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Monday
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Presidential Documents

Title 3—

The President

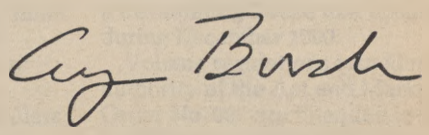
Executive Order 12784 of December 19, 1991

Delegation of Authority Regarding the Naval Petroleum and Oil Shale Reserves

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 and sections 7427 and 7428 of title 10 of the United States Code, and in order to meet the goals and requirements of the Naval Petroleum and Oil Shale Reserves, it is hereby ordered as follows:

Section 1. The functions vested in the President by sections 7427 and 7428 of title 10 of the United States Code are delegated to the Secretary of Energy.

Sec. 2. On or before June 30, 1994, the Secretary of Energy shall prepare and submit to the President a comprehensive report of the agreements and programs executed under the authority granted under this order. The authority delegated herein expires on October 2, 1994.



THE WHITE HOUSE,
December 19, 1991.

[FR Doc. 91-30745
Filed 12-19-91; 4:25 pm]
Billing code 3195-01-M

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 725]

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from December 20 through December 26, 1991. Consistent with program objectives, such action is needed to establish and maintain orderly marketing conditions for fresh California-Arizona navel oranges for the specified week. Regulation was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

EFFECTIVE DATES: Regulation 725 (7 CFR part 907) is effective for the period from December 20 through December 26, 1991.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–1754.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "Act."

This final rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of the use of volume regulations on small entities as well as larger ones.

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

There are approximately 130 handlers of California-Arizona navel oranges subject to regulation under the navel orange marketing order and approximately 4,000 navel orange producers in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona navel oranges may be classified as small entities.

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented about 79 percent of the total production in 1990–91. District 2 is located in the southern coastal area of California and represented almost 18 percent of 1990–91 production; District 3 is the desert area of California and Arizona, and it represented slightly less than 3 percent; and District 4, which represented slightly less than 1 percent, is northern California. The Committee's revised estimate of 1991–92 production is 64,600 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 32,895 cars during the 1990–91 season.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic fresh (regulated) market is a preferred market for California-Arizona navel oranges while the export market continues to grow. The Committee has estimated that about 68 percent of the 1991–92 crop of 64,600 cars will be utilized in fresh domestic channels (43,650 cars), with the remainder being exported fresh (14 percent), processed (16 percent), or designated for other uses (2 percent). This compares with the 1990–91 total of 16,675 cars shipped to fresh domestic markets, about 51 percent of that year's crop. In comparison to other seasons, 1990–91 production was low because of a devastating freeze that occurred during December 1990.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to producers. Producers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of oranges in the market throughout the marketing season.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the navel orange marketing order are required by the Committee from handlers of navel oranges. However, handlers in turn may require individual producers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and

enhance producer revenue. Prices for navel oranges tend to be relatively inelastic at the producer level. Thus, even a small variation in shipments can have a great impact on prices and producer revenue. Under these circumstances, strong arguments can be advanced as to the benefits of regulation to producers, particularly smaller producers.

The Committee adopted its marketing policy for the 1991–92 season on June 25, 1991. The Committee reviewed its marketing policy at district meetings as follows: Districts 1 and 4 on September 24, 1991, in Visalia, California; and District 2 and 3 on October 1, 1991, in Ontario, California. The Committee subsequently revised its marketing policy at a meeting on October 15, 1991. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. The Committee considered the use of volume regulation for the season. This marketing policy is available from the Committee or Mr. Nissen. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on December 17, 1991, in Newhall, California, to consider the current and prospective conditions of supply and demand and recommended, with 7 members voting in favor, 3 opposing, and 1 abstaining, that 600,000 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations was compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, preceding week's shipments and shipments to date, crop conditions and weather and transportation conditions.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1991–92 marketing policy. The recommended amount of 800,000 cartons compares to the 900,000 specified in the Committee's shipping schedule. However, the Department, based on its independent analysis, and information provided by the Committee, has revised the recommendation and established volume regulation in the amount of 950,000 cartons. Of the 950,000 cartons, 91.11 percent or 865,545 cartons are allotted for District 1, and 8.89 percent or 84,455 cartons are allocated for District 3. Handlers in Districts 2 and 4 will not be regulated as they are not shipping a sufficient quantity of navel oranges to warrant volume regulation at this point in the season.

During the week ending on December 12, 1991, shipments of navel oranges to fresh domestic markets, including Canada, totaled 2,030,000 cartons compared with 2,252,000 cartons shipped during the week ending on December 13, 1990. Export shipments totaled 151,000 cartons compared with 220,000 cartons shipped during the week ending on December 13, 1990. Processing and other uses accounted for 356,000 cartons compared with 489,000 cartons shipped during the week ending on December 13, 1990.

Fresh domestic shipments to date this season total 6,372,000 cartons compared with 9,527,000 cartons shipped by this time last season. Export shipments total 833,000 cartons compared with 1,035,000 cartons shipped by this time last season. Processing and other use shipments total 1,236,000 cartons compared with 2,042,000 cartons shipped by this time last season.

For the week ending December 12, 1991, regulated shipments of navel oranges to the fresh domestic market were 2,017,000 cartons on a adjusted allotment of 2,077,000 cartons which resulted in net undershipments of 60,000 cartons. Regulated shipments for the current week (December 13 through December 19) are estimated at 1,900,000 cartons on an adjusted allotment of 1,829,000 cartons. Thus, overshipments of 71,000 cartons could be carried forward into the week ending on December 26, 1991.

The average f.o.b. shipping point price for the week ending on December 12, 1991, was $10.08 per carton based on a reported sales volume of 1,619,000 cartons. The season average f.o.b. shipping point price to date is $10.47 per carton. The average f.o.b. shipping point prices for the week ending on December 13, 1990, was $8.58 per carton; the season average f.o.b. shipping point price at this time last year was $9.24.

The Department's Market News Service reported that, as of December 17, demand for first grade 72–88s sizes is moderate, very good for other sizes. Prices for first grade 56s are slightly higher, while prices for other sizes are reported as about steady.

Committee members discussed implementing volume regulation at this time, as well as different levels of allotment. It was reported that poor weather conditions are hampering harvesting in District 1, and that maturity problems are continuing to affect some districts. Due to these problems, several members stated they expected carryovers from the week ending December 19. Another member stated that demand will be limited due to Christmas. It was also recommended that Districts 2 and 4 remain open in light of the relatively small early maturity requests. Three Committee members favored open movement at this time, while the majority of Committee members favored the issuance of general maturity allotment.

According to the National Agricultural Statistics Service, the 1990–91 season average fresh equivalent on-tree price for California-Arizona navel oranges was $7.75 per carton, 119 percent of the season average parity equivalent price of $6.52 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1991–92 season average fresh on-tree price is estimated at $6.33 per carton, about 85 percent of the estimated fresh on-tree parity equivalent price of $7.44 per carton.

Limiting the quantity of navel oranges that may be shipped during the period from December 20, through December 26, 1991, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

A proposed rule regarding the implementation of volume regulation and a proposed shipping schedule for California-Arizona navel oranges for the 1991–92 season was published in the September 30, 1991, issue of the **Federal Register** (56 FR 49432). The Department is currently in the process of analyzing comments received in response to this proposal and, if warranted, may finalize that action this season. However, issuance of this final rule implementing volume regulation for the regulatory week ending on December 26, 1991, does not constitute a final decision on that proposal.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give

preliminary notice, engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until December 17, 1991, and this action needs to be effective for the regulatory week which begins on December 20, 1991. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR part 907 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 907.1025 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 907.1025 Navel Orange Regulation 725.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from December 20 through December 26, 1991, is established as follows:

(a) District 1: 865,545 cartons;

(b) District 2: unlimited cartons;

(c) District 3: 84,455 cartons;

(d) District 4: unlimited cartons.

Dated: December 18, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–30631 Filed 12–19–91; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R-0736]

Home Mortgage Disclosure; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; Correction.

SUMMARY: The Board published a final rule concerning annual reporting requirements for home mortgage disclosure on November 26, 1991, that contains an error in amendatory instruction 3 preceding § 203.4.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: W. Kurt Schumacher, Staff Attorney, Division of Consumer and Community Affairs, at 202-452-2412; for the hearing impaired *only*, contact Dorothea Thompson, Telecommunications Device for the Deaf, at 202-452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

In **Federal Register** rule (FR Doc. 91-28336) published at page 59853, column 3, of the issue for Tuesday, November 26, 1991, make the following correction:

On page 59857, column 2, amendatory instruction 3 in part 203 is corrected to read as follows:

"3. Section 203.4 is amended by revising the introductory text of paragraph (a) to read as follows:".

Board of Governors of the Federal Reserve System, December 17, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-30548 Filed 12-20-91; 8:45 am]

BILLING CODE 6210-01-F

12 CFR Part 229

[Regulation CC; Docket No. R-0717]

RIN 7100-AB01

Availability of Funds and Collection of Checks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correction.

SUMMARY: The Board published a final rule for its Regulation CC regarding deposits to nonproprietary ATMs on Tuesday, February 26, 1991. The Board's publication contained errors in some of the amendatory instructions. The Board is publishing technical corrections to those instructions.

EFFECTIVE DATE: September 1, 1990.

FOR FURTHER INFORMATION CONTACT: Stephanie Martin, Senior Attorney (202/452–3198), Legal Division. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf, at (202/452–3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

In the Board's Final Rule regarding its Regulation CC (Federal Reserve Docket No. R–0717, FR Doc. 91–4460) published at page 7799 of the issue for Tuesday, February 26, 1991, make the following corrections:

PART 229—[CORRECTED]

1. On page 7801, column 3, in part 229, amendatory instruction 2 is revised to read as follows: "In § 229.12, paragraphs (a), (b) introductory text, (b)(4), (c)(1) introductory text, the first and third sentences of paragraphs (d), and (f) are revised to read as follows:"

2. On page 7802, column 2, in appendix E to part 229, amendatory instruction 4(a) is revised to read as follows: "In the Commentary to § 229.12, the last sentence of paragraph (a), the second paragraph of paragraph (b), and paragraph (f) are revised to read as follows:"

By order of the Board of Governors of the Federal Reserve System, December 17, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91–30549 Filed 12–20–91; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORATION

Federal Aviation Administration

14 CFR Parts 71 and 73

[Airspace Docket No. 90–AWP–2]

Establishment of Restricted Areas R–2535A and R–2535B; San Nicolas Island, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Restricted Areas R–2535A and R–2535B San Nicolas Island, CA. Currently, Warning Area W–289 overlies San Nicolas Island. Because the U.S. Government owns the Island, and the Navy controls it, the airspace over and within 12 miles of San Nicolas Island is U.S. domestic airspace. A restricted area is, therefore, the appropriate airspace designation. The Continental Control Area is also amended to include both areas.

EFFECTIVE DATE: 0901 U.T.C., March 5, 1992.

FOR FURTHER INFORMATION CONTACT: Linda Ullom, Military operations Program Office (ATM–420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–7683.

SUPPLEMENTARY INFORMATION:

History

On July 31, 1990, the FAA proposed to amend parts 71 and 73 of the Federal Aviation Regulations (14 CFR parts 71 and 73) to establish restricted areas R–2535A and R–2535B and to amend the Continental Control Area to include both areas (55 FR 31066). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.151 and 73.25 of parts 71 and 73 of the Federal Aviation Regulations were republished in FAA Handbook 7400.7 and FAA Handbook 7400.8 dated November 1, 1991.

The Rule

These amendments to parts 71 and 73 of the Federal Aviation Regulations establish Restricted Areas R–2535A and R–2535B, San Nicolas Island, CA. Currently, warning area W–289 overlies San Nicolas Island. The U.S. Government owns the island, and the U.S. Navy controls the land. Therefore, the airspace over and within 12 miles of San Nicolas Island is domestic airspace and a restricted area is the appropriate airspace designation. Activities to be conducted in the restricted areas are the same as those currently being conducted in the warning area. They include simulated weapons deliveries, bombing profiles, ground based missile intercept missions, special meteorological sampling rocket launches, and ground and airborne based laser weapons tests. The Continental Control Area is amended to include R–2535A and R–2535B. Additionally, W–289 is amended by separate action to exclude the airspace which coincides with R–2535A and R–2535B.

Environmental Review

In compliance with the National Environmental Policy Act of 1969 (NEPA), the U.S. Navy evaluated the environmental impacts resulting from the establishment of Restricted Areas R–2535A and R–2535B. The Navy determined the impacts to be negligible, and also determined that the action qualified for a categorical exclusion from environmental review under the Navy's procedures. Accordingly, the reasons for the categorical exclusion were documented, and further environmental assessment was not accomplished. The activities to be conducted in the new restricted areas are identical to the activities currently conducted in the same airspace. The action will have no effect other than maintenance of the status quo, either on the airspace included in the restricted areas, or on surrounding airspace and air routes used for the handling of civil air traffic by ATC. The controlling agency, the Los Angeles Air Route Traffic Control Center, does not routinely route traffic through the area. Accordingly, the establishment of the restricted areas will have no effect on current air traffic procedures or on the routing or altitude of civil aircraft operations in the area.

