for selecting the mode of operation of the oven, set it for normal baking. If an oven permits baking by either forced convection by using a fan, or without forced convection, the oven is to be tested in each of those two modes. The oven shall remain on for at least one complete thermostat ''cut-off/cut-on'' of the electrical resistance heaters or gas burners after the test block temperature has increased 234°F (130°C) above its initial temperature.

3.1.1.1 *Self-cleaning operation of a conventional oven.* Establish the test conditions set forth in Section 2, ''TEST CONDITIONS,'' of this Appendix. Adjust any pilot lights of a conventional gas oven in accordance with the manufacturer's instructions and turn off the gas flow to the conventional cooking top. The temperature of the conventional oven shall be its normal nonoperating temperature as defined in Section 1.6 and described in Section 2.6. Then set the conventional oven's self-cleaning process in accordance with the manufacturer's instructions. If the self-cleaning process is adjustable, use the average time recommended by the manufacturer for a moderately soiled oven.

3.1.1.2 *Continuously burning pilot lights of a conventional gas oven.* Establish the test conditions set forth in Section 2, ''TEST CONDITIONS,'' of this Appendix. Adjust any pilot lights of a conventional gas oven in accordance with the manufacturer's instructions and turn off the gas flow to the conventional cooking top. If a positive displacement gas meter is used the, test duration shall be sufficient to measure a gas consumption which is at least 200 times the resolution of the gas meter.

3.1.2 *Conventional cooking top.* Establish the test conditions set forth in Section 2, ''TEST CONDITIONS,'' of this Appendix. Adjust any pilot lights of a conventional gas cooking top in accordance with the manufacturer's instructions and turn off the gas flow to the conventional oven(s), if so equipped. The temperature of the

conventional cooking top shall be its normal nonoperating temperature as defined in Section 1.6 and described in Section 2.6. Set the test block in the center of the surface unit under test. The small test block, W_2, shall be used on electric surface units of 7 inches (178 mm) or less in diameter. The large test block, W_3, shall be used on electric surface units over 7 inches (177.8 mm) in diameter and on all gas surface units. Turn on the surface unit under test and set its energy input rate to the maximum setting. When the test block reaches 144 °F (80 °C) above its initial test block temperature, immediately reduce the energy input rate to 25±5 percent of the maximum energy input rate. After 15±0.1 minutes at the reduced energy setting, turn off the surface unit under test.

3.1.2.1 *Continuously burning pilot lights of a conventional gas cooking top.* Establish the test conditions set forth in Section 2, ''TEST CONDITIONS,'' of this Appendix. Adjust any pilot lights of a conventional gas cooking top in accordance with the manufacturer's instructions and turn off the gas flow to the conventional oven(s). If a positive displacement gas meter is used, the test duration shall be sufficient to measure a gas consumption which is at least 200 times the resolution of the gas meter.

3.1.3 *Microwave oven.*

3.1.3.1 *Microwave oven test energy or power output.* Establish the testing conditions set forth in Section 2, ''TEST CONDITIONS,'' of this Appendix. Follow the test procedure as specified in Section 4, Paragraph 12.4 of IEC 705 Amendment 2.

3.2 *Test measurements.*

3.2.1 *Conventional oven test energy consumption.* If the oven thermostat controls the oven temperature without cycling on and off, measure the energy consumed, E_O, when the temperature of the block reaches T_O (T_O is 234 °F (130 °C) above the initial block temperature, T_I). If the oven thermostat operates by cycling on and off, make the following series of measurements: Measure the block temperature, T_A, and the energy consumed, E_A, or volume of gas consumed, V_A, at the end of the last ''ON'' period of the conventional oven before the block reaches T_O. Measure the block temperature, T_B, and the energy consumed, E_B, or volume of gas consumed, V_B, at the beginning of the next ''ON'' period. Measure the block temperature, T_C, and the energy consumed, E_C, or volume of gas consumed, V_C, at the end of that ''ON'' period. Measure the block temperature, T_D, and the energy consumed, E_D, or volume of gas consumed, V_D, at the beginning of the following ''ON'' period. Energy measurements for E_O, E_A, E_B, E_C and E_D, should be expressed in watt-hours (kJ) for conventional electric ovens and volume measurements for V_A, V_B, V_C and V_D should be expressed in standard cubic feet (L) of gas for conventional gas ovens. For a gas oven, measure in watt-hours (kJ) any electrical energy, E_{IO}, consumed by an ignition device or other electrical components required for the operation of a conventional gas oven while heating the test block to T_O. The energy consumed by a continuously operating clock that is an integral part of the timing or temperature control circuit and cannot be disconnected during the test may be subtracted from the oven test energy to obtain the test energy consumption, E_O or E_{IO}.

3.2.1.1 *Conventional oven average test energy consumption.* If the conventional oven permits baking by either forced convection or without forced convection and the oven thermostat does not cycle on and off, measure the energy consumed with the forced convection mode, $(E_O)_1$, and without the forced convection mode, $(E_O)_2$, when the temperature of the block reaches T_O (T_O is 234 °F (130 °C) above the initial block temperature, T_I). If the conventional oven permits baking by either forced convection or without forced convection and the oven thermostat operates by cycling on and off, make the following series of measurements with and without the forced convection mode: Measure the block temperature, T_A, and the energy consumed, E_A, or volume of gas consumed, V_A, at the end of the last ''ON'' period of the conventional oven before the block reaches T_O. Measure the block temperature, T_B, and the energy consumed, E_B, or volume of gas consumed, V_B, at the beginning of the next ''ON'' period. Measure the block temperature, T_C, and the energy consumed, E_C, or volume of gas consumed, V_C, at the end of that ''ON'' period. Measure the block temperature, T_D, and the energy consumed, E_D, or volume of gas consumed, V_D, at the beginning of the following ''ON'' period. Energy measurements for E_O, E_A, E_B, E_C and E_D should be expressed in watt-hours (kJ) for conventional electric ovens and volume measurements for V_A, V_B, V_C and V_D should be expressed in standard cubic feet (L) of gas for conventional gas ovens. For a gas oven that can be operated with or without forced convection, measure in watt-hours (kJ) any electrical energy consumed by an ignition device or other electrical components required for the operation of a conventional gas oven while heating the test block to T_O using the forced convection mode, $(E_{IO})_1$, and without using the forced convection mode, $(E_{IO})_2$. The energy consumed by a continuously operating clock that is an integral part of the timing or temperature control circuit and cannot be disconnected during the test may be subtracted from the oven test energy to obtain the test energy consumption, $(E_O)_1$ and $(E_O)_2$ or $(E_{IO})_1$ and $(E_{IO})_2$.

3.2.1.2 *Energy consumption of self-cleaning operation.* Measure the energy consumption, E_S, in watt-hours (kJ) of electricity or the volume of gas consumption, V_S, in standard cubic feet (L) during the self-cleaning test set forth in Section 3.1.1.1. For a gas oven, also measure in watt-hours (kJ) any electrical energy, E_{IS}, consumed by ignition devices or other electrical components required during the self-cleaning test. The energy consumed by a continuously operating clock that is an integral part of the timing or temperature control circuit and cannot be disconnected during the test may be subtracted from the self-cleaning test energy to obtain the energy consumption, E_S or E_{IS}

3.2.1.3 *Gas consumption of continuously burning pilot lights.* Measure the gas consumption of the pilot lights, V_{OP}, in standard cubic feet (L) of gas and the test duration, t_{OP}, in hours for the test set forth in Section 3.1.1.2. If a gas flow rate meter is used, measure the flow rate, Q_{OP}, in standard cubic feet per hour (L/h).

3.2.1.4 *Clock power.* If the conventional oven or conventional range includes an electric clock which is on continuously, and the power rating in watts (J/s) of this feature is not known, measure the clock power, P_{CL}, in watts (J/s.) The power rating or measurement of continuously operating clocks, that are an integral part of the timing or temperature control circuits and cannot be disconnected during testing, shall be multiplied by the applicable test period to calculate the clock energy consumption, in watt-hours (kJ), during a test. The energy consumed by the clock during the test may then be subtracted from the test energy to obtain the specified test energy consumption value.

3.2.2 *Conventional surface unit test energy consumption.* For the surface unit under test, measure the energy consumption, E_{CT}, in watt-hours (kJ) of electricity or the volume of gas consumption, V_{CT}, in standard cubic feet (L) of gas and the test block temperature, T_{CT}, at the end of the 15 minute (reduced input setting) test interval for the test specified in Section 3.1.2 and the total time, t_{CT}, in hours, that the unit is under test. Measure any

electrical energy, E_{IC}, consumed by an ignition device of a gas heating element in watt-hours (kJ). The energy consumed by a continuously operating clock that is an integral part of the timing or temperature control circuit and cannot be disconnected during the test may be subtracted from the cooktop test energy to obtain the test energy consumption, E_{CT} or E_{IC}.

3.2.2.1 *Gas consumption of continuously burning pilot lights.* If the conventional gas cooking top under test has one or more continuously burning pilot lights, measure the gas consumed during the test by the pilot lights, V_{CP}, in standard cubic feet (L) of gas, and the test duration, t_{CP}, in hours as specified in Section 3.1.2.1. If a gas flow rate meter is used, measure the flow rate, Q_{CP}, in standard cubic feet per hour (L/h).

3.2.3 *Microwave oven test energy consumption and power input.* Measurements are to be made as specified in Section 4, Paragraphs 12.4 and 13 of IEC 705 and Amendment 2. Measure the electrical input energy, E_M, in watt-hours (kJ) consumed by the microwave oven during the test. Repeat the tests three times unless the power output value resulting from the second measurement is within 1.5% of the value obtained from the first measurement as stated in Section 4, Paragraphs 12.6 of IEC 705 Amendment 2. (See 10 CFR 430.22.)

3.3 *Recorded values.*

3.3.1 Record the test room temperature, T_R, at the start and end of each range, oven or cooktop test, as determined in Section 2.5.

3.3.2 Record measured test block weights W_1, W_2, and W_3 in pounds (kg).

3.3.3 Record the initial temperature, T_1, of the test block under test.

3.3.4 For a conventional oven with a thermostat which operates by cycling on and off, record the conventional oven test measurements T_A, E_A, T_B, E_B, T_C, E_C, T_D, and E_D for conventional electric ovens or T_A, V_A, T_B, V_B, T_C, V_C, T_D, and V_D for conventional gas ovens. If the thermostat controls the oven temperature without cycling on and off, record E_O. For a gas oven which also uses electrical energy for the ignition or operation of the oven, also record E_{IO}.

3.3.5 For a conventional oven that can be operated with or without forced convection and the oven thermostat controls the oven temperature without cycling on and off, measure the energy consumed with the forced convection mode, $(E_O)_1$, and without the forced convection mode, $(E_O)_2$. If the conventional oven operates with or without forced convection and the thermostat controls the oven temperature by cycling on and off, record the conventional oven test measurements T_A, E_A, T_B, E_B, T_C, E_C, T_D, and E_D for conventional electric ovens or T_A, V_A, T_B, V_B, T_C, V_C, T_D, and V_D for conventional gas ovens. For a gas oven that can be operated with or without forced convection, measure any electrical energy consumed by an ignition device or other electrical components used during the forced convection mode, $(E_{IO})_1$, and without using the forced convection mode, $(E_{IO})_2$.

3.3.6 Record the measured energy consumption, E_S, or gas consumption, V_S, and for a gas oven, any electrical energy, E_{IS}, for the test of the self-cleaning operation of a conventional oven.

3.3.7 Record the gas flow rate, Q_{OP}; or the gas consumption, V_{OP}, and the elapsed time, t_{OP}, that any continuously burning pilot lights of a conventional oven are under test.

3.3.8 Record the clock power measurement or rating, P_{CL}, in watts (J/s), except for microwave oven tests.

3.3.9 For the surface unit under test, record the electric energy consumption, E_{CT}, or the gas volume consumption, V_{CT}, the final test block temperature, T_{CT}, the total test time, t_{CT}. For a gas cooking top which uses electrical energy for ignition of the burners, also record E_{IC}.

3.3.10 Record the gas flow rate, Q_{CP}; or the gas consumption, V_{CP}, and the elapsed time, t_{CP}, that any continuously burning pilot lights of a conventional gas cooking top are under test.

3.3.11 Record the heating value, H_n, as determined in Section 2.2.2.2 for the natural gas supply.

3.3.12 Record the heating value, H_p, as determined in Section 2.2.2.3 for the propane supply.

3.3.13 Record the electrical input energy and power input, E_M and P_M, for the microwave oven test; the initial and final temperature, T_1 and T_2, of the test water load; the mass of the test container before filling with the test water load and the mass of the test water load, M_C and M_W respectively; and the measured room temperature, T_0; as determined in Section 3.2.3.

4. Calculation of Derived Results From Test Measurements

4.1 *Conventional oven.*

4.1.1 *Test energy consumption.* For a conventional oven with a thermostat which operates by cycling on and off, calculate the test energy consumption, E_O, expressed in watt-hours (kJ) for electric ovens and in Btu's (kJ) for gas ovens, and defined as:

$$E_O = E_{AB} + \left[\left(\frac{T_O - T_{AB}}{T_{CD} - T_{AB}}\right) \times \left(E_{CD} - E_{AB}\right)\right]$$

for electric ovens, and,

$$E_O = \left(V_{AB} \times H\right) + \left[\left(\frac{T_O - T_{AB}}{T_{CD} - T_{AB}}\right) \times \left(V_{CD} - V_{AB}\right) \times H\right]$$

For gas ovens

Where:

H = either H_n or H_p, the heating value of the gas used in the test as specified in Section 2.2.2.2 and Section 2.2.2.3, expressed in Btu's per standard cubic foot (kJ/L).

T_O = 234°F (130°C) plus the initial test block temperature.

and,

$$E_{AB} = \frac{(E_A + E_B)}{2}, \quad E_{CD} = \frac{(E_C + E_D)}{2}$$

$$V_{AB} = \frac{(V_A + V_B)}{2}, \quad V_{CD} = \frac{(V_C + V_D)}{2}$$

$$T_{AB} = \frac{(T_A + T_B)}{2}, \quad T_{CD} = \frac{(T_C + T_D)}{2}$$

Where:

T_A = block temperature in °F (°C) at the end of the last ''ON'' period of the conventional oven before the test block reaches T_O.

T_B = block temperature in °F (°C) at the beginning of the ''ON'' period following the measurement of T_A.

T_C = block temperature in °F (°C) at the end of the ''ON'' period which starts with T_B.

T_D = block temperature in °F (°C) at the beginning of the ''ON'' period which follows the measurement of T_C.

E_A = electric energy consumed in Wh (kJ) at the end of the last ''ON'' period before the test block reaches T_O.

E_B = electric energy consumed in Wh (kJ) at the beginning of the ''ON'' period following the measurement of T_A.

E_C = electric energy consumed in Wh (kJ) at the end of the ''ON'' period which starts with T_B.

E_D = electric energy consumed in Wh (kJ) at the beginning of the ''ON'' period which follows the measurement of T_C.

V_A = volume of gas consumed in standard cubic feet (L) at the end of the last ''ON'' period before the test block reaches T_O.

V_B = volume of gas consumed in standard cubic feet (L) at the beginning of the ''ON'' period following the measurement of T_A.

V_C = volume of gas consumed in standard cubic feet (L) at the end of the ''ON'' period which starts with T_B.

V_D = volume of gas consumed in standard cubic feet (L) at the beginning of the ''ON'' period which follows the measurement of T_C.

The energy consumed by a continuously operating clock that cannot be disconnected during the test may be subtracted from the oven test energy to obtain the oven test energy consumption, E_O.

4.1.1.1 *Average test energy consumption.* If the conventional oven can be operated with or without forced convection, determine the average test energy consumption, E_O and E_{IO}, in watt-hours (kJ) for electric ovens and Btu's (kJ) for gas ovens using the following equations:

$$E_O = \frac{(E_O)_1 + (E_O)_2}{2}$$

$$E_{IO} = \frac{(E_{IO})_1 + (E_{IO})_2}{2}$$

Where:

$(E_O)_1$=test energy consumption using the forced convection mode in watt-hours (kJ) for electric ovens and in Btu's (kJ) for gas ovens as measured in Section 3.2.1.1.

$(E_O)_2$=test energy consumption without using the forced convection mode in watt-hours (kJ) for electric ovens and in Btu's (kJ) for gas ovens as measured in Section 3.2.1.1.

$(E_{IO})_1$=electrical energy consumption in watt-hours (kJ) of a gas oven in forced convection mode as measured in Section 3.2.1.1.

$(E_{IO})_2$=electrical energy consumption in watt-hours (kJ) of a gas oven without using the forced convection mode as measured in Section 3.2.1.1.

The energy consumed by a continuously operating clock that cannot be disconnected during the test may be subtracted from the oven test energy to obtain the average test energy consumption E_O and E_{IO}.

4.1.2 *Conventional oven annual energy consumption.*

4.1.2.1. *Annual cooking energy consumption.*

4.1.2.1.1. *Annual primary energy consumption.* Calculate the annual primary energy consumption for cooking, E_{CO}, expressed in kilowatt-hours (kJ) per year for electric ovens and in Btu's (kJ) per year for gas ovens, and defined as:

$$E_{CO} = \frac{E_O \times K_e \times O_O}{W_l \times C_p \times T_S} \text{ for electric ovens,}$$

Where:

E_O=test energy consumption as measured in Section 3.2.1 or as calculated in Section 4.1.1 or Section 4.1.1.1.

K_e=3.412 Btu/Wh (3.6 kJ/Wh,) conversion factor of watt-hours to Btu's.

O_O=29.3 kWh (105,480 kJ) per year, annual useful cooking energy output of conventional electric oven.

W_1=measured weight of test block in pounds (kg).

C_p=0.23 Btu/lb-°F (0.96 kJ/kg •°C), specific heat of test block.

T_S=234°F (130°C), temperature rise of test block.

$$E_{CO} = \frac{E_O \times O_O}{W_l \times C_p \times T_S} \text{ for gas ovens,}$$

Where:

E_O=test energy consumption as measured in Section 3.2.1. or as calculated in Section 4.1.1 or Section 4.1.1.1.

O_O=88.8 kBtu (93,684 kJ) per year, annual useful cooking energy output of conventional gas oven.

W_1, C_p and T_S are the same as defined above.

4.1.2.1.2 *Annual secondary energy consumption for cooking of gas ovens.* Calculate the annual secondary energy consumption for cooking, E_{SO}, expressed in kilowatt-hours (kJ) per year and defined as:

$$E_{SO} = \frac{E_{IO} \times K_e \times O_O}{W_l \times C_p \times T_S},$$

Where:

E_{IO}=electrical test energy consumption as measured in Section 3.2.1 or as calculated in Section 4.1.1.1.

O_O=29.3 kWh (105,480 kJ) per year, annual useful cooking energy output.

K_e, W_1, C_p, and T_S are as defined in Section 4.1.2.1.1.

4.1.2.2 *Annual energy consumption of any continuously burning pilot lights.* Calculate the annual energy consumption of any continuously burning pilot lights, E_{PO}, expressed in Btu's (kJ) per year and defined as:

$$E_{PO} = Q_{OP} \times H \times (A - B),$$

or,

$$E_{PO} = \frac{V_{OP}}{t_{OP}} \times H \times (A - B)$$

Where:

Q_{OP}=pilot gas flow rate in standard cubic feet per hour (L/h), as measured in Section 3.2.1.3.

V_{OP}=standard cubic feet (L) of gas consumed by any continuously burning pilot lights, as measured in Section 3.2.1.3.

t_{OP}=elapsed test time in hours for any continuously burning pilot lights tested, as measured in Section 3.2.1.3.

H=H_n or H_p, the heating value of the gas used in the test as specified in

Section 2.2.2.2 and Section 2.2.2.3 in Btu's per standard cubic foot (kJ/L).

A=8,760, number of hours in a year.

B=300, number of hours per year any continuously burning pilot lights contribute to the heating of an oven for cooking food.

4.1.2.3 *Annual conventional oven self-cleaning energy.*

4.1.2.3.1 *Annual primary energy consumption.* Calculate the annual primary energy consumption for conventional oven self-cleaning operations, E_{SC}, expressed in kilowatt-hours (kJ) per year for electric ovens and in Btu's (kJ) for gas ovens, and defined as:

$E_{SC}=E_S \times S_e \times K$, for electric ovens,

Where:

E_S=energy consumption in watt-hours, as measured in Section 3.2.1.2.

S_e=4, average number of times a self-cleaning operation of a conventional electric oven is used per year.

K=0.001 kWh/Wh conversion factor for watt-hours to kilowatt-hours.

or

$E_{SC}=V_S \times H \times S_g$, for gas ovens,

Where:

V_S=gas consumption in standard cubic feet (L), as measured in Section 3.2.1.2.

$H=H_n$ or H_p, the heating value of the gas used in the test as specified in Section 2.2.2.2 and Section 2.2.2.3 in Btu's per standard cubic foot (kJ/L).

S_g=4, average number of times a self-cleaning operation of a conventional gas oven is used per year.

The energy consumed by a continuously operating clock that cannot be disconnected during the self-cleaning test procedure may be subtracted from the test energy to obtain the test energy consumption, E_{SC}.