Based upon the environmental documentation developed by the Navy, no change in the Navy's activities in the area resulting from the establishment of R–2535A and R–2535B, and the FAA's review of the ATC procedures in effect in the area before and after adoption of the two restricted areas, the FAA finds that there will be no significant impact on the environment as a result of this action.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, and Restricted areas.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, parts 71 and 73 of the Federal Aviation Regulations (14 CFR parts 71 and 73) are amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, REPORTING POINTS, JET ROUTES, AND AREA HIGH ROUTES

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

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.151 [Amended]

2. § 71.151 is amended as follows:

R–2535A San Nicolas Island, CA [New]

R–2535B San Nicolas Island, CA [New]

PART 73—SPECIAL USE AIRSPACE

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

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510, 1522; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 73.25 [Amended]

4. § 73.25 is amended as follows:

R–2535A San Nicolas Island, CA [New]

Boundaries: Beginning at lat. 33°20'10" N., long. 119°31'10" W.; to lat. 33°18'18" N., long. 119°26'29" W.; to lat. 33°10'10" N., long. 119°31'10" W.; to lat. 33°12'00" N., long 119°35' 30" W.; to lat. 33°14'20" N.; long. 119°37'40" W.; to lat. 33°16'40" N., long. 119°38'10" W.; to lat. 33°19'10" N., long. 119°37'10" W.; to the point of beginning.

Designated altitudes: Surface to 100,000 feet MSL.

Time of designation: 0600–2200 local time Monday–Friday; other times by NOTAM at least 24 hours in advance.

Controlling agency: FAA, Los Angeles ARTCC.

Using agency: U.S. Navy, Commander, Pacific Missile Test Center, Point Mugu, CA.

R–2535B San Nicolas Island, CA [New]

Boundaries: Beginning at lat. 33°18'18" N., long. 119°26'29" W.; to lat. 33°17'40" N., long. 119°24'50" W.; to lat. 33°13'50" N., long. 119°21'50" W.; to lat. 33°10'10" N., long. 119°24'20" W.; to lat. 33°10'10" N., long. 119°29'40" W.; to lat 33°10'10" N., long. 119°31'10" W.; to the point of beginning.

Designated altitudes: Surface to 100,000 feet MSL.

Time of designation: 0600–2200 local time Monday–Friday; other times by NOTAM at least 24 hours in advance.

Controlling agency: FAA, Los Angeles ARTCC

Using agency: U.S. Navy, Commander, Pacific Missile Test Center, Point Mugu, CA.

Issued in Washington, DC, on December 13, 1991.

Jerry W. Ball,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91-30531 Filed 12-20-91; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") and the French Commission des Operations de Bourse ("COB") have amended the side letter dated June 6, 1990 between the Commission and the COB, which facilitates the operation of the Mutual Recognition Memorandum of Understanding between the Commission and the COB. Specifically, the Commission and COB have agreed to revise paragraph 2 of the Side Letter to reflect the use of subordinated debt to fulfill net equity requirements for French firms.

EFFECTIVE DATE: December 23, 1991.

FOR FURTHER INFORMATION CONTACT: Jane C. Kang Esq., or Robert H. Rosenfeld, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: On June 6, 1990, the Commodity Futures Trading Commission and the French Commission des Operation de Bourse entered into a Mutual Recognition Memorandum of Understanding ("MRMOU"). See 55 FR 23902 (June 13, 1990). This arrangement generally will permit all products of one jurisdiction to be offered to customers located in the other jurisdiction, subject to certain conditions specified in the MRMOU. Further, the arrangement will permit brokers licensed in one jurisdiction to sell the products of that jurisdiction to customers located in the other jurisdiction, generally by complying with the rules of the licensing jurisdiction, and with requirements agreed to by the Commission and the COB.

The Commission and COB also entered into a Side Letter dated June 6, 1990 ("Side Letter"), see 55 FR 23907, for the purpose of facilitating the operation of the MRMOU and to further clarify certain conditions imposed for the implementation of the MRMOU. Paragraph 2 of the Side Letter articulates certain requirements applicable to French and United States firms concerning prudential requirements which are a condition to the recognition of firms under the MRMOU. Among other matters, paragraph 2(a) of the Side Letter as agreed on June 6, 1990 stated that a member of the Marche a Terme International de France ("MATIF") firm must maintain net equity as required under the Conseil du Marche a Terme ("CMT") General Regulation provided that, according to such regulation, no subordinated debt or guarantee may be substituted for such net equity in order to meet the minimum capital requirements. See 55 FR at 23908.

By letter dated September 17, 1991 the COB notified the Commission that the CMT General Regulation establishing the French capital requirements (CMT Rule R86-01) had been amended by CMT Rule R91-20, July 23, 1991. Consistent with CMT rules, members of MATIF may use subordinated debt as regulatory capital.

The Commission believes that there is no reason why French firms may not, consistent with the MRMOU, utilize subordinated debt as regulatory capital as permitted under CMT rules, and has agreed with the COB to amend the Side Letter.

Accordingly, by this Order the Commission, consistent with Article VI of the MRMOU, the Commission is amending paragraph 2 of the Side Letter to the MRMOU to read as follows:

2. Prudential Requirements

(a) In the case of an Authorized Person, such Person will maintain net equity as required under the CMT General Regulation, provided that, according to such regulation, no guarantee may be substituted for such net equity in order to fulfill the minimum capital requirements, *i.e.*, (currently) FF 7.5 million for non clearing members, FF 50 million for individual clearing members, and FF 375 million for general clearing members, and provided, further, that, if a more stringent financial requirement is imposed by the European Economic Community on European investment firms, the Authorized Person will meet such requirement;

List of Subjects in 17 CFR Part 30

Commodity futures; commodity options; foreign futures and foreign options.

PARTS 30 [AMENDED]

17 CFR part 30 is amended as follows:

1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 2(a)(1)(A), 4, 4c, and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c, and 12a.

APPENDIX C TO PART 30 [AMENDED]

2. Appendix C to part 30 is amended by revising the existing entry concerning Annex E to the Mutual Recognition Memorandum of Understanding in its entirety to read as follows:

Authorized Persons as designated in Annex E to the Mutual Recognition Memorandum of Understanding

FR date and citation: June 13, 1990, 55 FR 2390; December 23, 1991.

Issued in Washington, DC on December 17, 1991.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 91-30502 Filed 12-20-91; 8:45 am]

BILLING CODE 6351-01-M

17 CFR Part 30

Foreign Futures and Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is issuing this Order pursuant to which option contracts on the Notional Bond, 3-month PIBOR and the 3-month EURODEM futures contracts traded on the Marche a Terme International de France ("MATIF") may be offered or sold to persons located in the United States. This Order is issued pursuant to: (1) Commission rule 30.3(a), 17 CFR 30.3(a) (1991), which makes it unlawful for any person to engage in the offer or sale of a foreign option product until the Commission, by order, authorizes such foreign option to be offered or sold in the United States; and (2) the procedures established in the Commission's Order issued on June 6, 1990, 55 FR 23902 (June 13, 1990) (Mutual Recognition Memorandum of Understanding ("MRMOU") with the French Commission des Operations de Bourse).

EFFECTIVE DATE: January 22, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Rosenfeld, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: The Commission has issued the following order:

Order Pursuant to the Mutual Recognition Memorandum of Understanding with the French Commission des Operations de Bourse and Rule 30.3(a), Under Which Certain Option Contracts Traded on the Marche a Terme International de France may be Offered or Sold in the United States Thirty Days after Publication of this Notice in the **Federal Register**.

Pursuant to sections 2(a)(1), 4(b) and 4c of the Commodity Exchange Act ("Act"), 7 U.S.C. 2, 6(b) and 6c (1988), and part 30 of the Commission's Rules and Regulations, the Commission has entered into a Mutual Recognition Memorandum of Understanding ("MRMOU") with the French Commission des Operations de Bourse ("COB"). 55 FR 23902 (June 13, 1990). Among other things, this arrangement provides a mechanism pursuant to which certain option products traded on the Marche a Terme International de France ("MATIF") may be offered or sold to customers resident in the United States thirty days after publication in the **Federal Register** of a notice specifying the particular option contracts to be offered or sold.

By letters dated September 17 and October 2, 1991, respectively, the COB and MATIF requested that option contracts based on the Notional Bond, 3-month PIBOR and the 3-month EURODEM futures contracts be approved pursuant to the MRMOU for offer or sale in the United States. Based upon the foregoing, and pursuant to the terms of the MRMOU, the Commission hereby publishes this Order in the **Federal Register** pursuant to which the particular option contracts specified herein may be offered or sold thirty days after the publication of this Order.

Accordingly, pursuant to Commission rule 30.3(a), 17 CFR 30.3(a) (1991), and article II, paragraph 6(b) and article V, paragraph 6 of the MRMOU signed by the Commission on June 6, 1990 (55 FR 23902 (June 13, 1990)), and subject to the terms and conditions specified in the MRMOU, the Commission hereby issues this Order pursuant to which option contracts based on the Notional Bond, 3-month PIBOR and the 3-month EURODEM futures contracts traded on the MATIF may be offered or sold to persons located in the United States thirty days after publication of this Order in the **Federal Register**.

Lists of Subjects in 17 CFR Part 30

Commodity futures, Commodity options, Foreign commodity options.

Amendment of Appendix B

Accordingly, 17 CFR part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTIONS TRANSACTIONS

1. The authority citation for part 30 continues to read as follows:

Authority: Secs. 2(a)(1)(A), 4, 4c, and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c and 12a.

2. Appendix B to part 30 is amended by revising the following entry to read as follows:

APPENDIX B—OPTION CONTRACTS PERMITTED TO BE OFFERED OR SOLD IN THE U.S. PURSUANT TO § 30.3(a)

Exchange	Type of contract	FR date and citation
• •	• • • • •	• •
Marche a Term International de France	Option Contracts on Notional Bond, 3-month PIBOR and 3-month EURODEM Futures Contracts.	December 23, 1991; 56 FR___
• •	• • • • •	• •

Issued in Washington, DC on December 17, 1991.

Jean A. Webb,

Secretary of the Commission.

Editorial note: This contract will not appear in the Code of Federal Regulations.

Traded Option Contract on the Notional Bond

Option Type:

—American options.

—Buy options (calls) and sell options (puts).

Type of Operators:

In addition to the usual operators, there are "market-makers" who undertake to:

—quote the buy and sell premiums for each strike price open,

—issue upon request up to 20 option contracts for each quoted price.

Underlying Contract: A "notional bond" future.

Premium:

—The option price or premium is expressed as a percentage of the contract's nominal value to two decimal places.

—The premium is paid by the option buyer and is collected by the option seller.

Trading Unit: An option bears on one futures contract.

Quotation: Premium quotation.

Example: a premium of 2.15 is equivalent to 2.15%×500,000=10,750 FRF.

Minimum Price Movement (Tick): 0.01%×5,000,000=50 FRF.

Strike Price:

—When a delivery month begins trading, 9 strike prices are initially listed: the round strike price that is closest to the price of the underlying contract as well as the four immediately higher prices and the four immediately lower prices.

—The difference between two strike prices is set at 100 basis points.

Example: 97.00/98.00/99.00 . . .

Expiration Dates:

—The expiration dates correspond to the 4 quarterly delivery months of the notional bond futures contract (March, June, September and December).

—The close (or last quotation day) occurs on the last Friday of the month preceding the corresponding delivery month of the notional bond. (The last Thursday starting with the March 1991 delivery month.)

—A delivery month on the option contract is opened simultaneously with a delivery month on the futures contract.

Exercise Procedure:

—In case of exercise, the option seller must buy from (in the case of a put) or sell to (in the case of a call) the buyer a firm futures contract, at the option strike price.

—Options that are in-the-money on the option expiration date are automatically exercised.

—Options that are at-the-money and out-of-the-money on their expiration dates are automatically abandoned.

Trading Procedure: Open outcry: from 9:04 am to 4:30 pm.

There Is No Price Fluctuation Limit

Initial Margin:

MATIF S.A. has the option seller set aside an amount as initial margin corresponding to the loss that would result from the most unfavorable change in the liquidation of its overall net

position in one trading day. This initial margin is revised on a daily basis.

NB: The characteristics described in this document were applicable on January 1, 1991, but are subject to modification.

Option Contract on Three-Month Eurodem

Option Type:

—American options.

—Buy options (calls) and sell options (puts).

Type of Operators:

In addition to the usual operators, there are some market-makers who undertake to:

—quote the buy and sell premiums for each open strike price,

—issue upon request up to 50 option contracts for each quoted price.

Underlying Contract: A "3-month Eurodem" future.

Premium:

—The option price, or premium, is expressed as a percentage of the nominal contract value, to three decimal places, by reference to the deposit duration, *i.e.*, 90 days.

—The premium is paid by the option buyer and is collected by the option seller.

Trading Unit: An option bears on one futures contract.

Quotation: Quotation of the premium.

Example: A premium of 0.655% is worth $0.00655 \times 1{,}000{,}000 \times 90/360 = 1{,}637.5$ DM.

Minimum Price Movement (Tick): $0.005\% \times 1{,}000{,}000 \times 90/360 = 12.5$ DM.

Strike Price:

—When a delivery month begins trading, 15 strike prices are initially listed: the strike price that is closest to the price of the underlying contract, the 7 immediately lower strike prices and the 7 immediately higher strike prices.

—The difference between two strike prices is set at 10 basis points.

Example: . . . 91.60/91.70/91.80/ . . .