4.1.2.3.2 *Annual secondary energy consumption for self-cleaning operation of gas ovens.* Calculate the annual secondary energy consumption for self-cleaning operations of a gas oven, E_{SS}, expressed in kilowatt-hours (kJ) per year and defined as:

$E_{SS}=E_{IS} \times S_g \times K$,

Where:

E_{IS}=electrical energy consumed during the self-cleaning operation of a conventional gas oven, as measured in Section 3.2.1.2.

S_g=4, average number of times a self-cleaning operation of a conventional gas oven is used per year.

K=0.001 kWh/Wh conversion factor for watt-hours to kilowatt-hours.

4.1.2.4 *Annual clock energy consumption.* Calculate the annual energy consumption of any constantly operating electric clock, E_{CL}, expressed in kilowatt-hours (kJ) per year and defined as:

$E_{CL} = P_{CL} \times A \times K$,

Where:

P_{CL}=power rating of clock which is on continuously, in watts, as measured in Section 3.2.1.4.

A=8,760, number of hours in a year.

K=0.001 kWh/Wh conversion factor for watt-hours to kilowatt-hours.

4.1.2.5 *Total annual energy consumption of a single conventional oven.*

4.1.2.5.1 *Conventional electric oven energy consumption.* Calculate the total annual energy consumption of a conventional electric oven, E_{AO}, expressed in kilowatt-hours (kJ) per year and defined as:

$E_{AO}=E_{CO}+E_{SC}+E_{CL}$,

Where:

E_{CO}=annual primary cooking energy consumption as determined in Section 4.1.2.1.1.

E_{SC}=annual primary self-cleaning energy consumption as determined in Section 4.1.2.3.1.

E_{CL}=annual clock energy consumption as determined in Section 4.1.2.4.

4.1.2.5.2 *Conventional gas oven energy consumption.* Calculate the total annual gas energy consumption of a conventional gas oven, E_{AOG}, expressed in Btu's (kJ) per year and defined as:

$E_{AOG}=E_{CO}+E_{SC}+E_{PO}$,

Where:

E_{CO}=annual primary cooking energy consumption as determined in Section 4.1.2.1.1.

E_{PO}=annual pilot light energy consumption as determined in Section 4.1.2.2.

E_{SC}=annual primary self-cleaning energy consumption as determined in Section 4.1.2.3.1.

If the conventional gas oven uses electrical energy, calculate the total annual electrical energy consumption, E_{AOE}, expressed in kilowatt-hours (kJ) per year and defined as:

$E_{AOE}=E_{SO}+E_{SS}+E_{CL}$,

Where:

E_{SO}=annual secondary cooking energy consumption as determined in Section 4.1.2.1.2.

E_{SS}=annual secondary self-cleaning energy consumption as determined in Section 4.1.2.3.2.

E_{CL}=annual clock energy consumption as determined in Section 4.1.2.4.

4.1.2.6. *Total annual energy consumption of multiple conventional ovens.* If the cooking appliance includes more than one conventional oven, calculate the total annual energy consumption of the conventional ovens using the following equations:

4.1.2.6.1 *Conventional electric oven energy consumption.* Calculate the total annual energy consumption, ETO, in kilowatt-hours (kJ) per year and defined as:

$E_{TO} = E_{ACO} + E_{ASC} + E_{CL}$,

Where:

$$E_{ACO} = \frac{1}{n}\sum_{i=1}^{n}\left(E_{CO}\right)_i,$$

is the average annual primary energy consumption for cooking,

and where:

n = number of conventional ovens in the basic model.

E_{CO} = annual primary energy consumption for cooking as determined in Section 4.1.2.1.1.

$$E_{ASC} = \frac{1}{n}\sum_{i=1}^{n}\left(E_{SC}\right)_i,$$

average annual self-cleaning energy consumption,

Where:

n = number of self-cleaning conventional ovens in the basic model.

E_{SC} = annual primary self-cleaning energy consumption as determined according to Section 4.1.2.3.1.

E_{CL} = clock energy consumption as determined according to Section 4.1.2.4.

4.1.2.6.2 *Conventional gas oven energy consumption.* Calculate the total annual gas energy consumption, E_{TOG}, in Btu's (kJ) per year and defined as:

$E_{TOG} = E_{ACO} + E_{ASC} + E_{TPO}$,

Where:

E_{ACO} = average annual primary energy consumption for cooking in Btu's (kJ) per year and is calculated as:

$$E_{ACO} = \frac{1}{n}\sum_{i=1}^{n}\left(E_{CO}\right)_i,$$

Where:

n = number of conventional ovens in the basic model.

E_{CO} = annual primary energy consumption for cooking as determined in Section 4.1.2.1.1.

and,

E_{ASC} = average annual self-cleaning energy consumption in Btu's (kJ) per year and is calculated as:

$$E_{ASC} = \frac{1}{n}\sum_{i=1}^{n}(E_{SC})_i,$$

Where:

n = number of self-cleaning conventional ovens in the basic model.

E_{SC} = annual primary self-cleaning energy consumption as determined according to Section 4.1.2.3.1.

$$E_{TPO} = \sum_{i=1}^{n}(E_{PO})_i,$$

total energy consumption of any pilot lights,

Where:

E_{PO} = annual energy consumption of any continuously burning pilot lights determined according to Section 4.1.2.2.

n = number of pilot lights in the basic model.

If the oven also uses electrical energy, calculate the total annual electrical energy consumption, E_{TOE}, in kilowatt-hours (kJ) per year and defined as:

$E_{TOE} = E_{ASO} + E_{AAS} + E_{CL}$,

Where:

$$E_{ASO} = \frac{1}{n}\sum_{i=1}^{n}(E_{SO})_i,$$

is the average annual secondary energy consumption for cooking,

Where:

n=number of conventional ovens in the basic model.

E_{SO}=annual secondary energy consumption for cooking of gas ovens as determined in Section 4.1.2.1.2.

$$E_{AAS} = \frac{1}{n}\sum_{i=1}^{n}(E_{SS})_i,$$

is the average annual secondary self-cleaning energy consumption,

Where:

n=number of self-cleaning ovens in the basic model.

E_{SS}=annual secondary self-cleaning energy consumption of gas ovens as determined in Section 4.1.2.3.2.

E_{CL}=annual clock energy consumption as determined in Section 4.1.2.4.

4.1.3 *Conventional oven cooking efficiency.*

4.1.3.1 *Single conventional oven.* Calculate the conventional oven cooking efficiency, Eff_{AO}, using the following equations:

For electric ovens:

$$Eff_{AO} = \frac{W_l \times C_p \times T_S}{E_O \times K_e},$$

and,

For gas ovens:

$$Eff_{AO} = \frac{W_l \times C_p \times T_S}{E_O + (E_{IO} \times K_e)},$$

Where:

W_1=measured weight of test block in pounds (kg).

C_p=0.23 Btu/lb-°F (0.96 kJ/kg• °C), specific heat of test block.

T_S=234°F (130°C), temperature rise of test block.

E_O=test energy consumption as measured in Section 3.2.1 or calculated in Section 4.1.1 or Section 4.1.1.1.

K_e=3.412 Btu/Wh (3.6 kJ/Wh), conversion factor for watt-hours to Btu's.

E_{IO}=electrical test energy consumption according to Section 3.2.1 or as calculated in Section 4.1.1.1.

4.1.3.2 *Multiple conventional ovens.* If the cooking appliance includes more than one conventional oven, calculate the cooking efficiency for all of the conventional ovens in the appliance, Eff_{TO}, using the following equation:

$$Eff_{TO} = \frac{n}{\sum_{i=1}^{n}\left(\frac{1}{Eff_{AO}}\right)_i},$$

Where:

n=number of conventional ovens in the cooking appliance.

Eff_{AO}=cooking efficiency of each oven determined according to Section 4.1.3.1.

4.1.4 *Conventional oven energy factor.* Calculate the energy factor, or the ratio of useful cooking energy output to the total energy input, R_O, using the following equations:

$$R_O = \frac{O_O}{E_{AO}},$$

For electric ovens,

Where:

O_O=29.3 kWh (105,480 kJ) per year, annual useful cooking energy output.

E_{AO}=total annual energy consumption for electric ovens as determined in Section 4.1.2.5.1.

For gas ovens:

$$R_O = \frac{O_O}{E_{AOG} + (E_{AOE} \times K_e)},$$

Where:

O_O=88.8 kBtu (93,684 kJ) per year, annual useful cooking energy output.

E_{AOG}=total annual gas energy consumption for conventional gas ovens as determined in Section 4.1.2.5.2.

E_{AOE}=total annual electrical energy consumption for conventional gas ovens as determined in Section 4.1.2.5.2.

K_e=3,412 Btu/kWh (3,600 kJ/kWh), conversion factor for kilowatt-hours to Btu's.

4.2 *Conventional cooking top*

4.2.1 *Conventional cooking top cooking efficiency*

4.2.1.1 *Electric surface unit cooking efficiency.* Calculate the cooking efficiency, Eff_{SU}, of the electric surface unit under test, defined as:

$$Eff_{SU} = W \times C_p \times \left(\frac{T_{SU}}{K_e \times E_{CT}}\right),$$

Where:

W=measured weight of test block, W_2 or W_3, expressed in pounds (kg).

C_p=0.23 Btu/lb-°F (0.96 kJ/kg• °C), specific heat of test block.

T_{SU}=temperature rise of the test block: final test block temperature, T_{CT}, as determined in Section 3.2.2, minus the initial test block temperature, T_I, expressed in °F (°C) as determined in Section 2.7.5.

K_e=3.412 Btu/Wh (3.6 kJ/Wh), conversion factor of watt-hours to Btu's.

E_{CT}=measured energy consumption, as determined according to Section 3.2.2, expressed in watt-hours (kJ).

The energy consumed by a continuously operating clock that cannot be disconnected during the cooktop test may be subtracted from the energy consumption, E_{CT}, as determined in Section 3.2.2.

4.2.1.2 *Gas surface unit cooking efficiency.* Calculate the cooking efficiency, Eff_{SU}, of the gas surface unit under test, defined as:

$$Eff_{SU} = \frac{W_3 \times C_P \times T_{SU}}{E},$$

Where:

W_3=measured weight of test block as measured in Section 3.3.2, expressed in pounds (kg).

C_p and T_{SU} are the same as defined in Section 4.2.1.1.

and,

$E=[V_{CT} - V_{CP} \times H] + (E_{IC} \times K_e)$,

Where:

V_{CT}=total gas consumption in standard cubic feet (L) for the gas surface unit test as measured in Section 3.2.2.

E_{IC}=electrical energy consumed in watt-hours (kJ) by an ignition device of a gas surface unit as measured in Section 3.2.2.

K_e=3.412 Btu/Wh (3.6 kJ/Wh), conversion factor of watt-hours to Btu's.

H=either H_n or H_p, the heating value of the gas used in the test as specified in Section 2.2.2.2 and Section 2.2.2.3, expressed in Btu's per standard cubic foot (kJ/L) of gas.

$V_{CP}=Q_{CP}\times t_{CT}$, pilot consumption, in standard cubic feet (L), during unit test,

Where:

t_{CT}=the elapsed test time as defined in Section 3.2.2.

and

$$Q_{CP} = \frac{V_{CP}}{t_{CP}},$$

(pilot flow in standard cubic feet per hour)

Where:

V_{CP}=any pilot lights gas consumption defined in Section 3.2.2.1.

t_{CP}=elapsed time of the cooking top pilot lights test as defined in Section 3.2.2.1.

4.2.1.3 *Conventional cooking top cooking efficiency*. Calculate the conventional cooking top cooking efficiency, Eff_{CT}, using the following equation:

$$Eff_{CT} = \frac{1}{n}\sum_{i=1}^{n}\left(Eff_{SU}\right)_i,$$

Where:

n=number of surface units in the cooking top.

Eff_{SU}=the efficiency of each of the surface units, as determined according to Section 4.2.1.1 or Section 4.2.1.2.

4.2.2 *Conventional cooking top annual energy consumption*.

4.2.2.1 *Conventional electric cooking top energy consumption*. Calculate the annual energy consumption of an electric cooking top, E_{CA}, in kilowatt-hours (kJ) per year, defined as:

$$E_{CA} = \frac{O_{CT}}{Eff_{CT}},$$

Where:

O_{CT}=173.1 kWh (623,160 kJ) per year, annual useful cooking energy output.

Eff_{CT}=conventional cooking top cooking efficiency as defined in Section 4.2.1.3.

4.2.2.2 *Conventional gas cooking top*

4.2.2.2.1 *Annual cooking energy consumption*. Calculate the annual energy consumption for cooking, E_{CC}, in Btu's (kJ) per year for a gas cooking top, defined as:

$$E_{CC} = \frac{O_{CT}}{Eff_{CT}},$$

Where:

O_{CT}=527.6 kBtu (556,618 kJ) per year, annual useful cooking energy output.

Eff_{CT}=the gas cooking top efficiency as defined in Section 4.2.1.3.

4.2.2.2.2 *Annual energy consumption of any continuously burning gas pilots*. Calculate the annual energy consumption of any continuously burning gas pilot lights of the cooking top, E_{PC}, in Btu's (kJ) per year, defined as:

$E_{PC}=Q_{CP}\times A\times H$,

Where:

Q_{CP}=pilot light gas flow rate as measured in Section 3.2.2.1.

A=8,760 hours, the total number of hours in a year.

H=either H_n or H_p, the heating value of the gas used in the test as specified in Section 2.2.2.2. and Section 2.2.2.3, expressed in Btu's per standard cubic foot (kJ/L) of gas.

4.2.2.2.3 *Total annual energy consumption of a conventional gas cooking top*. Calculate the total annual energy consumption of a conventional gas cooking top, E_{CA}, in Btu's (kJ) per year, defined as:

$E_{CA}=E_{CC} + E_{PC}$,

Where:

E_{CC}=energy consumption for cooking as determined in Section 4.2.2.2.1.

E_{PC}=annual energy consumption of the pilot lights as determined in Section 4.2.2.2.2.

4.2.3 *Conventional cooking top energy factor*. Calculate the energy factor or ratio of useful cooking energy output for cooking to the total energy input, R_{CT}, as follows:

For an electric cooking top, the energy factor is the same as the cooking efficiency as determined according to Section 4.2.1.3.

For gas cooking tops,

$$R_{CT} = \frac{O_{CT}}{E_{CA}},$$

Where:

O_{CT}=527.6 kBtu (556,618 kJ) per year, annual useful cooking energy output of cooking top.

E_{CA}=total annual energy consumption of cooking top determined according to Section 4.2.2.2.3.

4.3 *Combined components*. The annual energy consumption of a kitchen range, e.g. a cooktop and oven combined, shall be the sum of the annual energy consumption of each of its components. The annual energy consumption for other combinations of ovens, cooktops and microwaves will also be treated as the sum of the annual energy consumption of each of its components. The energy factor of a combined component is the sum of the annual useful cooking energy output of each component divided by the sum of the total annual energy consumption of each component.

4.4 *Microwave oven*.

4.4.1 *Microwave oven test energy output*. Calculate the microwave oven test energy output, E_T, in watt-hour's (kJ). The calculation is repeated two or three times as required in section 3.2.3. The average of the E_T's is used for a calculation in section 4.4.3. For calculations specified in units of energy [watt-hours (kJ)], use the equation below:

$$E_T = \frac{C_p M_W\left(T_2 - T_1\right) + C_C M_C\left(T_2 - T_0\right)}{K_e}$$

Where:

M_W=the measured mass of the test water load, in pounds (g).

M_C=the measured mass of the test container before filling with test water load, in pounds (g).

T_1=the initial test water load temperature, in °F (°C).

T_2=the final test water load temperature, in °F (°C).

T_0=the measured ambient room temperature, in °F (°C).

C_C=0.210 Btu/lb−°F (0.88 kJ/kg•°C), specific heat of test container.

C_p=1.0 Btu/lb−°F (4.187 kJ/kg•°C), specific heat of water.

K_e=3,412 Btu/kWh (3,600 kJ/kWh) conversion factor of kilowatt-hours to Btu's.

4.4.2 *Microwave oven test power output*. Calculate the microwave oven test power output, P_T, in watts (J/s) as specified in Section four, paragraph 12.5 of IEC 705 Amendment 2 See Section 430.22. The calculation is repeated for each test as required in section 3.2.3. The average of the two or three P_T's is used for calculations in section 4.4.4. (See 10 CFR 430.22)

4.4.3 *Microwave oven annual energy consumption*. Calculate the microwave oven annual energy consumption, E_{mo}, in KWh's per year, defined as:

$$E_{MO} = \frac{E_M \times O_M}{E_T}$$

Where:

E_M=the energy consumption as defined in Section 3.2.3.

O_M=79.8 kWh (287,280 kJ) per year, the microwave oven annual useful cooking energy output.

E_T=the test energy as calculated in Section 4.4.1.

4.4.4 *Microwave oven cooking efficiency.* Calculate the microwave oven cooking efficiency, $Eff_{MO,}$ as specified in Section four, paragraph 14 of IEC 705.

4.4.5 *Microwave oven energy factor.* Calculate the energy factor or the ratio of the useful cooking energy output to total energy input on a yearly basis, $R_{MO,}$ defined as:

$$R_{MO} = \frac{O_M}{E_{MO}},$$

Where:

O_M=79.8 kWh (287,280 kJ) per year, annual useful cooking energy output.

E_{MO}=annual total energy consumption as determined in Section 4.4.3.

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Part III

Environmental Protection Agency

40 CFR Part 170

Pesticide Worker Protection Standard; Administrative Exception for Cut-Rose Hand Harvesting; Administrative Decision; Proposed Rule

Exception Decisions to Early Entry Prohibition, Worker Protection Standard; Technical Amendment; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250121; FRL–5599–2]

RIN 2070–AC95

Pesticide Worker Protection Standard; Administrative Exception for Cut-Rose Hand Harvesting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Administrative Exception Decision.

SUMMARY: With this document, EPA is announcing it has granted a limited administrative exception to the 1992 Worker Protection Standard (WPS) restrictions on early entry into pesticide-treated areas allowing workers to hand harvest roses during restricted entry intervals. Under § 170.112 (e) of the WPS, EPA may establish exceptions to the provision prohibiting early entry to perform routine hand-labor tasks. EPA is granting the exception because if the rose harvests are delayed, significant economic loss will occur; and, if the terms of this exception are followed, the contact with pesticide-treated surfaces will be minimal. The exception allows workers to enter for three hours per 24-hour period during a restricted entry interval. Thus, EPA granted this exception because it believes the benefits of this exception outweigh any resulting risks. The exception took effect on December 18, 1996, and expires on October 4, 1999.

EFFECTIVE DATE: This document is effective October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Sara Ager, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 1121, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–7666, e-mail: ager.sara@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This Notice is issued under the authority of section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136w(a). Under FIFRA, EPA is authorized to mitigate unreasonable adverse effects that may result from exposure to pesticides, taking into account the risks of pesticide exposure to human health and the environment and the benefits of pesticide use to society and the economy. Elsewhere in this issue of the **Federal Register**, EPA is amending § 170.112 of the WPS to include reference to this administrative exception and its effective date.

I. Background

A. Worker Protection Standard

Introduced in 1974, the Worker Protection Standard (WPS) is intended to reduce the risk of pesticide poisonings and injuries among agricultural workers who are exposed to pesticide residues, and to reduce the risk of pesticide poisonings and injuries among pesticide handlers who may face more hazardous levels of exposure. Updated in 1992, the WPS scope now includes workers performing hand-labor operations in fields treated with pesticides, workers in or on farms, forests, nurseries and greenhouses, and pesticide handlers who mix, load, apply, or otherwise handle pesticides. The WPS contains requirements for pesticide safety training, notification of pesticide application, use of personal protective equipment (PPE), restricted entry intervals (REI) following pesticide application, decontamination supplies, and emergency medical assistance.

B. WPS Early Entry Restrictions

The 1992 WPS includes provisions under § 170.112 prohibiting agricultural workers from entering a pesticide-treated area to perform routine hand-labor tasks during an REI. Hand labor is defined by the WPS as any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with treated surfaces (such as plants or soil) that may contain pesticide residues. The REI is the time after the end of a pesticide application when entry into the treated area is restricted as specified on the pesticide product label.

C. WPS Exceptions to Early Entry Restrictions

Currently, the WPS only permits worker entry during the REI for the following purposes: (a) Entry resulting in no contact with treated surfaces; (b) entry allowing short-term tasks (less than 1 hour) to be performed with PPE and other protections; and (c) entry to perform tasks associated with agricultural emergencies. Under the ''no contact'' and ''short-term task'' exceptions, workers performing early-entry work are not permitted to engage in hand labor.

Under § 170.112(e) of the WPS, EPA may establish additional exceptions to the provision prohibiting early entry to perform routine hand-labor tasks. EPA grants or denies a request for an exception based on a risk-benefit analysis as required by FIFRA. On June 10, 1994 (59 FR 30265) (FRL–4779–8), EPA granted an exception that allowed, under specified conditions, early entry into pesticide-treated areas in greenhouses to harvest cut roses. This exception expired on June 10, 1996. On May 3, 1995 (60 FR 21955, FRL–4950–4) (60 FR 21960, FRL–4950–5), two additional exceptions were granted that allow early entry to perform irrigation and limited contact tasks under specified conditions.