Expiration Dates:

—The expiration dates correspond to the 4 quarterly delivery months of the 3-month Eurodem futures contract: March, June, September and December.

—Delivery months for options open and close simultaneously with delivery months for the underlying futures contract.

Exercise Procedure.

—If an option is exercised, the option seller must buy from (in the case of a put) or sell to (in the case of a call) the buyer a firm futures contract, at the option strike price

—Options that are "in-the-money" on the option expiration date are automatically exercised.

—Options that are "at-the-money" and "out-of-the-money" on their expiration dates are automatically abandoned.

Trading Procedure: Open outcry from 9:10 a.m. to 3:50 p.m.

No Daily Price Fluctuation Limit

Initial Margin:

MATIF S.A. has the option seller set aside, as initial margin, a sum corresponding to the loss that would result from the most unfavorable change in the liquidation value of the option seller's overall net-position for one trading day. This initial margin is revised daily.

NB: The characteristics described in this document are those applying on June 1, 1990, but they are subject to modification.

3-Month Pibor Traded Option Contract

Option Type:

—American options.

—Buy options (calls) and sell options (puts).

Type of Operators:

In addition to the usual operators, there are some market-makers who undertake to:

—Quote the buy and sell premiums for each open strike price,

—Issue upon request up to 20 option contracts for each quoted price.

Underlying Contract: A "3-month PIBOR" future.

Premium:

—The option price, or premium, is expressed as a percentage of the nominal contract value, to three decimal places, with reference to the deposit duration, *i.e.*, 90 days.

—The premium is paid by the option buyer and is collected by the option seller.

Trading Unit: An option bears on one futures contract.

Quotation: Premium quotation.

Example: a premium of 0.200% is worth $0.002\% \times 5{,}000{,}000 \times 90/360 - 2{,}500$ FRF

Minimum Price Movement (Tick): $0.005\% \times 5{,}000{,}000 \times 90/360 = 62.50$ FRF

Strike Price:

—When delivery month begins trading, 15 strike prices are initially listed: the strike price that is closest to the price of the underlying contract, as well as the 7 immediately lower prices and the 7 immediately higher.

—The difference between two strike prices is 10 basis points.

Example: . . . 92.00/92.10/92.20 . . .

Expiration Dates:

—The expiration dates of the options correspond to the four quarterly delivery months of the 3-month PIBOR futures contract: March, June, September and December.

—The opening and the closing of a delivery month for PIBOR options are simultaneous with those of the underlying futures contract.

Exercise Procedure:

—If an option is exercised, the option seller must buy from (in the case of a put) or sell to (in the case of a call) the buyer a firm futures contract at the option strike price.

—Options that are "in-the-money" on the option expiration date are automatically exercised.

—Options that are "at-the-money" and "out-of-the-money" on their expiration dates are automatically abandoned.

Trading Procedure: Open outcry from 9 am to 3:30 pm.

There is no Daily Price Fluctuation Limit

Initial Margin:

MATIF S.A. calls from the option seller an amount corresponding to the loss that would result from the most unfavorable change in the liquidation value of the seller's overall net position in one trading day. This initial margin is revised daily.

NB: The characteristics described in this document are those applying on June 1, 1990, but are subject to modification.

[FR Doc. 91-30503 Filed 12-20-91; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 3

[Docket No. 91N-0257]

Assignment of Agency Component for Review of Premarket Applications; Extension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to February 21, 1992, the period for submission of comments on the final rule for assignment of agency component for review of premarket applications (56 FR 58754, November 21, 1991). FDA is taking this action in response to a request to extend the comment period for an additional 60

days to allow more time to comment on this rule.

DATES: Written comments by February 21, 1992.

ADDRESSES: Submit written comments to the Docket Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutra, Jr., Office of the Commissioner (HF–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1306.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 21, 1991 (56 FR 58754), FDA issued a final rule describing how the agency will determine which component within FDA will have primary jurisdiction for the premarket review and regulation of: (1) A combination drug, device, or biologic product or (2) any drug, device, or biologic product where the center with primary jurisdiction is unclear or in dispute. This rule describes how to identify the agency's assigned review component which will, in most cases, eliminate the need for a sponsor to obtain approval from more than one FDA component for a combination product. The rule became effective on the date of publication, however, comments could be submitted on the rule through December 23, 1991.

On December 10, 1991, the Health Industry Manufacturers Association (HIMA) requested a 60-day extension in which to file written comments. HIMA contended that the extension was necessary because the final rule has widespread ramifications and it will take the additional time to assemble the interested parties and provide meaningful comments. HIMA's membership includes many firms that will be directly affected by the final rule.

FDA has carefully considered the request by HIMA. The agency believes that the additional time for the preparation and submission of meaningful comments from affected firms is in the public interest. The agency also notes that, because this is a final rule already in effect, the additional time for comments will not delay implementation of the Congressionally mandated procedures contained in the rule. Therefore, interested persons may, on or before February 21, 1992, submit to the Dockets Management Branch (address above) written comments on this rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office above between 9 a.m. and 4 p.m., Monday though Friday.

Dated: December 17, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91–30542 Filed 12–20–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8380]

RIN 1545–AP76

Treatment of Partnership Liabilities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the treatment of partnership liabilities. The final regulations reflect changes to the applicable tax law made by section 79 of the Tax Reform Act of 1984. The regulations affect partnerships and their partners, and are necessary to provide them with guidance needed to comply with the applicable tax law.

EFFECTIVE DATE: These regulations are effective December 28, 1991, and generally apply to liabilities incurred or assumed by a partnership on or after December 28, 1991.

FOR FURTHER INFORMATION CONTACT: Mary A. Berman at (202) 566–3440 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)) under control number 1545–1090. The estimated annual burden per respondent varies from 3 minutes to 8 minutes, depending on individual circumstances, with an estimated average of 5 minutes.

The estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224 and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Introduction

This document adds new regulation §§ 1.752–0 through 1.752–5 to the Income Tax Regulations (26 CFR part 1) under section 752 of the Internal Revenue Code of 1986 and removes existing §§ 1.752–0T through 1.752–4T.

Background

Proposed and temporary regulations under section 752 were published on December 30, 1988, and amended on November 21, 1989, and July 26, 1991, ("temporary regulations"). This document removes the temporary regulations effective December 27, 1991. On July 26, 1991, the Internal Revenue Service published proposed regulations simplifying the temporary regulations and addressing several issues raised by commentators with respect to the temporary regulations. Written comments were received and a public hearing was held on September 17, 1991.

Explanation of Provisions

I. Sharing Recourse Liabilities

The final regulations provide that a partnership liability is a recourse liability to the extent that any partner bears the economic risk of loss for that liability, and a partner's share of any recourse liability of the partnership equals the portion, if any, of the economic risk of loss for the liability that is borne by the partner. The final regulations also provide that a partner bears the economic risk of loss for partnership liability to the extent that the partner or related person would be obligated to make a contribution or payment with respect to a partnership liability (and would not be entitled to be reimbursed for the contribution or payment by another partner, a person related to another partner, or the partnership) if the partnership constructively liquidates. In a constructive liquidation the following events are deemed to occur: (A) All of the partnership's liabilities become due and payable in full, (B) with the exception of property contributed to secure a partnership liability, all of the partnership's assets (including money) become worthless, (C) the partnership

disposes of all of its assets in a fully taxable transaction for no consideration (other than relief from certain liabilities), (D) the partnership allocates its items of income, gain, loss, deduction, and credit for the year among the partners, and (E) the partnership completely liquidates. The constructive liquidation approach is used to determine who bears the economic risk of loss for a partnership liability taking into account the manner in which the partners have agreed to share economic losses and taking into account all arrangements among the partners, related persons, and the partnership.

II. Sharing Nonrecourse Liabilities

The final regulations provide that, if no partner bears the economic risk of loss for a partnership liability, the liability is a nonrecourse liability of the partnership. The partners generally share nonrecourse liabilities in accordance with their interests in partnership profits. However, the final regulations require that the nonrecourse liabilities of a partnership be allocated among the partners first to reflect the partners' shares of any partnership minimum gain (within the meaning of section 704(b)) and any gain that would be allocated to the partners under section 704(c) (or in the same manner as section 704(c) in connection with a revaluation of partnership property) if the partnership disposed of (in a taxable transaction) all partnership property subject to one or more nonrecourse liabilities of the partnership in full satisfaction of the liabilities and for no other consideration.

III. Modifications To Proposed Regulations

After full consideration of the comments and the statements made at the public hearing, the following actions were taken with respect to the proposed regulations issued on July 26, 1991:

A. Guarantee of Interest Rule

Section 1.752–2(e) of the proposed and final regulations contains a guarantee of interest rule generally providing that if one or more partners guarantee the payment of more than 25 percent of the total interest that will accrue on an otherwise nonrecourse partnership liability during its term, the loan is deemed to be recourse to those partners to the extent of the present value of the guaranteed future interest payments. To the extent that the guarantee of interest is subject to a contingency, the principles of § 1.752–2(b)(4) apply.

The final regulations added a de minimis exception to the guarantee of interest rule that generally parallels the de minimis exception to the rule for a guarantee of a nonrecourse loan by a partner or related person.

B. Economic Risk of Loss Analysis

Section 1.752–2(b)(2) of the proposed regulations provides that, for purposes of the constructive liquidation analysis, gain or loss on the deemed disposition of the partnership's assets is computed as follows: (1) If the creditor's right to repayment of a partnership liability is limited solely to one or more assets of the partnership, gain or loss is recognized in an amount equal to the difference between the amount of the liability that is extinguished by the deemed disposition and the tax basis in those assets; and (2) a loss is recognized equal to the remaining tax basis of all of the partnership's assets not taken into account in (1). The final regulations clarify that the use of book value rather than tax basis for purposes of the constructive liquidation analysis is appropriate if tax basis and book value differ by reason of adjustments made under section 704(c) and the section 704(b) regulations.

C. Pledged Assets

Section 1.752–2(h)(1) of the proposed regulations provides that a partner is considered to bear the economic risk of loss for a partnership liability to the extent of the value of any of the partner's separate property (other than an interest in the partnership) that is pledged as security for the partnership liability. This provision has been clarified in the final regulations as applying to a related person's separate property that is pledged as security, as well as that of a partner.

Section 1.752–2(h)(2) of the proposed and final regulations provides that a partner is considered to bear the economic risk of loss for a partnership liability to the extent of the value of any property that the partner contributes to the partnership solely for the purpose of securing a partnership liability. The rule governing when property is contributed solely for the purpose of securing a partnership liability is modified in the final regulations. The purpose of the modification is to provide some flexibility in applying the rule in situations where allocations are mandated by the provisions of section 704 and the regulations thereunder.

D. Partner's Share of Nonrecourse Liabilities

The proposed and final regulations require that the nonrecourse liabilities of a partnership be allocated among the partners first to reflect the partners' shares of any partnership minimum gain, then to reflect any gain that would be allocated to the partners under section 704(c), and finally in accordance with the partners' interests in partnership profits. The partnership agreement may specify the partners' interests in partnership profits provided the interests so specified are reasonably consistent with allocations (which have substantial economic effect under the section 704(b) regulations) of some significant item of partnership income or gain. Alternatively, nonrecourse liabilities in excess of those allocated to reflect partnership minimum gain and section 704(c) gain ("excess nonrecourse liabilities") may be allocated among the partners in accordance with the manner in which it is reasonably expected that the deductions attributable to those nonrecourse liabilities will be allocated. The final regulations provide that excess nonrecourse liabilities need not be allocated under the same method each year.

E. De Minimis Rules

Section 1.752–2(d) of the proposed and final regulations provides de minimis exceptions to the general economic risk of loss analysis in certain situations when a partner is the lender or guarantor. One of the requirements of the de minimis rules in the proposed regulations was that a partner maintain a 10 percent or less interest in each item of partnership income, gain, loss, deduction, and credit for any taxable year of the partnership. The final regulations clarify that the de minimis rules apply only as long as the partner maintains a 10 percent or less interest in each item of partnership income, gain, loss, deduction, or credit for every taxable year that the partner is a partner in the partnership.

Some commentators suggested that the 10 percent requirement of the de minimis rule be eliminated. After full consideration of the comments, the requirement has not been eliminated. The legislative history of section 752 indicates that regulations under this section should apportion partnership liabilities based on the manner in which the partners, and persons related to the partners, share the economic risk of loss for the liabilities (other than bona fide nonrecourse liabilities). H.R. Rep. No. 861, 98th Cong., 2d Sess. 869 (1984). The de minimis rule is a narrow exception to the general risk of loss analysis, applying only when a partner who is in the business of lending money and whose relationship to the partnership is primarily that of a lender also owns a small equity interest in the partnership. Because it is limited to these narrow

circumstances, the exception provided by the de minimis rule does not distort the economic risk of loss analysis.

F. Effective Dates

The final regulations are effective for liabilities incurred or assumed by the partnership on or after December 28, 1991. The final regulations provide a partnership with an election to apply the regulations to all of its liabilities to which the provisions of §§ 1.752–1 through 1.752–4 do not otherwise apply as of the beginning of the first taxable year of the partnership ending on or after December 28, 1991. Several commentators have suggested that there is some confusion regarding the treatment of certain situations under the effective date rules of the temporary and final regulations. The following addresses the comments received and is not intended to be a complete restatement of the effective date provisions.

First, regulations under section 752 are generally effective based on the date liabilities are incurred. As a result, a partnership with liabilities incurred in different periods may allocate basis to its partners under different sets of regulations: (1) § 1.751–1 (TD 6175 and TD 6500) (the "old" regulations); (2) § 1.752–0T to § 1.752–4T (TD 8237, TD 8274, and TD 8355) (the "temporary" regulations); and (3) the final regulations contained in this document.

Second, if a grandfathered partnership liability is materially modified, it loses its grandfathering and becomes subject to a different set of regulations, depending on when the material modification occurs. Third, a nonrecourse liability incurred or assumed by a partnership prior to March 1, 1984, is not governed by the temporary or final regulations unless an election has been made to apply the temporary or final regulations to the liability or unless a material modification of the liability has occurred. If a liability incurred or assumed by the partnership prior to March 1, 1984, is guaranteed by a partner after March 1, 1984, the liability is not governed by the temporary or final regulations. Similarly, if a third-party nonrecourse liability incurred or assumed by a partnership prior to January 30, 1989, is guaranteed by a related person after January 30, 1989, and again assuming no election is made to apply the temporary or final regulations to the liability, the liability is not governed by the temporary or final regulations. In addition, the subsequent guarantee by a partner of a liability incurred or assumed by the partnership prior to March 1, 1984, or the subsequent guarantee by a related person of a liability incurred or assumed by the partnership prior to January 30, 1989, is not considered a material modification of the liability for purposes of applying the regulations under section 752.

Special Analyses

These final regulations are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required.

It is hereby certified that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified that these rules do not have a significant impact on a substantial number of small entities. Therefore, a final Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking for the regulations was submitted to the Small Business Administration for comment on the impact of the rules on small business.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

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

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805 * * *.

Par. 2. Sections 1.752–0T through 1.752–4T are removed.

Par. 3. Sections 1.752–0 through 1.752–5 are added to read as follows:

§ 1.752–0 Table of Contents.

This section lists the captions that appear in §§ 1.752–1 through 1.752–5.

§ 1.752-1 Treatment of Partnership Liabilities.

(a) *Definitions.* For purposes of section 752, the following definitions apply:

(1) *Recourse liability defined.* A partnership liability is a recourse liability to the extent that any partner or related person bears the economic risk of loss for that liability under § 1.752-2.

(2) *Nonrecourse liability defined.* A partnership liability is a nonrecourse liability to the extent that no partner or related person bears the economic risk of loss for that liability under § 1.752-2.

(3) *Related person.* Related person means a person having a relationship to a partner that is described in § 1.752-4(b).

(b) *Increase in partner's share of liabilities.* Any increase in a partner's share of partnership liabilities, or any increase in a partner's individual liabilities by reason of the partner's assumption of partnership liabilities, is treated as a contribution of money by that partner to the partnership.

(c) *Decrease in partner's share of liabilities.* Any decrease in a partner's share of partnership liabilities, or any decrease in a partner's individual liabilities by reason of the partnership's assumption of the individual liabilities of the partner, is treated as a distribution of money by the partnership to that partner.

(d) *Assumption of liability.* Except as otherwise provided in paragraph (e) of this section, a person is considered to assume a liability only to the extent that:

(1) The assuming person is personally obligated to pay the liability; and

(2) If a partner or related person assumes a partnership liability, the person to whom the liability is owed knows of the assumption and can directly enforce the partner's or related person's obligation for the liability, and no other partner or person that is a related person to another partner would bear the economic risk of loss for the liability immediately after the assumption.

(e) *Property subject to a liability.* If property is contributed by a partner to the partnership or distributed by the partnership to a partner and the property is subject to a liability of the transferor, the transferee is treated as having assumed the liability, to the extent that the amount of the liability does not exceed the fair market value of the property at the time of the contribution or distribution.

(f) *Netting of increases and decreases in liabilities resulting from same transaction.* If, as a result of a single transaction, a partner incurs both an increase in the partner's share of the partnership liabilities (or the partner's individual liabilities) and a decrease in the partner's share of the partnership liabilities (or the partner's individual liabilities), only the net decrease is treated as a distribution from the partnership and only the net increase is treated as a contribution of money to the partnership. Generally, the contribution to or distribution from a partnership of property subject to a liability or the termination of the partnership under section 708(b) will require that increases and decreases in liabilities associated with the transaction be netted to determine if a partner will be deemed to have made a contribution or received a distribution as a result of the transaction.

(g) *Example.* The following example illustrates the principles of paragraphs (b), (c), (e), and (f) of this section.

Example. Property contributed subject to a liability; netting of increase and decrease in partner's share of liability. B contributes property with an adjusted basis of $1,000 to a general partnership in exchange for a one-third interest in the partnership. At the time of the contribution, the partnership does not have any liabilities outstanding and the property is subject to a recourse debt of $150 and has a fair market value in excess of $150. After the contribution, B remains personally liable to the creditor and none of the other partners bears any of the economic risk of loss for the liability under state law or otherwise. Under paragraph (e) of this section, the partnership is treated as having assumed the $150 liability. As a result, B's individual liabilities decrease by $150. At the same time, however, B's share of liabilities of the partnership increases by $150. Only the net increase or decrease in B's share of the liabilities of the partnership and B's individual liabilities is taken into account in applying section 752. Because there is no net change, B is not treated as having contributed money to the partnership or as having received a distribution of money from the partnership under paragraph (b) or (c) of this section. Therefore B's basis for B's partnership interest is $1,000 (B's basis for the contributed property).

(h) *Sale or exchange of a partnership interest.* If a partnership interest is sold or exchanged, the reduction in the transferor partner's share of partnership liabilities is treated as an amount realized under section 1001 and the regulations thereunder. For example, if a partner sells an interest in a partnership for $750 cash and transfers to the purchaser the partner's share of partnership liabilities in the amount of $250, the seller realizes $1,000 on the transaction.

(i) *Bifurcation of partnership liabilities.* If one or more partners bears the economic risk of loss as to part, but not all, of a partnership liability represented by a single contractual obligation, that liability is treated as two or more separate liabilities for purposes of section 752. The portion of the liability as to which one or more partners bear the economic risk of loss is a recourse liability and the remainder of the liability, if any, is a nonrecourse liability.

§ 1.752-2 Partner's share of resource liabilities.

(a) *In general.* A partner's share of a recourse partnership liability equals the portion of that liability, if any, for which the partner or related person bears the economic risk of loss. The determination of the extent to which a partner bears the economic risk of loss for a partnership liability is made under the rules in paragraphs (b) through (j) of this section.

(b) *Obligation to make a payment.* (1) *In general.* Except as otherwise provided in this section, a partner bears the economic risk of loss for a partnership liability to the extent that, if the partnership constructively liquidated, the partner or related person would be obligated to make a payment to any person (or a contribution to the partnership) because that liability becomes due and payable and the partner or related person would not be entitled to reimbursement from another partner or person that is a related person to another partner. Upon a constructive liquidation, all of the following events are deemed to occur simultaneously:

(i) All of the partnership's liabilities become payable in full;

(ii) With the exception of property contributed to secure a partnership liability (see § 1.752-2(h)(2)), all of the partnership's assets, including cash, have a value of zero;

(iii) The partnership disposes of all of its property in a fully taxable transaction for no consideration (except relief from liabilities for which the creditors's right to repayment is limited solely to one or more assets of the partnership);

(iv) All items of income, gain, loss, or deduction are allocated among the partners; and

(v) The partnership liquidates.

(2) *Treatment upon deemed disposition.* For purposes of paragraph (b)(1) of this section, gain or loss on the deemed disposition of the partnership's assets is computed in accordance with the following:

(i) If the creditor's right to repayment of a partnership liability is limited solely to one or more assets of the partnership, gain or loss is recognized in an amount

equal to the difference between the amount of the liability that is extinguished by the deemed disposition and the tax basis (or book value to the extent section 704(c) or § 1.701–1(b)(4)(i) applies) in those assets.

(ii) A loss is recognized equal to the remaining tax basis (or book value to the extent section 704(c) or § 1.704–1(b)(4)(i) applies) of all the partnership's assets not taken into account in paragraph (b)(2)(i) of this section.

(3) *Obligations recognized.* The determination of the extent to which a partner or related person has an obligation to make a payment under paragraph (b)(1) of this section is based on the facts and circumstances at the time of the determination. All statutory and contractual obligations relating to the partnership liability are taken into account for purposes of applying this section, including:

(i) Contractual obligations outside the partnership agreement such as guarantees, indemnifications, reimbursement agreements, and other obligations running directly to creditors or to other partners, or to the partnership;

(ii) Obligations to the partnership that are imposed by the partnership agreement, including the obligation to make a capital contribution and to restore a deficit capital account upon liquidation of the partnership; and

(iii) Payment obligations (whether in the form of direct remittances to another partner or a contribution to the partnership) imposed by state law including the governing state partnership statute.

To the extent that the obligation of a partner to make a payment with respect to a partnership liability is not recognized under this paragraph (b)(3), paragraph (b) of this section is applied as if the obligation did not exist.

(4) *Contingent obligations.* A payment obligation is disregarded if, taking into account all the facts and circumstances, the obligation is subject to contingencies that make it unlikely that the obligation will ever be discharged. If a payment obligation would arise at a future time after the occurrence of an event that is not determinable with reasonable certainty, the obligation is ignored until the event occurs.

(5) *Reimbursement rights.* A partner's or related person's obligation to make a payment with respect to a partnership liability is reduced to the extent that the partner or related person is entitled to reimbursement from another partner or a person who is a related person to another partner.

(5) *Deemed satisfaction of obligation.* For purposes of determining the extent to which a partner or related person has a payment obligation and the economic risk of loss, it is assumed that all partners and related persons who have obligations to make payments actually perform those obligations, irrespective of their actual net worth, unless the facts and circumstances indicate a plan to circumvent or avoid the obligation. See § 1.752–2(j).

(c) *Partner or related person as lender*—(1) *In general.* A partner bears the economic risk of loss for a partnership liability to the extent that the partner or a related person makes (or acquires an interest in) a nonrecourse loan to the partnership and the economic risk of loss for the liability is not borne by another partner.

(2) *Wrapped debt.* If a partnership liability is owed to a partner or related person and that liability includes (*i.e.*, is "wrapped" around) a nonrecourse obligation encumbering partnership property that is owed to another person, the partnership liability will be treated as two separate liabilities. The portion of the partnership liability corresponding to the wrapped debt is treated as a liability owed to another person.

(d) *De minimis exceptions*—(1) *Partner as lender.* The general rule contained in paragraph (c)(1) of this section does not apply if a partner or related person whose interest (directly or indirectly through one or more partnerships including the interest of any related person) in each item of partnership income, gain, loss, deduction, or credit for every taxable year that the partner is a partner in the partnership is 10 percent or less, makes a loan to the partnership which constitutes qualified nonrecourse financing within the meaning of section 465(b)(6) (determined without regard to the type of activity financed).

(2) *Partner as guarantor.* The general rule contained in paragraph (b)(1) of this section does not apply if a partner or related person whose interest (directly or indirectly through one or more partnerships including the interest of any related person) in each item of partnership income, gain, loss, deduction, or credit for every taxable year that the partner is a partner in the partnership is 10 percent or less, guarantees a loan that would otherwise be a nonrecourse loan of the partnership and which constitute qualified nonrecourse financing within the meaning of section 465(b)(6) (without regard to the type of activity financed) if the guarantor had made the loan to the partnership.

(e) *Special rule for nonrecourse liability with interest guaranteed by a partner*—(1) *In general.* For purposes of this section, if one or more partners or related persons have guaranteed the payment of more than 25 percent of the total interest that will accrue on a partnership nonrecourse liability over its remaining term, and it is reasonable to expect that the guarantor will be required to pay substantially all of the guaranteed future interest if the partnership fails to do so, then the liability is treated as two separate partnership liabilities. If this rule applies, the partner or related person that has guaranteed the payment of interest is treated as bearing the economic risk of loss for the partnership liability to the extent of the present value of the guaranteed future interest payments. The remainder of the stated principal amount of the partnership liability constitutes a nonrecourse liability. Generally, in applying this rule, it is reasonable to expect that the guarantor will be required to pay substantially all of the guaranteed future interest if, upon a default in payment by the partnership, the lender can enforce the interest guaranty without foreclosing on the property and thereby extinguishing the underlying debt. The guarantee of interest rule continues to apply even after the point at which the amount of guaranteed interest that will accrue is less than 25% of the total interest that will accrue on the liability.

(2) *Computation of present value.* The present value of the guaranteed future interest payments is computed using a discount rate equal to either the interest rate stated in the loan documents, or if interest is imputed under either section 483 or section 1274, the applicable federal rate, compounded semi-annually. The computation takes into account any payment of interest that the partner or related person may be required to make only to the extent that the interest will accrue economically (determined in accordance with section 446 and the regulations thereunder) after the date of the interest guarantee. If the loan document contains a variable rate of interest that is an interest rate based on current values of an objective interest index, the present value is computed on the assumption that the interest determined under the objective interest index on the date of the computation will remain constant over the term of the loan. The term "objective interest index" has the meaning given to it in section 1275 and the regulations thereunder (relating to variable rate debt instruments). Examples of an objective interest index include the

prime rate of a designated financial institution, LIBOR (London Interbank Offered Rate), and the applicable federal rate under section 1274(d).