D. Summary of Roses Inc.'s Petition

Roses Inc., a rose grower association, approached the Agency in the spring of 1996 and expressed a need for continuing the WPS cut-rose exception. According to Roses Inc., an early-entry exception to allow the harvest of cut roses twice a day is necessary for cut-rose growers to avoid the loss of significant portions of their crop.

Roses Inc. explained that commercial quality standards demand that roses be cosmetically perfect and at a bloom stage where the bud is just beginning to open. To meet such standards, Roses Inc. noted that pesticides must be used to control insects and disease, and harvesting must occur at least twice daily to capture flowers at the appropriate bloom stage. Roses Inc. asserted that cut roses that do not meet these standards have no economic value. Roses Inc. also asserted that the required twice daily harvest is not possible on days when pesticides with an REI greater than 4 hours have been applied, since the WPS early-entry restrictions eliminate the possibility of a second harvest and may, depending on the REI, eliminate both harvests for the second day.

After consulting with the rose industry and gathering information to complete the exception request, EPA determined that the request met the requirements of § 170.112(e)(1) and published a notice in the **Federal Register** on October 30, 1996 (61 FR 56100) (FRL–5571–8). The notice acknowledged receipt of Roses Inc.'s request, described terms proposed by the cut-rose industry, and provided a 30-day comment period. After considering the information obtained through public dialogue and written comments, EPA granted a limited administrative exception. In December 1996, EPA sent a letter to cut-rose growers outlining the terms of this new exception. This action documents the contents of the December letter.

E. Roses Inc.'s Proposed Terms

Roses Inc.'s request for an exception asked for continuance of the terms of

the 1994 exception and an increase of the early entry exposure period from 3 to 8 hours in a 24-hour period just prior to major floral holidays. Specifically, Roses Inc. proposed the following terms:

1. For all products registered for use on roses, early entry to harvest roses by hand is allowed, under the following conditions:

a. The time in the treated area during an REI does not exceed 3 hours in any 24-hour period, (except as provided in (b)).

b. For 2 weeks before major floral holidays, the time in the treated area must not exceed 8 hours in any 24-hour period.

c. No entry is allowed for the first 4 hours and until after inhalation/ventilation criteria on the label has been reached.

d. The early entry personal protective equipment (PPE) specified on the product label must be used by workers.

e. The agricultural employer must properly maintain PPE.

f. The agricultural employer must take steps to prevent heat stress.

g. The worker must read the label or be informed of labeling requirements related to safe use.

h. Pesticide application specific information must be provided.

i. A pesticide safety poster must be displayed.

j. Decontamination supplies must be provided.

k. Workers must be WPS-trained.

l. Workers must be notified orally and information posted regarding the exception.

2. Exception has no expiration or, at minimum, expires in 5 years.

These proposed terms and conditions were the same as those imposed with the 1994 exception with the addition of a longer early-entry time prior to major floral holidays and an extended effective period. According to Roses Inc., there are five major floral holidays resulting in peak production periods. The holidays are Valentine's Day (February), Easter (April), Mother's Day (May), Sweetest Day (October) and Christmas (December).

After discussions with the Agency, Roses Inc. proposed a refinement of the terms of their request. In addition to the terms above, Roses Inc. proposed the following:

1. For products with a 12-hour REI on the label, allow early entry to harvest roses under the following conditions:

a. The time in the treated area for each worker may not exceed 4 hours in any 12-hour REI period;

b. Conditions (b) through (l) above.

2. For products with an REI of 24 hours or more, allow early entry to harvest roses under the following conditions:

a. Must meet all the early-entry conditions for the 12-hour REI pesticide products listed above.

b. During the first 12 hours of the REI period, early-entry workers would be required to wear additional PPE consisting of a canvas or similar arm sleeve protectors, and a waterproof apron that protects the upper torso and reaches to approximately knee level.

II. Summary of Comments Received and Major Issues

EPA received more than 50 comments on the proposed cut-rose exception. Comments were received from approximately 38 individual cut-rose growers, 9 agricultural associations, 3 government agencies, 3 academicians and 2 farmworker advocacy groups. More than 20 statements were also received from employees of cut-rose growers. Some of these statements were included with certain growers' submittals. A summary of the major issues and EPA's response is provided below.

A. Economic Need for the Exception

The cut-rose market depends on the production of high-quality, unblemished roses to achieve consumer acceptance and thus compete with foreign producers. Since roses are an aesthetic commodity, imperfections such as pest damage are not tolerated. Market demands establish the high quality standards that rose growers must meet. The wholesale flower market demands a cosmetically perfect rose that is free of insects, pest damage and blemishes. Perfection for cut-roses requires the buds to have the same size, shape, and degree of maturity.

To meet the market's standards, cut-rose growers stated they need to control pests and diseases as a vital element in providing a consistent quality product to their customers. According to survey data collected by Roses Inc., growers treat roses with pesticides an average of 6.4 times per month. Comments from growers on the frequency of pesticide applications supports Roses Inc.'s estimate.

Growers and Roses Inc. also commented that the timing of harvest is also critical in providing the market with roses at the same degree of maturity. According to growers and Roses Inc., there is a short window of opportunity to harvest the flower once it reaches this peak stage. The rose industry also asserts the need to harvest frequently is due to the physiology of the rose flower. Roses cut too soon do not open or fully blossom whereas roses cut late are too full and have a shorter shelf-life. Depending on the season and variety, the window for harvesting a high quality rose once it reaches its peak is about 2 to 6 hours, according to public comments from Roses Inc. and cut-rose growers.

The essential constraint imposed by the WPS on cut-rose production is the REI. This is due to the need to harvest roses at least twice per day under current practice to achieve maximum yield, quality and price. REI's for most of the available pesticides range from 12 to 48 hours. Therefore, the REI may interfere with the ability to harvest when pesticide treatment is also needed, resulting in a negative impact on the industry.

The methods available to cut-rose growers for producing roses and controlling pests are essentially the same as when the original exception was granted. Currently, spraying is performed in the late morning when several pests are most active and when moisture produced by spray equipment will dry rapidly. Late morning spraying would usually prevent afternoon harvest(s) due to the length of most REIs. Hypothetically, spraying could be performed after the last harvest of the day, with reentry into the greenhouse after the 12-hour REI of most pesticides expired the following morning. However, growers and scientists do not agree on this issue. Most of the growers and several scientists expressed concern that late day spraying would prolong leaf wetness due to slower drying late in the day. Higher levels of moisture are believed to increase disease and phytotoxicity. Several growers said that the prevalence of diseases increased when late day spraying was performed. Other growers and scientists believed that late day spraying could be acceptable. Late day spraying would not eliminate the need for an exception covering 24- and 48-hour REI pesticides.

Many growers noted that they are presently using integrated pest management (IPM). Growers mentioned using heating, cooling, ventilating, lighting, nutrition, greenhouse structures alteration and methods of pruning, cutting, and handling of their crops. Even with their screened greenhouses and computer environmental controls, growers contend that they still need pesticides. Growers also stated that chemical rotation is used to control pests and reduce the rate of pest and disease resistance to chemicals. When pest and disease resistance to chemicals increases, the need to treat also increases.

The original WPS exception (59 FR 30265) notes that ''EPA is granting a two-year exception to provide rose growers time to adjust pesticide spray schedules, find early-entry alternatives, and develop technology.'' A condition of approval of the original exception to the cut-rose industry was the expectation that progress would be made toward obviating the need for another exception. Several organizations representing farm workers commented that the lack of adequate effort toward eliminating the need for the exception argues against renewing the exception. Some individual growers have commented that they have attempted to reduce the need for the exception by testing biological controls, such as predatory mites, and changing cultural methods. Several growers and Roses Inc. commented that newer, shorter REI pesticides are not sufficiently effective. Farm worker advocacy organizations wrote that the cut-rose industry did not use the 2 years of the 1992 WPS cut-rose exception to develop safer practices.

Growers commented that they use heating and venting or horizontal air flow or, less commonly, high-intensity lighting, to reduce humidity and free moisture to control disease. Some growers have installed screens over vents to reduce infestation from insects such as thrips and aphids. Roses Inc., asserted that as a small industry under severe foreign competition, it has not had the resources to pursue alternatives to the exception as aggressively as desired. Roses Inc. expressed disappointment that few newer and safer chemicals with short REIs and more biological control methods have not been developed as rapidly as hoped.

According to Roses Inc., the cut-rose industry uses approximately 28 essential chemicals to control many pests. Powdery mildew, botrytis, and downy mildew are the three most significant diseases. Thrips, aphids, white flies, and two-spotted spider mites are the most important insect and mite pests. Roses Inc. and growers commented numerous times that all currently available pesticides are essential to produce domestically-grown cut-roses. Annual spray schedules were supplied by several growers and these document the use of a variety of pesticides.

In many cases several different chemicals, often with different REIs, are available to control each pest. Growers and a consultant for Roses Inc. argued that this variety of pesticides is necessary for several reasons, especially for pest resistance management. These commenters noted that pest resistance has already become a problem with several pesticides now available, including pyrethroids, abamectin and iprodione. Additional reasons given for requiring different chemicals were: price, relative efficacy, low phytotoxicity, efficacy against multiple pests, mode of application, and speed of achieving control.

While several reasons were provided regarding chemical usefulness, insufficient information comparing the merits of chemicals used to control the same pests was presented, especially when the chemicals had differing REIs. This deficiency should be remedied if another renewal is requested. However, despite presenting less than the desired amount of comparative information regarding pesticides, the Agency believes that there is still a need for the exception no matter which individual pesticides may be used. Regardless of the justification of the necessity of any particular pesticide, clearly the cut-rose industry cannot currently rely only on 4-hour REI pesticides, changes in cultural practices or drastic reductions of the number of pesticide applications. Therefore, even if several individual pesticides were determined unessential, growers would still be faced with applying mostly longer REI pesticides at frequencies similar to the present.

Roses Inc. and several growers raised concerns about the impact of foreign imports on the U.S. cut-rose market and industry. Imported cut-roses reached 66% of the U.S. market, with the largest percent being shipped from Columbia and Ecuador. U.S. growers are concerned about the regulatory limitations they operate under relative to their foreign competitors. Foreign producers have access to stronger and more effective pesticides that are no longer registered in the United States. Imported roses enter the United States free of pesticide-related restrictions. U.S. growers indicated that these factors give foreign producers a comparative advantage over them.

U.S. rose growers stated that they must achieve high quality standards for lower prices to compete with foreign imports in the U.S. rose market. Prices for cut roses have decreased by 3% to 6% between 1992 and 1995. The average annual wholesale prices for hybrid-tea roses in different geographic regions range between 17 and 68 cents per stem, with the U.S. average at 33 cents per stem. Prices peak 1 to 2 weeks prior to major floral holidays, like Valentines Day, and may reach over $1.00 per stem.

Growers stated that to survive economically, they need to harvest two and sometimes three times a day. A few growers noted occasional exceptions only harvesting once on Sundays or holidays, like Christmas and New Years. According to rose growers who cut twice a day, the first cut yields 40% to 70% of the daily harvest, with the second cut yielding the remaining 30% to 60%. For those cutting three times a day, the first cut yields 40 to 70%, the second cut 10 to 30%, and the last cut up to 45% of the daily harvest. These percentages seem to vary considerably by geographic region and season. The amount of flowers that mature in the afternoon increases as temperatures and light intensity increases.

Growers indicated without an exception that they lose a minimum of the afternoon harvest(s) when they need to treat with a pesticide(s). If a grower applies a pesticide that has a 12-hour REI after the morning harvest, they will miss a minimum of the afternoon harvest(s). Growers would lose 1 to 2 full days of harvest with an application of a pesticide that has a 24- or 48-hour REI, respectively.

Based on the information collected and provided by growers, losses of 7% to 14% may occur if EPA did not grant the exception. Roses Inc. and many growers estimated losses between 7% to 14% of the annual harvest. Others estimated losses to be 10% to 30% a year. Losses in revenue could range between $8 and $16 million annually, assuming losses of 7% to 14%. Growers with a higher frequency of pesticide applications and/or applications of pesticides with 24- or 48-hour REIs will have greater loss estimates.

Secondary markets for roses do exist; however, the prices are significantly lower than those for prime roses. Street vendors selling cut-roses may be considered the secondary market. According to growers, prices for the secondary market range between 8 and 14 cents per stem and up to 30 cents in one area. These prices are 50% to 75% lower than the prime market price and lower than some growers production costs per stem.

A grower's decision to sell roses to the secondary market will depend on their variable production costs. If the unit price is lower than the costs to produce the cut rose, it is not economical for the grower to sell to the secondary markets. This may vary by grower depending on the time of year. For example, a grower may sell flowers to the secondary markets during the summer because their fuel expenditures may be low thus reducing their overall production costs.

Based on the production costs and budget data available, some rose growers will not be able to sustain additional losses even with the exception to the WPS REI requirements.

Budget information was obtained from a few growers and a March 1995 report by the U.S. International Trade Commission (ITC) Report. The ITC collected detailed budget data for 1991 through 1993 and part of 1994. According to the ITC data, almost half of the growers incurred net losses in 1991 and 1992 and two-thirds of the growers incurred net losses in 1993. It is difficult to determine from this data if the same growers incurred losses year after year.

The cost and budget data received from growers showed similar results. Some growers showed profits and others showed net losses. Growers with net losses explained that, over the last year or two, they had implemented changes in cultural practices or made significant capital expenditures, like screens for vents and light systems for the greenhouses. It is difficult to fully interpret the budget data without a broader sample and access to more details.

A large number of rose growers could potentially be effected without the exception to the WPS. The U.S. cut-rose industry is comprised of 175 growers and up to 200 growers when all small growers are included. California growers constitute about 46% of the number of growers and produce at least 65% of the U.S. total production. About two-thirds of all U.S. growers would be considered small. The impact of losses incurred will depend on the efficiency within a greenhouse operation, the pest pressure in each greenhouse, and the ability to adjust spray schedules and the timing of harvest. Growers with few resources, including small growers are likely to be effected the most. Smaller growers may have more limited resources for capital improvements to help reduce pest pressure or install lights as quickly as larger operations. Most likely, larger operations have invested in upgrading their greenhouses with more efficient equipment and facilities. On the other hand, small growers may have more flexibility than really large operations to adjust harvest and spray schedules.

B. Risk To Workers

Commenters noted that the large number and high volume of chemicals used, as well as the high frequency of applications that is typical in rose production indicate potential for high worker exposure and high worker risk. These comments stated that many of the chemicals listed in the Roses Inc., exception request are acutely toxic, or have been shown to cause a variety of delayed effects in laboratory animals, including cancer, reproductive and developmental effects, neurotoxicity, and endocrine disruption.

Commenters also expressed a belief that rose harvesters are better protected than other agricultural workers. They cited several characteristics of the rose greenhouse to indicate a relative degree of safety. Such characteristics include a stable, skilled work force that tends to be well-trained and receptive to safety training. Also cited is the tendency for rose harvesters to be paid either on an hourly or salary basis rather than a piece rate. This, it is argued, indicates a probability that workers will adhere to safe work practices making use of protective equipment and other safety measures which might be foregone if such measures could slow their work, thus reducing their pay. Some comments also noted that in the greenhouse environment, workers generally have easy access to water for drinking and decontamination, and that in the relatively confined space of a greenhouse, workers are easier to monitor for compliance with safety rules.

Others observed that certain characteristics of the greenhouse environment suggests an increased level of worker risk. Both growers and worker advocates cite the problem of heat and humidity in greenhouses which increases risk of heat-related illness and discourages workers from wearing protective clothing and equipment because it may be uncomfortable. EPA shares the concerns about the risk of heat stress in greenhouses. EPA also notes that, while greenhouse environments tend to be warm and humid, the environment is controllable.

Numerous comments from rose growers indicated excellent safety records for their employees, and many said neither they nor their employees had ever experienced pesticide related injuries or illnesses. Comments from a county agricultural commissioner in California cited a draft report by the Worker Health and Safety Branch of the California Department of Pesticide Regulation. The draft report summarizes cases reported to the California Pesticide Illness Surveillance Program, and covers poisoning incident data for greenhouses and outdoor nursery operations for the years 1990 through 1994. According to this draft report, only three cases of pesticide-related illness, rated as possibly or probably related to pesticide exposure, were indicated as specific to rose growing operations; none of these incidents involved hospitalization, and one involved the worker missing 5 days of work. (EPA notes that some incidents appearing on the draft report cite only ''ornamentals'' or do not indicate the crop involved.) These commenters further state that while in other parts of the country many pesticide incidents go unreported, in California, for several reasons, it is rare for incidents to go unreported. The reasons given include California's extensive regulatory program, the general level of public awareness about pesticide use, and requirements placed on the medical care industry to report all suspected pesticide-related cases. This commenter asserts that acute pesticide poisonings, at least in California, are less likely to be overlooked than in the past. EPA believes that incident reporting is higher in California that in other parts of the country, but does not believe that it is rare for cases to go unreported.

Worker advocates argued that, while the reported number of pesticide-related incidents may be small, many incidents still go unreported. Even the California Incident Reporting System, these commenters argue, documents only a small fraction of the actual incidents that occur because: (1) Many farmworkers cannot afford to take a day off work to seek medical treatment, so they continue working despite symptoms of acute poisoning; (2) many farmworkers lack the financial means to secure medical care, or lack transportation to get to a medical provider; and (3) often farmworkers and medical providers do not recognize or report symptoms of pesticide exposure. Several commenters also expressed concern over delayed effects that are difficult to link to pesticides because the exposure does not result in immediate symptoms, and therefore does not get reported. Such effects may include cancer, reproductive and developmental effects, neurotoxicity, and endocrine system disruption. The Association of Farmworker Opportunity Programs states that incidents are under reported since the symptoms of pesticide poisoning often mimic the symptoms of colds and flu.

Commenters expressed disbelief that repeated or prolonged pesticide exposures could lead to such delayed effects. Some noted that family members and friends who have worked in the rose industry for a number of years continue to enjoy good health. Others criticized the Agency's concern for effects resulting from repeated low-dose exposures as ''conjectural and speculative theorizing,'' and suggested that the Agency should assume the burden of proof that such effects are real before placing entry restrictions on the industry.

One grower mentioned that none of his retirees filed claims for effects

suffered from long-term use. Another grower wrote that in 50 years of operation they have never had a case of poisoning or a case of someone getting sick from applying pesticides. One grower mentioned that his employees were more likely to have an increased exposure to toxic chemicals while they were pursuing their hobbies than while harvesting roses.

EPA agrees that the likelihood of pesticide-related incidents going unreported in California is much lower than in other states where systems for reporting incidents are not in place, and where the regulatory framework providing for workers' health and safety may not be as developed. Nevertheless, EPA believes it is difficult to conclude, based on incident data, that reentry protections such as REIs are less important to the health and safety of rose harvesters than to other farmworkers. While the number of rose workers reported to have experienced pesticide-related illness or injury in California appears to be small, it may not be an accurate gauge for rose workers nationally, and does not account for size of the rose work force relative to the size of the general agricultural work force. Employers' Reports of Occupational Injuries, compiled by the California Department of Industrial Relations (1981 - 1990) indicate that workers in horticultural specialty crops, which include roses, had a slightly higher rate of pesticide poisoning (0.53 poisonings per 1,000 workers per year) than that for all agricultural workers (0.46 poisonings per 1,000 workers per year).

Regarding delayed effects, EPA acknowledges that several rose production chemicals identified by Roses Inc., have been shown in laboratory animals to cause the variety of effects cited by worker advocates in their comments. However, EPA does not have sufficient data to determine whether the potential level of exposure to rose harvesters corresponds to levels of concern identified in the toxicological studies that demonstrated these effects. More importantly, EPA has generic concern for workers working in areas shortly after pesticide applications have been completed when pesticide residue levels are at their highest and the potential for worker exposure is greatest. Such concern is heightened when many different chemicals are used and cultural practices dictate frequent or prolonged reentry, as is the case with rose harvesting. Finally, EPA agrees that such delayed effects would rarely, if ever, be captured in pesticide incident reports.

Worker risk can be decreased by reducing exposure during periods when pesticide residues are at the highest levels, by limiting the time workers are exposed, and by limiting the workers' direct contact with treated surfaces. EPA believes that the early-entry requirements set out in this exception acceptably reduces worker contact with pesticide-treated surfaces. Worker contact will be limited by not allowing entry for the first 4 hours following application and until inhalation and ventilation criteria on the label has been met; by limiting the duration of the contact to 3 hours and by requiring PPE to protect workers from treated surfaces.

C. Personal Protective Equipment (PPE)

Some growers wrote that safety has always been important to them. One cut-rose grower wrote that they have not had serious problems with pesticide exposure in the history of their organization because of their stringent training program and serious attitude toward worker protection. An employee wrote that each worker has and uses their own safety equipment including full protective gear. One harvester stated that the PPE used during the REI was both comfortable and protective.