(3) *Safe harbor.* The general rule contained in paragraph (e)(1) of this section does not apply to a partnership nonrecourse liability if the guarantee of interest by the partner or related person is for a period not in excess of the lesser of five years or one-third of the term of the liability.

(4) *De minimis exception.* The general rule contained in paragraph (e)(1) of this section does not apply if a partner or related person whose interest (directly or indirectly through one or more partnerships including the interest of any related person) in each item of partnership income, gain, loss, deduction, or credit for every taxable year that the partner is a partner in the partnership is 10 percent of less, guarantees the interest on a loan to that partnership which constitutes qualified nonrecourse financing within the meaning of section 465(b)(6) (determined without regard to the type of activity financed). An allocation of interest to the extent paid by the guarantor is not treated as a partnership item of deduction or loss subject to the 10 percent or less rule.

(f) *Examples.* The following examples illustrate the principles of paragraphs (a) through (e) of this section.

Example 1. Determining when a partner bears the economic risk of loss. A and B form a general partnership with each contributing $100 in cash. The partnership purchases an office building on leased land for $1,000 from an unrelated seller, paying $200 in cash and executing a note to the seller for the balance of $800. The note is a general obligation of the partnership, *i.e.*, no partner has been relieved from personal liability. The partnership agreement provides that all items are allocated equally except that tax losses are specially allocated 90% to A and 10% to B and that capital accounts will be maintained in accordance with the regulations under section 704(b), including a deficit capital account restoration obligation on liquidation. In a constructive liquidation, the $800 liability becomes due and payable. All of the partnership's assets, including the building, are deemed to be worthless. The building is deemed sold for a value of zero. Capital accounts are adjusted to reflect the loss on the hypothetical disposition, as follows:

	A	B
Initial contribution	$100	$100
Loss on hypothetical sale	(900)	(100)
	($800)	$0

Other than the partners' obligation to fund negative capital accounts on liquidation, there are no other contractual or statutory payment obligations existing between the partners, the partnership and the lender. Therefore, $800 of the partnership liability is classified as a recourse liability because one or more partners bears the economic risk of loss for non-payment. B has no share of the $800 liability since the constructive liquidation produces no payment obligation for B. A's share of the partnership liability is $800 because A would have an obligation in that amount to make a contribution to the partnership.

Example 2. Recourse liability; deficit restoration obligation. C and D each contribute $500 in cash to the capital of a new general partnership, CD. CD purchases property from an unrelated seller for $1,000 in cash and a $9,000 mortgage note. The note is a general obligation of the partnership, *i.e.*, no partner has been relieved from personal liability. The partnership agreement provides that profits and losses are to be divided 40% to C and 60% to D. C and D are required to make up any deficit in their capital accounts. In a constructive liquidation, all partnership assets are deemed to become worthless and all partnership liabilities become due and payable in full. The partnership is deemed to dispose of all its assets in a fully taxable transaction for no consideration. Capital accounts are adjusted to reflect the loss on the hypothetical disposition, as follows:

	C	D
Initial contribution	$500	$500
Loss on hypothetical sale	(4,000)	(6,000)
	($3,500)	($5,500)

C's capital account reflects a deficit that C would have to make up to $3,500 and D's Capital account reflects a deficit that D would have to make up of $5,500. Therefore, the $9,000 mortgage note is a recourse liability because one or more partners bear the economic risk of loss for the liability. C's share of the recourse liability is $3,500 and D's share is $5,500.

Example 3. Guarantee by limited partner; partner deemed to satisfy obligation. E and F form a limited partnership. E, the general partner, contributes $2,000 and F the limited partner, contributes $8,000 in cash to the partnership. The partnership agreement allocates losses 20% to E and 80% to F until F's capital account is reduced to zero, after which all losses are allocated to E. The partnership purchases depreciable property for $25,000 using its $10,000 cash and a $15,000 recourse loan from a bank. F guarantee payment of the $15,000 loan to the extent the loan remains unpaid after the bank has exhausted its remedies against the partnership. In a constructive liquidation, the $15,000 liability becomes due and payable. All of the partnership's assets, including the depreciable property, are deemed to be worthless. The depreciable property is deemed sold for a value of zero. Capital accounts are adjusted to reflect the loss on the hypothetical disposition, as follows:

	E	F
Initial contribution	$2,000	$8,000
Loss on hypothetical sale	(17,000)	(8,000)
	($15,000)	$0

E, as a general partner, would be obligated by operation of law to make a net contribution to the partnership of $15,000. Because E is assumed to satisfy that obligation, it is also assumed that F would not have to satisfy F's guarantee. The $15,000 mortgage is treated as a recourse liability because one or more partners bear the economic risk of loss. E's share of the liability is $15,000, and F's share is zero. This would be so even if E's net worth at the time of the determination is less than $15,000, unless the facts and circumstances indicate a plan to circumvent or avoid E's obligation to contribute to the partnership.

Example 4. Partner guarantee with right of subrogation. G, a limited partner in the GH partnership, guarantees a portion of a partnership liability. The liability is a general obligation of the partnership, *i.e.*, no partner has been relieved from personal liability. If under state law G is subrogated to the rights of the lender, G would have the right to recover the amount G paid to the recourse lender from the general partner. Therefore, G does not bear the economic risk of loss for the partnership liability.

Example 5. Bifurcation of partnership liability; guarantee of part of nonrecourse liability. A partnership borrows $10,000, secured by a mortgage on real property. The mortgage note contains an exoneration clause which provides that in the event of default, the holder's only remedy is to foreclose on the property. The holder may not look to any other partnership asset or to any partner to pay the liability. However, to induce the lender to make the loan, a partner guarantees payment of $200 of the loan principal. The exoneration clause does not apply to the partner's guarantee. If the partner paid pursuant to the guarantee, the partner would be subrogated to the rights of the lender with respect to $200 of the mortgage debt, but the partner is not otherwise entitled to reimbursement from the partnership or any partner. For purposes of section 752, $200 of the $10,000 mortgage liability is treated as a recourse liability of the partnership and $9,800 is treated as a nonrecourse liability of the partnership. The partner's share of the recourse liability of the partnership is $200.

Example 6. Wrapped debt. I, an individual, purchases real estate from an unrelated seller for $10,000, paying $1,000 in cash and giving a $9,000 purchase mortgage note on which I has no personal liability and as to which the seller can look only to the property for satisfaction. At a time when the property is worth $15,000, I sells the property to a partnership in which I is a general partner. The partnership pays for the property with a partnership purchase money mortgage note of $15,000 on which neither the partnership nor any partner (or person related to a partner) has personal liability. The $15,000 mortgage

note is a wrapped debt that includes the $9,000 obligation to the original seller. The liability is a recourse liability to the extent of $6,000 because I is the creditor with respect to the loan and I bears the economic risk of loss for $6,000. I's share of the recourse liability is $6,000. The remaining $9,000 is treated as a partnership nonrecourse liability that is owed to the unrelated seller.

Example 7. Guarantee of interest by partner treated as part recourse and part nonrecourse. On January 1, 1992, a partnership obtains a $4,000,000 loan secured by a shopping center owned by the partnership. Neither the partnership nor any partner has any personal liability under the loan documents for repayment of the stated principal amount. Interest accrues at a 15 percent annual rate and is payable on December 31 of each year. The principal is payable in a lump sum on December 31, 2006. A partner guarantees payment of 50 percent of each interest payment required by the loan. The guarantee can be enforced without first foreclosing on the property. When the partnership obtains the loan, the present value (discounted at 15 percent, compounded annually) of the future interest payments is $3,508,422, and of the future principal payment is $491,578. If tested on that date, the loan would be treated as a partnership liability of $1,754,211 ($3,508,422 × .5) for which the guaranteeing partner bears the economic risk of loss and a partnership nonrecourse liability of $2,245,789 ($1,754,211 + $491,578).

Example 8. Contingent obligation not recognized. J and K form a general partnership with cash contributions of $2,500 each. J and K share partnership profits and losses equally. The partnership purchases an apartment building for its $5,000 of cash and a $20,000 nonrecourse loan from a commercial bank. The nonrecourse loan is secured by a mortgage on the building. The loan documents provide that the partnership will be liable for the outstanding balance of the loan on a recourse basis to the extent of any decrease in the value of the apartment building resulting from the partnership's failure properly to maintain the property. There are no facts that establish with reasonable certainty the existence of any liability on the part of the partnership (and its partners) for damages resulting from the partnership's failure properly to maintain the building. Therefore, no partner bears the economic risk of loss, and the liability constitutes a nonrecourse liability. Under § 1.752–3, J and K share this nonrecourse liability equally because they share all profits and losses equally.

(g) *Time-value-of-money considerations*—(1) *In general.* The extent to which a partner or related person bears the economic risk of loss is determined by taking into account any delay in the time when a payment or contribution obligation with respect to a partnership liability is to be satisfied. If a payment obligation with respect to a partnership liability is not required to be satisfied within a reasonable time after the liability becomes due and payable, or if the obligation to make a contribution to the partnership is not required to be satisfied before the later of—

(i) The end of the year in which the partner's interest is liquidated, or

(ii) 90 days after the liquidation,

the obligation is recognized only to the extent of the value of the obligation.

(2) *Valuation of an obligation.* The value of a payment or contribution obligation that is not required to be satisfied within the time period specified in paragraph (g)(1) of this section equals the entire principal balance of the obligation only if the obligation bears interest equal to or greater than the applicable federal rate under section 1274(d) at the time of valuation, commencing on—

(i) In the case of a payment obligation, the date that the partnership liability to a creditor or other person to whom the obligation relates becomes due and payable, or

(ii) In the case of a contribution obligation, the date of the liquidation of the partner's interest in the partnership.

If the obligation does not bear interest at a rate at least equal to the applicable federal rate at the time of valuation, the value of the obligation is discounted to the present value of all payments due from the partner or related person (*i.e.*, the imputed principal amount computed under section 1274(b)). For purposes of making this present value determination, the partnership is deemed to have constructively liquidated as of the date on which the payment obligation is valued and the payment obligation is assumed to be a debt instrument subject to the rules of section 1274 (*i.e.*, the debt instrument is treated as if it were issued for property at the time of the valuation).

(3) *Satisfaction of obligation with partner's promissory note.* An obligation is not satisfied by the transfer to the obligee of a promissory note by a partner or related person unless the note is readily tradeable on an established securities market.

(4) *Example.* The following example illustrates the principle of paragraph (g) of this section.

Example. Value of obligation not required to be satisfied within specified time period. A, the general partner, and B, the limited partner, each contributes $10,000 to partnership AB. AB purchases property from an unrelated seller for $20,000 in cash and a $70,000 recourse purchase money note. The partnership agreement provides that profits and losses are to be divided equally. A and B are required to make up any deficit in their capital accounts. While A is required to restore any deficit balance in A's capital account within 90 days after the date of liquidation of the partnership, B is not required to restore any deficit for two years following the date of liquidation. The deficit in B's capital account will not bear interest during that two-year period. In a constructive liquidation, all partnership assets are deemed to become worthless and all partnership liabilities become due and payable in full. The partnership is deemed to dispose of all its assets in a fully taxable transaction for no consideration. Capital accounts are adjusted to reflect the loss on the hypothetical disposition, as follows:

	A	B
Initial contribution	$10,000	$10,000
Loss on hypothetical sale	(45,000)	(45,000)
	(35,000)	(35,000)

A's and B's capital accounts each reflect deficits of $35,000. B's obligation to make a contribution pursuant to B's deficit restoration obligation is recognized only to the extent of the fair market value of that obligation at the time of the constructive liquidation because B is not required to satisfy that obligation by the later of the end of the partnership taxable year in which B's interest is liquidated or within 90 days after the date of the liquidation. Because B's obligation does not bear interest, the fair market value is deemed to equal the imputed principal amount under section 1274(b). Under section 1274(b), the imputed principal amount of a debt instrument equals the present value of all payments due under the debt instrument. Assume the applicable federal rate with respect to B's obligation is 10 percent compounded semiannually. Using this discount rate, the present value of the $35,000 payment that B would be required to make two years after the constructive liquidation to restore the deficit balance in B's capital account equals $28,795. To the extent that B's deficit restoration obligation is not recognized, it is assumed that B's obligation does not exist. Therefore, A, as the sole general partner, would be obligated by operation of law to contribute an additional $6,205 of capital to the partnership. Accordingly, under paragraph (g) of this section, B bears the economic risk of loss for $28,795 and A bears to economic risk of loss for $41,205 ($35,000 + $6,205).

(h) *Partner providing property as security for partnership liability*—(1) *Direct pledge.* A partner is considered to bear the economic risk of loss for a partnership liability to the extent of the value of any the partner's or related person's separate property (other than a direct or indirect interest in the partnership) that is pledged as security for the partnership liability.

(2) *Indirect pledge.* A partner is considered to bear the economic risk of loss for a partnership liability to the extent of the value of any property that the partner contributes to the partnership solely for the purpose of

securing a partnership liability. Contributed property is not treated as contributed solely for the purpose of securing a partnership liability unless substantially all of the items of income, gain, loss, and deduction attributable to the contributed property are allocated to the contributing partner, and this allocation is generally greater than the partner's share of other significant items of partnership income, gain, loss, or deduction.