One grower mentioned that, except for the respirators, the PPE equipment does not appear to unduly stress the staff. Another grower explained that his employees were agreeable to the use of special gloves, sleeves and aprons; however, they were opposed to the use of full protective suits, respirators, boots, gloves and face shields. One cut-rose grower wrote that he tried to have workers use coveralls, but everyone complained about the heat. Another grower mentioned that the employees complain about the PPE being uncomfortable in the heat of the summer; however, he writes that he allows plenty of water breaks.

A grower mentioned that his employees preferred leather gloves rather than rubber gloves because of comfort and perspiration in chemical resistant gloves. In a public dialogue with rose harvesters, one harvester mentioned that his hands were raw after using chemical resistant gloves.

Several growers and harvesters mentioned that they had complete laundry and shower facilities. One grower with laundry and shower facilities stated he assigns an individual to launder the PPE.

EPA believes that PPE, along with other provisions of this exception, will reduce worker exposure to pesticide residues and thus will reduce the risk.

D. Time Allowed in the Treated Area

Several growers' comments supported the Roses Inc. request that the time allowed in treated areas be expanded from 3 hours per worker per day to 4 or 8 hours per worker per day. Other growers commented that by rotating staff and using pesticides with 12-hour REIs or less, less than 3 hours per worker per day was sufficient to maintain normal harvest levels.

EPA notes that the shorter the workers' time in the treated area, the less potential exposure the worker will experience. By limiting early-entry rose harvesters to 3 hours per worker per day, EPA believes potential harvester exposure and resulting potential risk will be considerably less than would be expected if workers' time in treated areas is expanded to 4 or 8 hours.

E. Expiration Date

Roses Inc. requested the Agency to grant an exception for 5 years or indefinitely. Some commenters stated that the exception should be longer than 2 years because it would not be enough time to establish new methods that could be successfully implemented. One grower stated that the exception should be granted for 5 years.

Several growers suggested granting the exception permanently until compelling data shows that the issue needs to be revisited. One grower mentioned the exception should be granted for an unlimited amount of time and remove the use of the exception from any grower that has a series of problems or multiple violations.

EPA expects the cut-rose industry to work towards eliminating the need for this exception. Therefore, this exception will expire on October 4, 1999. Although the technology may not exist in 2 years to completely eliminate the need for a cut-rose exception, the Agency will want to review the advances made in greenhouse technology and cultural cut-rose practices. In addition, EPA will take into account the conclusions from the NIOSH's study on PPE effectiveness and any relevant toxicological data that may be available at that time. If another exception request is received, EPA will need to make considerations based on all additional information that may be available at that time.

III. EPA's Exception Decision

In the WPS, EPA prohibited, in general, early entry for hand labor, such as harvesting because EPA concluded that entry during a restricted-entry interval to perform routine hand-labor tasks is rarely necessary, that PPE for

workers is not always practical because workers may remove it or use it incorrectly, and that the PPE itself may generate heat stress. In this case, EPA believes that the risks for rose harvesters will be mitigated by the limited time harvesters are allowed in the treated area, the use of PPE and the short period of time that it will be worn, accessible decontamination facilities, and provision of label-specific information to harvesters and basic pesticide safety information.

However, to provide greater certainty about the potential risk to early-entry rose harvesters, EPA has provided funding to the National Institute of Occupational Safety and Health (NIOSH) to conduct and evaluate the effectiveness of PPE at mitigating residue exposure. EPA believes it is essential to examine the effectiveness of PPE to mitigate worker exposure and intends to consider the results of NIOSH research, as well as any additional data generated in responding to future exception requests. Therefore, if the rose industry believes that there may be a continuing need for an exception for rose harvesting, EPA strongly encourages that they pursue data demonstrating the effectiveness of risk reduction measures, such as PPE, in addition to the EPA-funded NIOSH research.

While the rose industry has begun to explore alternatives to early entry, such as adjusting spray schedules, trying engineering controls, and other safe alternatives, EPA believes a more systematic approach is necessary to progress toward eliminating the need for an exception. EPA also believes that certain alternate practices have promise for eventually reducing or eliminating the need for early entry for rose harvesting in greenhouses. Therefore, EPA strongly recommends that the cut-rose industry pursue data development and research on such alternatives, and pilot test those alternatives which appear to be most promising.

A. EPA's Risk Assessment

Post-application worker exposure is a function of time, activity, and pesticide residue levels. Risk increases with longer periods of exposure, high levels of contact with treated surfaces and when contact occurs while pesticide residue levels are at their highest. Worker risk can be reduced by limiting exposure during periods when pesticide residues are at the highest levels, by limiting the time workers are exposed, and by limiting the workers' direct contact with treated surfaces.

During peak production periods when rose bushes have been cultivated for maximum production, rose harvesters can have considerable contact with foliage during harvesting activities. Since cut-rose harvesting typically occurs twice per day, 6 or 7 days per week, rose harvesters are likely to have repeated exposure to the pesticide residues present in greenhouses. The high frequency of pesticide applications to roses, combined with the relatively slow expected breakdown of pesticides applied in greenhouses, indicate that pesticide residues will be present during rose harvesting activities. If harvesting takes place while foliage is still wet, or when residues have not dried due to irrigation, dew, high humidity or condensation, transfer of pesticide residues from foliage to the rose harvesters will be higher, resulting in an increase in risk. This exception requires that harvesting not take place until 4 hours after application and after all inhalation and ventilation criteria on the label has been met. This combined with the cut-rose growers need to reduce dew, high humidity, and condensation in the greenhouses for optimum roses should decrease harvesting taking place while foliage is wet.

Toxicological endpoints for repeated pesticide exposures tend to be lower than for single and short-term exposures. Several chemicals used on roses have been shown to produce adverse effects in laboratory animals. EPA does not have sufficient data to determine whether the potential level of exposure to rose harvesters corresponds to the levels of concern identified in the toxicological studies that demonstrated these effects. Given that exposure to pesticides used in cut-rose cultivation has the potential to cause adverse effects, a way to reduce that risk is to reduce the exposure. A worker's exposure can be decreased with shorter periods of exposure, less contact with treated surfaces and with reduced pesticide residue levels.

EPA has designed this exception to reduce the risk associated with increased exposure during early entry while balancing the benefits of giving cut-rose growers flexibility to perform necessary harvesting tasks. EPA is maintaining the 3–hour maximum time allowed in the treated area within a 24-hour period rather than allow unlimited entry during the period prior to major floral holidays as Roses, Inc. requested. The Agency concludes that this is sufficient time to harvest and combined with the other protections required under this exception, EPA believes the benefits of a limited 3–hour entry period outweigh the risks of exposure in that period.

EPA believes that risk for rose harvesters will be mitigated by limiting time harvesters are allowed in the treated area, the use of PPE, the availability of decontamination supplies, and the provision of label-specific information to harvesters and basic pesticide safety information.

EPA believes that the early-entry requirements set out in this exception acceptably reduces worker contact with pesticide-treated surfaces. Worker contact will be limited by not allowing entry for the first 4 hours following application and until inhalation and ventilation criteria on the label has been met; by limiting the duration of the contact to 3 hours and by requiring PPE to protect workers from treated surfaces.

The following additional factors or terms contributed to EPA's decision: (1) Early entry PPE could be comfortably worn for 3 hours; (2) use of unattached absorbent glove liners make it much more likely that harvesters will wear the required chemical resistant gloves or liners underneath the optional leather gloves; (3) there is approximately only 200 greenhouse cut-rose growers, facilitating communication and compliance monitoring activity between the rose industry and EPA; (4) the scale of greenhouse operations and limited number of harvesters per greenhouse should allow employers to more easily ensure that workers wear the PPE; (5) cut-rose growers using this exception will be required to report any incidents which harvesters believe are the result of pesticide exposure occurring during early-entry harvesting under the conditions of this exception; (6) running water, and in some cases showers, for decontamination and heat-stress alleviation are more accessible in greenhouse operations than in field settings; and (7) the exception will be in effect for less than 3 years before reevaluation. EPA therefore believes that early entry with PPE is feasible and provides adequate reduction of risks to rose harvesters.

B. Economic Analysis

Through written comments and public dialogue, the cut-rose industry has made a case that entry during the REI to harvest cut roses is necessary, and that prohibiting such entry could have a substantial adverse economic impact on growers of these commodities. Based on written statements received from the rose industry, on information gained during public meetings and greenhouse tours, as well as on EPA's knowledge of rose production, EPA finds that the benefits of early entry are substantial. The rose industry has provided sufficient

information demonstrating that routine entry during an REI to harvest roses twice daily is still necessary and that prohibiting such entry could have a substantial economic impact on cut-rose growers.

Depending on the product applied, the associated REI, and the time of year, growers could lose 25-50% of their daily revenues on the days pesticides are applied. EPA believes that the cut-rose industry cannot absorb this loss without significant repercussions. Additionally, since the exception is subject to conditions designed to mitigate risk to early-entry workers, EPA believes that early entry under the terms of this exception will not pose unreasonable risks to rose harvesters.

IV. Terms of the Exception

Use of this exception is conditioned on the following requirements:

A. Completed Conditions and Certification Statement

Agricultural employers must read and send a completed Conditions and Certification Statement to the EPA before using this exception (Forms may be obtained by writing, calling, faxing or e-mailing Sara Ager at the address and telephone number listed in FOR FURTHER INFORMATION CONTACT.).

B. Compliance with Requirements

Agricultural employers must fully comply with the early-entry requirements of this exception:

1. No entry for first 4 hours after application and until after any inhalation and ventilation criteria specified on the label has been reached (§ 170.112(c)(3)).
2. Workers may enter a treated area during an REI to perform only hand harvesting of greenhouse grown roses (exception to § 170.112(c)(1)).
3. A worker's time in the treated area during an REI for hand harvesting shall not exceed 3 hours within any 24-hour period (exception to § 170.112(c)(2)).
4. Workers must read the label or be informed in a language the worker understands of labeling requirements related to safe use.
5. The agricultural employer shall notify workers before entering a treated area, either orally or in writing, in a language the workers understand, that the establishment is using this exception to allow workers to enter treated areas before the REI expires, to hand harvest roses.
6. Agricultural employers must provide, properly maintain, and ensure workers wear the early entry PPE listed on the label in accordance with § 170.112(c)(4)-(c)(9). When chemical resistant gloves are required on the label, workers have the option of wearing the leather gloves over the required chemical resistant gloves. In accordance with § 170.112(c)(4)(vii), once leather gloves have been worn for early-entry use, thereafter they shall be worn only with chemical-resistant liners and they shall not be worn for any other use.