(3) *Valuation.* The extent to which a partner bears the economic risk of loss as a result of a direct pledge described in paragraph (h)(1) of this section or an indirect pledge described in paragraph (h)(2) of this section is limited to the fair market value of the property at the time of the pledge or contribution.

(4) *Partner's promissory note.* For purposes of paragraph (h)(2) of this section, a promissory note of the partner or related person that is contributed to the partnership shall not be taken into account unless the note is readily tradeable on an established securities market.

(i) *Treatment of recourse liabilities in tiered partnerships.* If a partnership (the "upper-tier partnership") owns (directly or indirectly through one or more partnerships) an interest in another partnership (the "lower-tier partnership"), the liabilities of the lower-tier partnership are allocated to the upper-tier partnership in an amount equal to the sum of the following—

(1) The amount of the economic risk of loss that the upper-tier partnership bears with respect to the liabilities; and

(2) Any other amount of the liabilities with respect to which partners of the upper-tier partnership bear the economic risk of loss.

(j) *Anti-abuse rules*—(1) *In general.* An obligation of a partner or related person to make a payment may be disregarded or treated as an obligation of another person for purposes of this section if facts and circumstances indicate that a principal purpose of the arrangement between the parties is to eliminate the partner's economic risk of loss with respect to that obligation or create the appearance of the partner or related person bearing the economic risk of loss when, in fact, the substance of the arrangement is otherwise. Circumstances with respect to which a payment obligation may be disregarded include, but are not limited to, the situations described in paragraphs (j)(2) and (j)(3) of this section.

(2) *Arrangements tantamount to a guarantee.* Irrespective of the form of a contractual obligation, a partner is considered to bear the economic risk of loss with respect to a partnership liability, or a portion thereof, to the extent that:

(i) The partner or related person undertakes one or more contractual obligations so that the partnership may obtain a loan;

(ii) The contractual obligations of the partner or related person eliminate substantially all the risk to the lender that the partnership will not satisfy its obligations under the loan; and

(iii) One of the principal purposes of using the contractual obligations is to attempt to permit partners (other than those who are directly or indirectly liable for the obligation) to include a portion of the loan in the basis of their partnership interests.

The partners are considered to bear the economic risk of loss for the liability in accordance with their relative economic burdens for the liability pursuant to the contractual obligations. For example, a lease between a partner and a partnership which is not on commercially reasonable terms may be tantamount to a guarantee by the partner of a partnership liability.

(3) *Plan to circumvent or avoid the obligation.* An obligation of a partner to make a payment is not recognized if the facts and circumstances evidence a plan to circumvent or avoid the obligation.

(4) *Example.* The following example illustrates the principle of paragraph (j)(3) of this section.

Example. Plan to circumvent or avoid obligation. A and B form a general partnership. A, a corporation, contributes $20,000 and B contributes $80,000 to the partnership. A is obligated to restore any deficit in its partnership capital account. The partnership agreement allocates losses 20% to A and 80% to B until B's capital account is reduced to zero, after which all losses are allocated to A. The partnership purchases depreciable property for $250,000 using its $100,000 cash and a $150,000 recourse loan from a bank. B guarantees payment of the $150,000 loan to the extent the loan remains unpaid after the bank has exhausted its remedies against the partnership. A is a subsidiary, formed by a parent of a consolidated group, with capital limited to $20,000 to allow the consolidated group to enjoy the tax losses generated by the property while at the same time limiting its monetary exposure for such losses. These facts, when considered together with B's guarantee, indicate a plan to circumvent or avoid A's obligation to contribute to the partnership. The rules of section 752 must be applied as if A's obligation to contribute did not exist. Accordingly, the $150,000 liability is a reccurse liability that is allocated entirely to B.

§ 1.752-3 Partner's share of nonrecourse liabilities.

(a) *In general.* A partner's share of the nonrecourse liabilities of a partnership equals the sum of paragraphs (a)(1) through (a)(3) of this section as follows—

(1) The partner's share of partnership minimum gain determined in accordance with the rules of section 704(b) and the regulations thereunder;

(2) The amount of any taxable gain that would be allocated to the partner under section 704(c) (or in the same manner as section 704(c) in connection with a revaluation of partnership property) if the partnership disposed of (in a taxable transaction) all partnership property subject to one or more nonrecourse liabilities of the partnership in full satisfaction of the liabilities and for no other consideration; and

(3) The partner's share of the excess nonrecourse liabilities (those not allocated under paragraphs (a)(1) and (a)(2) of this section) of the partnership as determined in accordance with the partner's share of partnership profits. The partner's interest in partnership profits is determined by taking into account all facts and circumstances relating to the economic arrangement of the partners. The partnership agreement may specify the partners' interests in partnership profits for purposes of allocating excess nonrecourse liabilities provided the interests so specified are reasonably consistent with allocations (that have substantial economic effect under the section 704(b) regulations) of some other significant item of partnership income or gain. Alternatively, excess nonrecourse liabilities may be allocated among the partners in accordance with the manner in which it is reasonably expected that the deductions attributable to those nonrecourse liabilities will be allocated. Excess nonrecourse liabilities are not required to be allocated under the same method each year.

(b) *Examples.* The following examples illustrate the principles of paragraph (a) of this section.

Example 1. Partner's share of nonrecourse liabilities. The AB partnership purchases depreciable property for a $1,000 purchase money note that is nonrecourse liability under the rules of this section. Assume that this is the only nonrecourse liability of the partnership, and that no principal payments are due on the purchase money note for a year. The partnership agreement provides that all items of income, gain, loss, and deduction are allocated equally. Immediately after purchasing the depreciable property, the partners share the nonrecourse liability equally because they have equal interests in partnership profits. A and B are each treated as if they contributed $500 to the partnership to reflect each partner's increase in his or her share of partnership liabilities (from $0 to $500). The minimum gain with respect to an

item of partnership property subject to a nonrecourse liability equals the amount of gain that would be recognized if the partnership disposed of the property in full satisfaction of the nonrecourse liability and for no other consideration. Therefore, if the partnership claims a depreciation deduction of $200 for the depreciable property for the year it acquires that property, partnership minimum gain for the year will increase by $200 (the excess of the $1,000 nonrecourse liability over the $800 adjusted tax basis of the property). See section 704(b) and the regulations thereunder. A and B each have a $100 share of partnership minimum gain at the end of that year because the depreciation deduction is treated as a nonrecourse deduction. See section 704(b) and the regulation thereunder. Accordingly, at the end of that year, A and B are allocated $100 each of the nonrecourse liability to match their shares of partnership minimum gain. The remaining $800 of the nonrecourse liability will be allocated equally between A and B ($400 each).

Example 2. Excess nonrecourse liabilities allocated consistently with reasonably expected deductions. The facts are the same as in *Example 1* except that the partnership agreement provides that depreciation deductions will be allocated to A. The partners agree to allocate excess nonrecourse liabilities in accordance with the manner in which it is reasonably expected that the deductions attributable to those nonrecourse liabilities will be allocated. Assuming that the allocation of all of the depreciation deductions to A is valid under section 704(b), immediately after purchasing the depreciable property, A's share of the nonrecourse liability is $1,000. Accordingly, A is treated as if A contributed $1,000 to the partnership.

§ 1.752–4 Special rules.

(a) *Tiered partnerships.* An upper-tier partnership's share of the liabilities of a lower-tier partnership (other than any liability of the lower-tier partnership that is owed to the upper-tier partnership) is treated as a liability of the upper-tier partnership for purposes of applying section 752 and the regulations thereunder to the partners of the upper-tier partnership.

(b) *Related person definition.*—(1) *In general.* A person is related to a partner if the person and the partner bear a relationship to each other that is specified in section 267(b) or 707(b)(1), subject to the following modifications:

(i) Substitute "80 percent or more" for "more than 50 percent" each place it appears in those sections;

(ii) A person's family is determined by excluding brothers and sisters; and

(iii) Disregard sections 267(e)(1) and 267(f)(1)(A).

(2) *Person related to more than one partner*—(i) *In general.* If, in applying the related person rules in paragraph (b)(1) of this section, a person is related to more than one partner, paragraph (b)(1) of this section is applied by treating the person as related only to the partner with whom there is the highest percentage of related ownership. If two or more partners have the same percentage of related ownership and no other partner has a greater percentage, the liability is allocated equally among the partners having the equal percentages of related ownership.

(ii) *Natural persons.* For purposes of determining the percentage of related ownership between a person and a partner, natural persons who are related by virtue of being members of the same family are treated as having a percentage relationship of 100 percent with respect to each other.

(iii) *Related partner exception.* Notwithstanding paragraph (b)(1) of this section (which defines related person), persons owning interests directly or indirectly in the same partnership are not treated as related persons for purposes of determining the economic risk of loss borne by each of them for the liabilities of the partnership. This paragraph (iii) does not apply when determining a partner's interest under the de minimis rules in §§ 1.752–2 (d) and (e).

(iv) *Special rule where entity structured to avoid related person status*—(A) *In general.* If—

(*1*) A partnership liability is owed to or guaranteed by another entity that is a partnership, an S corporation, a C corporation, or a trust;

(*2*) A partner or related person owns (directly or indirectly) a 20 percent or more ownership interest in the other entity; and

(*3*) A principal purpose of having the other entity act as a lender or guarantor of the liability was to avoid the determination that the partner that owns the interest bears the economic risk of loss for federal income tax purposes for all or part of the liability;

then the partner is treated as holding the other entity's interest as a creditor or guarantor to the extent of the partner's or related person's ownership interest in the entity.

(B) *Ownership interest.* For purposes of paragraph (b)(2)(iv)(A) of this section, a person's ownership interest in:

(*1*) A partnership equals the partner's highest percentage interest in any item of partnership loss or deduction for any taxable year;

(*2*) An S corporation equals the percentage of the outstanding stock in the S corporation owned by the shareholder;

(*3*) A C corporation equals the percentage of the fair market value of the issued and outstanding stock owned by the shareholder; and

(*4*) A trust equals the percentage of the actuarial interests owned by the beneficial owner of the trust.

(C) *Example. Entity structured to avoid related person status.* A, B, and C form a general partnership, ABC. A, B, and C are equal partners, each contributing $1,000 to the partnership. A and B want to loan money to ABC and have the loan treated as nonrecourse for purposes of section 752. A and B form partnership AB to which each contributes $50,000. A and B share losses equally in partnership AB. Partnership AB loans partnership ABC $100,000 on a nonrecourse basis secured by the property ABC buys with the loan. Under these facts and circumstances, A and B bear the economic risk of loss with respect to the partnership liability equally based on their percentage interest in losses of partnership AB.

(c) *Limitation.* The amount of an indebtedness is taken into account only once, even though a partner (in addition to the partner's liability for the indebtedness as a partner) may be separately liable therefor in a capacity other than as a partner.

(d) *Time of determination.* A partner's share of partnership liabilities must be determined whenever the determination is necessary in order to determine the tax liability of the partner or any other person. See § 1.705–1(a) for rules regarding when the adjusted basis of a partner's interest in the partnership must be determined.

§ 1.752–5 Effective dates and transition rules.

(a) *In general.* Unless a partnership makes an election under paragraph (b)(1) of this section to apply the provisions of §§ 1.752–1 through 1.752–4 earlier, §§ 1.752–1 through 1.752–4 apply to any liability incurred or assumed by a partnership on or after December 28, 1991, other than a liability incurred or assumed by the partnership pursuant to a written binding contract in effect prior to December 28, 1991 and at all times thereafter. For liabilities incurred or assumed by a partnership prior to December 28, 1991 (or pursuant to a written binding contract in effect prior to December 28, 1991 and at all times thereafter), unless an election to apply these regulations has been made, see §§ 1.752–0T to 1.752–4T, set forth in 26 CFR 1.752–0T through 1.752–4T as contained in 26 CFR edition revised April 1, 1991, (TD 8237, TD 8274, and TD 8355) and § 1.752–1, set forth in 26 CFR 1.752–1 as contained in 26 CFR edition revised April 1, 1983 (TD 8175 and TD 8500).

(b) *Election*—(1) *In general.* A partnership may elect to apply the provisions of §§ 1.752–1 through 1.752–4

to all of its liabilities to which the provisions of those sections do not otherwise apply as of the beginning of the first taxable year of the partnership ending on or after December 28, 1991.

(2) *Time and manner of election.* An election under this paragraph (b) is made by attaching a written statement to the partnership return for the first taxable year of the partnership ending on or after December 28, 1991. The written statement must include the name, address, and taxpayer identification number of the partnership making the statement and contain a declaration that an election is being made under this paragraph (b).

(c) *Effect of section 708(b)(1)(B) termination on determining date liabilities are incurred or assumed.* For purposes of applying this section, a termination of the partnership under section 708(b)(1)(B) will not cause partnership liabilities incurred or assumed prior to the termination to be treated as incurred or assumed on the date of the termination.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. Section 602.101(c) is amended by removing the citation "1.752–4T . . . 1545–1090" and adding the following citation to read as follows: "1.752–5 . . . 1545–1090."

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved: December 5, 1991.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 91–30596 Filed 12–20–91; 8:45 am]

BILLING CODE 4830–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2603

Freedom of Information Act; Exemption (4)

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: On October 30, 1991, the Pension Benefit Guaranty Corporation ("PBGC") published an interim final rule amending its Freedom of Information Act ("FOIA") regulations to include designation and notification procedures for records containing information that, pursuant to exemption (4), the PBGC may not be required to make available to the public. These supplementary provisions assure that submitters of trade secrets and privileged or confidential business information have an opportunity to explain to the PBGC why the information should not be made available in response to a request under the FOIA. The PBGC invited the public to submit comments on its designation and notification procedures until November 29, 1991, the effective date of the interim final rule. The agency received no comments during this period, and it now is republishing the amendments as a final rule.

EFFECTIVE DATE: December 23, 1991.

FOR FURTHER INFORMATION CONTACT: Judith Neibrief, Attorney, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–778–8850, or E. William FitzGerald, PBGC Disclosure Officer, Communication and Public Affairs Department (Code 3800), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–778–8839 (202–778–8859 for TTY and TTD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation ("PBGC") administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. 1001 *et seq.* As a Government corporation, the PBGC is subject to the Freedom of Information Act ("FOIA"), 5 U.S.C. 552, which, among other things, establishes requirements for making agency records available to the public. Part 2603 of the PBGC's regulations (29 CFR part 2603), Examination and Copying of Pension Benefit Guaranty Corporation Records, implements the FOIA and the agency's policy to disseminate information to the public and, insofar as is compatible with the discharge of its responsibilities and consistent with law, to disclose information in its records upon request to members of the public.

These regulations set forth, in § 2603.8, the PBGC's policy of disclosure and, in §§ 2603.15 through 2603.23, restrictions on the disclosure of various records. The restrictions implement paragraphs (1) through (9) of section 552(b), which specify matters to which the FOIA does not apply. (Paragraphs (1) through (9) of section 552(b) are referred to, here and in the regulations, as exemptions (1) through (9), in that order.)

Where requests involve records to which access may be refused under an FOIA exemption and § 2603.15 of the regulations does not prohibit making the information available, the PBGC's policy is to disclose information, but only to the extent that an authorized agency officer determines disclosure will further the public interest and will not impede the discharge of any PBGC function. Under § 2603.16(b) of the regulations, the factors that must be considered in making such a determination include the public interest in protecting citizens against the dissemination of information concerning them which is privileged or has been submitted by them on a confidential basis and in preventing the disclosure of information which would handicap, obstruct, or jeopardize effective performance of the PBGC's functions.

The regulations for particular FOIA exemptions include § 2603.18, which addresses exemption (4): Matters that are "trade secrets and commercial or financial information obtained from a person and privileged or confidential * * *." Insofar as denial of access is not mandatory under the Trade Secrets Act or other restrictions set forth in § 2603.15, paragraph (a) of § 2603.18 requires that, in applying the policy expressed in §§ 2603.8 and 2603.16, there be a balancing of the right of the public to know how the Government operates against the Government's need to keep information in confidence and the right of a person from which information was obtained to have privileges and confidences respected.

On October 29, 1991 (56 FR 55817), the PBGC published an interim final rule (effective November 29, 1991) that expanded the guidance previously provided in § 2603.18. Paragraph (f) of that section now further explains the considerations that pertain to information protected by exemption (4) and describes the practices PBGC employs when requests for records may involve such information. In particular, the amended regulations specify procedures by which persons and entities can assert that they are "submitter(s)" of "confidential commercial information" (as defined in § 2603.2 (d) and (e) of the regulations) and can object to PBGC disclosure of arguably protected information in response to an FOIA request (§ 2603.18(f) (2) and (3), respectively).

As the PBGC stated when it issued the interim final rule (56 FR 55817–18), the PBGC's practices in this area have evolved over time. In 1982, the PBGC adopted guidance issued by the Office of Information and Privacy of the U.S. Department of Justice as a matter of policy. Since then it has assured that whenever the agency may be required to

release arguably protected information, the submitter first has an opportunity to explain why disclosure could cause substantial competitive harm. The PBGC subsequently reviewed its practices for conformity with the procedures mandated by Executive Order 12600 (52 FR 23781, June 25, 1987). The interim final rule codified PBGC practices by specifying designation and notification procedures which assure informed consideration of requests for information that arguably is protected from disclosure under exemption (4).

Based on its experience in implementing exemption (4), the PBGC concluded that the provisions it adopted accommodate the interests of both those submitting and those requesting material in agency records. As amended, the PBGC's procedures provide a structure that is sufficiently flexible to enable the agency to continue to resolve many issues informally. As previously noted (56 FR 55818), to the extent permitted by law, the agency intends to provide sufficient time, under the circumstances, to respond to its notifications. However, in view of the time limit provisions of the FOIA (see section 552(a)(6)) and its regulations (see §§ 2603.45 through 2603.47), the amended regulations do not assure a minimum number of days (but do provide for reasonable time) for objecting to disclosure or before disclosure after a decision to grant a request.

The amendments made by the interim final rule further elaborated agency policy and practices for processing certain records and requests. Nevertheless, the PBGC provided an opportunity for interested members of the public to comment on its designation and notification procedures for implementing exemption (4) of the FOIA, and it committed itself to the issuance of a superseding final rule to incorporate any modifications found appropriate in response to comments received by November 29, 1991 (the effective date of the interim final rule). Having received no comments during this period, the PBGC is now adopting, as a final rule without change, the amendments issued on October 29, 1991. Since this action merely adopts as a final rule amendments previously made (and already in effect), the PBGC finds, for good cause, that further notice and procedure is unnecessary, and it is effective immediately. (5 U.S.C. 553 (b) and (d).)

E.O. 12291

The PBGC previously determined that this is not a "major rule" for purposes of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; create a major increase in costs for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2603

Freedom of information.

PART 2603—EXAMINATION AND COPYING OF PENSION BENEFIT GUARANTY CORPORATION RECORDS

In consideration of the foregoing, the interim final rule amending 29 CFR part 2603 which was published at 56 FR 55818 on October 30, 1991, is adopted as a final rule without change.

Authority: 5 U.S.C. 552; 29 U.S.C. 1302(b)(3); E.O. 12600, 52 FR 23781.

Issued in Washington, DC, this 17th day of December 1991.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 91-30601 Filed 12-20-91; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 202, 203, and 206

Oil and Gas Product Valuation Regulations

December 16, 1991.

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of training seminars.

SUMMARY: The Minerals Management Service (MMS) hereby gives notice that it will present training seminars at the locations and dates identified below, on oil and gas transportation and gas processing allowance regulations that were published in the **Federal Register** on January 15, 1988 (53 FR 1184 and FR 1230, respectively). The seminars will address specific issues regarding transportation and processing allowances, the reporting requirements, billing, and reporting problems encountered since the regulations became effective March 1, 1988.

DATES: See Supplementary Information.

ADDRESSES: See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Mr. James P. Morris, Chief, Allowance Accounting Section, Transportation and Processing Branch, Royalty Valuation and Standards Division (303) 231-3729, or (FTS) 326-3729.

SUPPLEMENTARY INFORMATION: The oil and gas product valuation regulations that were published in the **Federal Register** on January 15, 1988, amended and clarified existing regulations governing the valuation of oil and gas for royalty computation purposes. The regulations govern the methods by which value is determined when computing oil or gas royalties under Federal (onshore or Outer Continental Shelf) and Indian (tribal and allotted) oil and gas leases (except leases on the Osage Indian Reservation, Osage County, Oklahoma).

The training seminars will include discussions on the following topics:

Day 1:

- Specific issues contained in the transportation and processing allowance regulations.
- The reporting problems encountered.
- Systems development and billing procedures.
- Appeal procedures.

Day 2:

- Information collection requirements and reporting forms (MMS-4109, "Gas Processing Allowance Summary Report;" MMS-4110, "Oil Transportation Allowance Report;" and MMS-4295 "Gas Transportation Allowance Report") required to support oil and gas transportation and processing allowance deductions from royalties due.
- Instructions on how to properly complete the forms.

Location and Dates

The seminars will be held from 8:30 a.m. to 4:30 p.m. on Day 1 and from 8:30 a.m. to 12 p.m. on Day 2 on the dates and at the locations shown below:

Dates	Locations
January 15-16, 1992	Sheraton Hotel & Conference Center, 3600 Union Boulevard, Lakewood, Colorado 80228, (303) 987-2000.

Dates	Locations
February 5–6, 1992	Embassy Suites Hotel, 9090 Southwest Freeway, Houston, Texas 77074, (713) 995–0123.
February 11–12, 1992	Dallas Marriott Park Central, 7750 L.B.J. Freeway at Coit Road, Dallas, Texas 75251, (214) 233–4421.
February 19–20, 1992	Sheraton Century Center Hotel, 1 North Broadway, Oklahoma City, Oklahoma 73102, (405) 235–2780.
February 26–27, 1992	Best Western Sally Port Inn, 2000 N. Main, Roswell, New Mexico 88201, (505) 622–7430.

Registration and Reservations

Persons interested in attending one of these seminars should contact Ms. Anna Aytes of our office at (303) 231–3396 or (FTS) 326–3396 at least 1 week prior to the date of the session you wish to attend. Due to space limitations, the number of attendees may be limited at each seminar location and will be provided on a first-come-first-serve basis. Persons interested in hotel reservations should contact the hotel directly at the telephone number(s) identified above.

If insufficient interest is shown in attending any of the individual training sessions, such sessions may be canceled and alternate arrangements will be made for those who expressed interest.

Dated: December 17, 1991.

Jimmy W. Mayberry,

Acting Associate Director for Royalty Management.

[FR Doc. 91–30528 Filed 12–20–91; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 40a

Defense Contracting; Reporting Procedures on Defense Related Employment

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule is the fiscal year 1991 revision of the section listing DoD contractors receiving contract awards of $10 million or more. This part is published to comply with the provisions of section 1, Public Law 97–295, October 12, 1982; 10 U.S.C. 2397.

EFFECTIVE DATE: September 30, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. J.R. Sungenis, Director, Directorate for Information Operations and Reports, Washington Headquarters Services, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302 Telephone (703) 746–0334.

List of Subjects in 32 CFR Part 40a

Armed Forces, Conflict of interests, Government employees, Government procurement, Reporting and recordkeeping requirements.

Accordingly, 32 CFR part 40a is revised to read as follows:

PART 40a—DEFENSE CONTRACTING: REPORTING PROCEDURES ON DEFENSE RELATED EMPLOYMENT

Authority: 10 U.S.C. 2397.

§ 40a.1 Department of Defense contractors receiving awards of $10 million or more.

Fiscal Year 1991

A2 Construction Co., Inc.
A&S Tribal Industries
AAI Corp.
AAR Brooks & Perkins Corp.
ABB Flakt, Inc.
ACC Construction Co. Inc.
AEL Defense Corp.
AM General Corp.
AMCA International Construction Corp.
AT&T Communications, Inc.
AV Technology Corp.
Abbott Laboratories
Accudyne Corp.
Action Mfg. Co.
Advanced Marine Enterprises
Aepco, Inc.
Aerojet
Aeromritime Mediterranean Corp.
Aeroquip Corp.
Aerosonic Corp.
Aerospace Corp., The
Afram Lines, Ltd., USA
Agip Petroli SPA
Agusta International SA
Ahntech, Inc.
Air Transport International
Air Treads, Inc.
Airfoil Textron
Aksarben Foods, Inc.
Al Harbi Trading & Contracting
Al Khudair Contracting Est.
Al Maqam Contracting
Al Rashid Trading & Contracting
Alabama Power Co.
Alascom, Inc.
Alberici J.S. Construction Co.
Aleman Food Service, Inc.
Aleutian Constructors
Alisud Handling SPA
All Bann Enterprises, Inc.
All Star Maintenance, Inc.
Alliant Techsystems, Inc.
Allied Petro Inc.
Allied Signal Aerospace Co.
Allied Signal, Inc.
Amerada Hess Corp.
America West Airlines, Inc.
American Airlines, Inc.
American Apparel Brands
American Auto Carriers
American Construction Co., Inc.
American Cyanamid Co., Inc.
American Dredging Co.
American Fuel Cell & Coated Fabrics
American Insurance Co., The
American Management Systems, Inc.
American President Lines, Ltd.
American Systems Corp.
American Systems Engnr. Corp.
American Telephone & Telegraph Co.
American Trans Air & Connie Kalitta Services
Ameriqual Foods, Inc.
Ametek, Inc.
Amoco Corp.
Amron Corp.
Amstar Corp.
Analysis & Technology, Inc.
Analytic Science Corp., The
Analytic Services, Inc.
Analytical Systems Engineering Corp.
Anderson, Roy Corp.
Andrulis Research Corp.
Applied Technology Associates, Inc.
Aqua Chem, Inc.
Aral AG
Arcata Associates, Inc.
Arco Products Co.
Arinc Research Corp.
Armada Hoffler Construction Co.
Armar Shipowning Trading Co.
Armored Vehicle Technologies Assoc.
Armtec Defense Products Co.
Arral Industries, Inc.
Arrow Air, Inc.
Ashland Oil, Inc.
Assurance Technology Corp.
Astronautics Corp. of America
Atlantic Industries, Inc.
Atlantic Marine, Inc.
Atlantic Research Corp.
Atlas Processing Co.
Automar I Corp.
Automated Machine Products
Automated Sciences Group, Inc.
Automation Research Systems, Ltd.