   In addition, unattached, absorbent glove liners may be worn underneath the chemical resistant gloves or liners, provided the unattached, absorbent liners are completely covered by the chemical resistant liner or glove (exception to § 170.112(c)(4)(vii)). Absorbent liners must be disposed of after each day of use in early-entry harvesting.
7. All other applicable provisions of the Worker Protection Standard (40 CFR part 170) also remain in effect.

C. Reporting Incidents

Agricultural employers using this exception are required to report any incidents that harvesters believe are the result of pesticide exposure occurring during early entry harvesting under this exception. The agricultural employer shall notify EPA (address provided under FOR FURTHER INFORMATION CONTACT) within 5 consecutive days of any incident believed to be the result of exposure to pesticides or pesticide residues that occurred during early-entry harvesting performed under the conditions of this exception.

In addition, there may be no findings of unacceptable levels of risk by EPA, resulting from NIOSH's investigations, from other risk studies, or from incident reporting and investigation. If the Agency receives information that shows the health risks posed by early entry to areas treated with pesticides registered for use on cut-roses are unacceptable, it reserves the right to not allow specific chemicals to be used in conjunction with this exception. EPA reserves the right to withdraw or revise the scope and conditions of this exception at any time, in accordance with § 170.112(e)(6).

V. Reevaluation of the Cut-rose Exception

This exception will expire on October 4, 1999. In the interim, EPA is expecting the cut-rose industry to actively pursue alternate cultural methods that will eliminate the need for this exception. EPA also expects that with the research, Roses Inc. and other industry trade groups will sponsor outreach education with cut-rose producers explaining the exception, the need for strict compliance with its terms and explain the risk concerns presented by pesticide use and worker entry during REIs.

The cut-rose industry was not able to make adequate progress over the 2 years that the original exception was in place to eliminate the need for renewal. The effort of individual growers to attempt to use alternatives to long REI chemicals has not been sufficient to obviate the need for a new exception. Some alternative measures that appear promising initially may have serious shortcomings when examined more closely. For example, spraying after the last harvest was generally claimed to be unacceptable for a number of reasons, including several given above. However, little documentation was presented concerning these shortcomings, and there was no evidence given regarding their impact. Some of these shortcomings, while generally accepted, remain hypothetical or anecdotal.

In addition, not all growers had the same experience when using alternatives. Several growers commented that they used late day spraying successfully, at least since the original exception expired in June 1996. It is also possible that hypothetical expectations of failure may not be borne out by experience or experiment. For example, while several scientists and growers were concerned that insects that are more active early in the day would not be effectively controlled by late spraying, two growers commented that they sprayed late for thrips.

It is important to demonstrate not only the existence of some noted shortcomings, but also to measure their impact. It is possible that where these problems exist, their magnitude and/or frequency of occurrence is sufficiently small to be acceptable to growers. Perhaps more importantly, where real and significant problems are found, it may be possible to ameliorate their effects. The specific conditions in which problems of applying alternatives arise may be identified, giving growers more confidence in using them at other times.

On several issues regarding alternate practices and the need for all currently available chemicals, many growers and the consultant for Roses Inc., commented that due to variations in growing conditions and pests among different growers, even in the same region, generalizations could not be made about the adequacy of alternate practices. By extension, attempts to implement these alternate practices in the entire industry would seriously harm some growers. While there is undoubtedly some validity in arguments about variability, such general arguments are, by nature, practically unverifiable. Therefore, better

documentation of the impacts of using alternate practices will be necessary in the future.

In light of the cut-rose industry's claimed lack of adequate resources to conduct necessary studies of alternatives and because of the inability to answer some basic background questions necessary for the thorough evaluation of the need for an exception, the Agency will work with the cut-rose industry and scientists knowledgeable about cut-rose production over the next 2 years to gather necessary information and perform research in areas that may move the industry from the need for further exceptions. Therefore, in the next 2 years, the industry, should show continuing progress in documenting and demonstrating, but not limited to, the following:

1. Adequate justification for including all current pesticides, in the exception especially 24– and 48–hour REI pesticides.

a. There is more than one chemical of a given class or mode of action, that controls the same pest or spectrum of pests, the industry should justify the need for maintaining all such chemicals in the exception, i.e. describe the advantages and disadvantages of each chemical.

b. Advantages of specific chemicals, such as price or efficacy differences, should be quantified. Part A should be completed within the first year of the exception so that part B may be presented to the Agency by August 1998.

2. Due to the large number of pests and chemicals required by the industry, the Agency does not believe that registration of new, safer chemicals or biological control agents in the next 2 years will be sufficient to replace many of the longer REI chemicals currently used. Therefore, efforts to eliminate the need for another exception should focus on practices that allow avoidance of the REI of existing chemicals, including:

a. Systematic research of spraying at times that minimize the need for an exception, in particular spraying after the last daily harvest. Such research should include measurement of the impact of late day spraying on pest damage and phytotoxicity. Attempts should be made to ameliorate problems encountered with implementation of altered spray schedules.

b. Exploration of techniques that allow early harvesting of roses, which may eliminate or reduce the need for harvesting several times per day.

Roses Inc. and several growers requested a longer term for the current exception. Several growers also commented that 2 years is an unrealistically short time period to research and implement new methods of pest control or production. It is therefore critical that clear and measurable objectives and goals are established early and that these goals and objectives, and progress in meeting them, are regularly reported to the Agency. The cut-rose industry should work closely with the Agency and researchers to accomplish these goals. Success or difficulty in accomplishing such benchmarks may then be used should another exception be desired.

EPA is interested in working with the rose industry to identify specific research efforts, identify competitive grant funds that may be available to support such research, discuss protocols and time frames for initiating and completing studies, and incorporating practices at the individual grower establishment. However, establishing research goals, objectives, time lines, and measurements is fundamentally the responsibility of the cut-rose industry. Sara Ager in the Certification and Occupational Safety Branch will continue to be the lead Agency contact for the rose industry. The Agency is willing to meet with the rose industry to discuss implementation of the exception, review any findings from the NIOSH risk investigations, and review the industry's progress in reducing the need for early entry and this exception.

VI. Public Docket

A record has been established for this administrative decision under docket number ''OPP–250121.'' A public version of this record, including printed, paper versions of electronic comments, that does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Crystal Mall #2, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA. Electronic comments can be sent directly to EPA at opp-docket@epamail.epa.gov.

VII. Regulatory Assessment Requirements

This document is an adjudication of eligibility for an exception to certain requirements of the Worker Protection Standard, 40 CFR part 170. As such it is not a regulation or rule and therefore is not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866 entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Regulatory Flexibility Act, 5 U.S.C. section 601, *et seq.*, or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). It does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). It also does not require any prior consultation as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993) or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

The information collection requirements associated with this exception have been approved by OMB pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* under OMB control number 2070–00148 (EPA ICR No. 1759). An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information subject to OMB approval under the PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial display in the preamble of the final action or rule, are listed in 40 CFR part 9 and appear on any related collection instrument.

The total public burden related to the information collection activities in this exception are estimated to be 600 burden hours, with the average burden for each cut rose grower estimated to be 3 burden hours. For analysis purposes, ''burden'' includes the total time, effort, or financial resource expended by persons to generate, maintain, retain, or disclose or provide information to or for the Agency. As defined by the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Send comments on the accuracy of the burden estimates, and any suggested

methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (Mail Code 2137), 401 M St., SW., Washington, DC 20460, with a copy to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Please remember to include the OMB control number in any correspondence.

List of Subjects in Part 170

Environmental protection, Administrative practice and procedure, Labeling, Occupational safety and health, Pesticides and pests.

Dated: September 29, 1997.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–26321 Filed 10–2–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 170

[OPP–250122; FRL–5599–3]

RIN 2070-AC95

Exception Decisions to Early Entry Prohibition, Worker Protection Standard; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA is modifying its worker protection regulation to provide notice of an additional administrative exception to the general prohibition on early entry into pesticide-treated areas contained in the Worker Protection Standard (WPS) issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The exception allows, under specific conditions, early entry for workers to hand harvest greenhouse grown cut-roses. To ensure that the regulated community is aware of this and future administrative exceptions to the early-entry prohibition, EPA is amending the WPS to add a new paragraph to § 170.112(e)(7) which informs the regulated community where to locate **Federal Register** notices that set forth the terms and conditions of the administrative exceptions.

EFFECTIVE DATE: This document is effective Ocotber 3, 1997.

FOR FURTHER INFORMATION CONTACT: Sara Ager, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 1921 Jefferson Davis Highway, Rm. 1121, Crystal Mall #2, Arlington, VA, (703) 305–7666, e-mail: ager.sara@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA issued the WPS on August 21, 1992 (57 FR 38102) (40 CFR part 170). The WPS includes a prohibition (§ 170.112) against routine early entry into pesticide-treated areas during restricted-entry interval (referred to as ''early entry''). Section 170.112(e) of the WPS provides a process for EPA to consider and grant administrative exceptions to this prohibition on early entry. Elsewhere in this issue of the **Federal Register**, EPA is granting the fourth such administrative exception. The exception allows, under specific conditions, early entry for workers to hand harvest greenhouse grown cut-roses. The exception allows, under specific conditions, early entry for workers to hand harvest greenhouse grown cut-roses. The addition to paragraph (e)(7) is a technical amendment. It does not make any substantive changes in the WPS or § 170.112. EPA provided notice and opportunity for comment on the proposed administrative exception (61 FR 56100, October 30, 1996) (FRL–5571–8).

II. Regulatory Assessment Requirements

This final rule does not impose any requirements. It only implements a technical correction to the Code of Federal Regulations (CFR). As such, this action does not require review by the Office of Management and Budget under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). For the same reason, it does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). In addition, since this type of action does not require any proposal, no action is needed under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

III. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is a technical correction to the CFR and is not a major rule as defined by 5 U.S.C. 804(2).

List of Subject in 40 CFR Part 170

Environmental protection, Administrative practice and procedure, Labeling, Occupational safety and health, Pesticides and pests.

Dated: September 29, 1997.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 170 is amended as follows:

PART 170—[AMENDED]

1. The authority citation for part 170 continues to read as follows:

Authority: 7 U.S.C. 136w.

2. Section 170.112 is amended by adding paragraph (e)(7)(iv) to read as follows:

§ 170.112 Entry restrictions.

(e) * * *

(7) * * *

(iv) Exception for hand labor to harvest greenhouse-grown roses under specified conditions published in the **Federal Register** of Ocotber 3, 1997, effective December 18, 1996 to October 4, 1999.

[FR Doc. 97–26322 Filed 10–2–97; 8:45 am]

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S. 910/P.L. 105–47

To authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1998 and 1999, and for other purposes. (Oct. 1, 1997; 111 Stat. 1159)

S. 1211/P.L. 105–48

To provide permanent authority for the administration of au pair programs. (Oct. 1, 1997; 111 Stat. 1165)

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