Avco Corp.
Avco Research Laboratory, Inc.
Avondale Industries, Inc.
B&C Corp.
BAMSI, Inc.
BBDO Worldwide, Inc.
BDM International, Inc.
BEI Electronics, Inc.
BOC Group, Inc.
BWA GMBH & Co. KG
Babcock & Wilcox Co., The
Bahrain National Oil Co.
Balfour Beatty, Inc.
Ball Corp.
Baltimore Gas & Electric Co.
Barnhart Douglas E. Inc.
Barrett Refining Corp.
Bartlett Cooke Jr. Construction Co.
Base Ten Systems, Inc.
Basil & Trataros JV
Basil, Frank E. Inc.
Bateson, J.W. Co., Inc.
Bath Iron Works Corp.
Batson Cook of Florida, Inc.
Battelle Memorial Institute
Baxter Healthcare, Inc.
Baxter International, Inc.
Bay Tankers, Inc.
Bean Dredging Corp.
Bechtel National, Inc.
Beech Aerospace Services, Inc.
Beech Aircraft Corp.
Bell Helicopter Textron & Boeing Co., JV
Bell Helicopter Textron, Inc.
Belleville Shoe Mfg. Co.
Bender Shipbuilding & Repair Co.
Beneco Enterprises, Inc.
Bethlehem Steel Corp.
Bicoastal Corp.
Blaine Construction Corp.
Blount, Inc.
Blue Cross & Blue Shield of South Carolina
Blue Star Foods Inc.
Bodell Construction Co.
Boeing Aerospace & Electronics
Boeing Co. & Sikorsky Aircraft JV
Boeing Co., The
Boeing Computer Support Services
Boeing Louisiana, Inc.
Bollinger Machine Shop & Shipyard
Bolt Beranek & Newman, Inc.
Booz Allen & Hamilton, Inc.
Boro Developers, Inc.
Bowman, John Inc.
Bozell, Jacobs, Kenyon & Eckhardt
Braintree Maritime Corp.
Braswell Services Group, Inc.
Brazos Roofing International
Bremer Lagerhaus Gesellschaft
Bren Tronics, Inc.
Bridgestone/Firestone, Inc.
Bristol Myers Squibb Co.
British Aerospace PLC
Brown & Root, Inc.
Brown & Root International
Brown & Root Services Corp.
Browing Construction Co.
Brunswick Corp.
Buckner & Moore, Inc.
Burgos Fred Construction Co.
Burns & McDonnell Engineering
Burnside Ott Aviation Training Center
C3, Inc.
C&S Transit Corp.
C Construction Co., Inc.
CACI, Inc.
CACI International, Inc.
CAE Industries, Ltd.
CAE Link Corp.
CAS, Inc.
CBC Enterprises, Inc.
CBIS Federal
CF Holdings Corp.
CFM International, Inc.
CFS Aircargo, Inc.
CRSS, Inc.
CTA, Inc.
Cadillac Gage Textron, Inc.
Calcasieu Refining Co.
California Microwave, Inc.
California Pacific Associates
Calspan Corp.
Caltex Oil Products Co.
Camel Mfg. Co.
Campbell Soup Co.
Cantu Services, Inc.
Carder, W.H. & Souter, JV
Carnegie Mellon University
Carolina Power & Light Co.
Carothers Construction, Inc.
Carter Welsh, Inc.
Casde Corp.
Caterpillar, Inc.
Cav Iniseo Irti & Figli SPA
Cedar Chemical Co.
Center Core, Inc.
Center for Naval Analyses
Central Gulf Lines, Inc.
Centre Mfg. Co., Inc.
Century Technologies, Inc.
Cessna Aircraft Co., Inc.
Chamberlain Mfg. Corp.
Chem Nuclear Systems, Inc.
Chemical Waste Management
Chestnut Shipping Co.
Chevron USA, Inc.
Childers Construction Co.
Chouest Edison Offshore, Inc.
Chromalloy Gas Turbine Corp.
Chrysler Technologies Airborne Systems
Cincinnati Electronics Corp.
Cinpac, Inc.
Clamshell Buildings, Inc.
Clarke Detroit Diesel Allison
Coastal Aruba Refining NV
Coastal Eagle Point Oil Co.
Coastal Group, Inc.
Coastal Industries, Inc.
Coastal Refining & Marketing
Codar Technology, Inc.
Colbar, Inc.
Colejon Mechanical Corp.
Coleman Research Corp.
Collins International Service Co.
Colsa, Inc.
Coltec Industries, Inc.
Columbia Research Corp.
Comarco, Inc.
Combustion Engineering, Inc.
Comcon, Inc.
Communications Satellite Corp.
Compania Espanola De Petroleos
Comprehensive Technologies International
Comptek Research, Inc.
Computer Dynamics, Inc.
Computer Sciences Corp.
Computer Sciences & Raytheon JV
Conagra, Inc.
Conax Corp.
Conner Bros. Construction Co.
Conoco, Inc.
Conopco, Inc.
Consolidated Electronics, ITT & Westinghouse JV
Consolidated Services, Inc.
Contel Corp.
Continental Airlines, Inc.
Continental Maritime of San Diego
Continental Wire & Cable Co.
Contraves USA, Inc.
Control Data Corp.
Conventional Munitions Systems
Cook J.W. & Sons, Inc.
Cornell University
Cory Bros. Shipping, Ltd.
Craddock Terry, Inc.
Crest Tankers, Inc.
Crestview Aerospace Corp.
Crowley Maritime Corp.
Cubic Corp.
Commins Engine Co., Inc.
Cunard Lines, Ltd.
Curtis Wright Flight Systems
DBA Systems, Inc.
DCS Corp.
DJ Mfg. Co.
DLI Engineering Corp.
Dakota Tribal Industries, Inc.
Dames & Moore
Dana Corp.
Dawson Construction Co.
Day & Zimmerman, Inc.
Day & Zimmerman/Basil Corp. JV
De Bra, Fred B. Co., The
Deere, John Capital Corp.
Del Jen, Inc.
Delavan, Inc.
Delta Air Lines, Inc.
Delta Altama Corp.
Delta Dental Plan of California
Delta Industries
Denro, Inc.
Detroit Diesel Corp.
Detyens Shipyards, Inc.
Deutsche Bundespost
Deval Corp.
Devils Lake Sioux Mfg. Corp.
Dial Corp.
Diamond Shamrock Refining
Diagnostic Retrieval Systems
Digital Equipment Corp.
Digital Equipment GMBH
Digitron Tool Co., Inc.

Dillingham Construction Corp.
Diversified Group, Inc.
Dixie Pavers, Inc.
Dock Express Contractors, Inc.
Donaldson Co., Inc.
Douglas Aircraft Co.
Dragon Services, Inc.
Draper, Charles Stark Laboratories, Inc.
Dresser Industries, Inc.
Dreyfus Louis Corp.
Dreyfus Louis Energy
Du Pont, E.I. De Nemours & Co.
Dual & Associates, Inc.
Dubai Drydocks
Dutra Construction Co.
Dutra Dredging Co.
Dynamic Instruments, Inc.
Dynamic Science, Inc.
Dynamic Controls Corp.
Dynamics Corp. of America
Dynamics Research Corp.
Dynaweld, Inc.
Dyncorp
Dynetics, Inc.
EC III JV
ECC International Corp.
ECI Construction, Inc.
EDP Enterprises, Inc.
EER Systems Corp.
EG&G, Inc.
EG&G Special Projects
EG&G Washington Analytical Services Center
ERC International, Inc.
ESL, Inc.
ETM Electromatic, Inc.
E Systems, Inc.
Eagle Technology, Inc.
Earth Technology Corp.
Eastern Computers, Inc.
Eastern Technologies, Ltd.
Eastman Kodak Co.
Eaton Corp.
Ebasco Services, Inc.
Economics Technology Associates
Edcar Industries, Inc.
Edo Corp.
El Paso Refining Co., Ltd.
Eldyne, Inc.
Electro Methods, Inc.
Electronic Data Systems Corp.
Electronic & Space Corp.
Electrospace Systems, Inc.
Elf France
Emco, Inc.
Emergency Medical Services Assoc.
Engineered Air Systems, Inc.
Engineering & Economics Research
Engineering Science, Inc.
Ensco, Inc.
Entwistle Co., The
Environmental Research Institute of Michigan
Environmental Science & Engineering
Environmental Technologies Group
Esso Nederland BV
Europe Combined Terminals
Evergreen International Airlines
Executive Resource Associates
Exide Battery Corp.
Exide Electronics Group, Inc.
Expeditor Transport Corp.
Exporter Transport Corp.
Expressor Transport Corp.
Exxon Co., USA
Exxon Corp.
F2M, Inc.
F&H Construction Co.
FEL Corp.
FKW, Inc.
FL Aerospace Holdings Corp.
FMC Corp.
FMS Corp.
FN Mfg., Inc.
Fabrique Nationale Herstal SA
Fairchild Aircraft Corp.
Fairchild Industries, Inc.
Falcon Carriers, Inc.
Falcon Microsystems, Inc.
Farrell Lines, Inc.
Federal Express, Northwest Airlines, PanAm World Airway, Tower Air & United Parcel Service
Federal Computer Corp.
Federal Data Corp.
Federal Hoffman, Inc.
Felec Services, Inc.
Figgie International, Inc.
Filters Co., Inc.
Fisher Food, Ltd.
Flight International Group, Inc.
Flightsafety International, Inc.
Flightsafety Service Co.
Florida North Shipyards, Inc.
Florida Ordnance Co.
Fluke, John Mfg. Co., Inc.
Fluor Corp.
Fokker NV
Fort Biscuit Co.
Foundation Health Corp.
Four F Corp.
Freightliner Corp.
Frontier Engineering, Inc.
Fru Con Construction Corp.
G&C Enterprises, Inc.
G&F Co.
GE Mobile Communications
GEC Avionics, Ltd.
GEC Marconi Electronic Systems
GEC Sensors, Ltd.
GLR Constructors JV
GSX Government Services, Inc.
GTE Government Systems Corp.
GTE Hawaiian Telephone Co.
GTE Spacenet Corp.
GTE Sylvania Commercial Products
Garcia, Luis E. Inc.
Gencorp, Inc.
General Atomics
General Communication, Inc.
General Directorate of PTT
General Dynamics Corp.
General Electric Co.
General Mills, Inc.
General Motors Corp.
General Offshore Corp.
General Physics Corp.
General Research Corp.
General Ship Corp.
Genrad, Inc.
Gentex Corp.
Geo Centers, Inc.
Georgia Institute of Technology
Georgia Tech Research Corp.
Giant Industries, Inc.
Gibraltar, P.R. Inc.
Glaxo, Inc.
Global Distributors
Golden Mfg., Co., Inc.
Goodrich, B.F. Co., The
Goodyear Tire & Rubber Co., The
Government Technology Services
Granite Construction Co.
Grasby Ionics
Grasseto USA & Incisa USA
Great Lakes International, Inc.
Green Construction Co.
Greenbrier Industries, Inc.
Greenland Contractors
Grey Advertising, Inc.
Grimberg, John C. Co., Inc.
Grumman Aerospace Corp.
Grumman Corp.
Grumman Data Systems Corp.
Grumman Technical Services, Inc.
Gulf Coast Trailing Co.
Gulfstream Aerospace Corp.
Gunver Mfg. Co., Inc.
Guyco Engineering Co.
HR Textron, Inc.
HSU Ronald Construction Co.
Hall Contracting Corp.
Hamilton Standard Electronics
Hamm, E. L. & Associates, Inc.
Harbert International, Inc.
Harcon Inc. & S.A. Gonzales
Hardaway Co., Inc., The
Harding, Lawson Associates, Inc.
Harris Corp.
Harsco Corp.
Hawaiian Airlines, Inc.
Hawaiian Electric Co., Inc.
Hawaiian Independent Refinery
Haworth, Inc.
Hazeltine Corp.
Hellenic Fuel & Lubricant Ind.
Hensel Phelps Construction Co.
Hercules Engines, Inc.
Hercules, Inc.
Hermes Consolidated, Inc.
Heroux, Inc.
Hess Oil Virgin Island Corp.
Hewlett Packard Co.
Hilton Systems, Inc.
Hoffman Corp.
Hoffmann La Roche, Inc.
Holston Defense Corp.
Honam Oil Refinery Co., Ltd.
Honeywell Federal Systems, Inc.
Honeywell, Inc.
Hooks, Mike, Inc.
Horizons Technology, Inc.
Hormel George A. & Co.
Hughes Aircraft & Raytheon Co. JV
Hughes Aircraft Co.
Hughes Danbury Optical Systems

Hughes Training Systems, Inc.
Hunt Building Corp.
Huttenbauer E. & Son, Inc.
Hydraulics International, Inc.
Hydroscience, Inc.
Hyman George Construction Co.
Hyster Co.
I Net, Inc.
IBP, Inc.
ICI Americas, Inc.
IFR Systems, Inc.
IIT Research Institute
ILC Dover
ILC Industries, Delaware
IPAC
ITT & Martin Marietta JV
ITT Corp.
ITT Federal Services Corp.
Illinois Glove Co.
Imo Industries, Inc.
Imperial Oil Co., Inc.
Information Handling Services Group
Information Spectrum, Inc.
Information Systems Networks Corp.
Information Technology, Inc.
Infotec Development, Inc.
Ingalls Shipbuilding, Inc.
Institute for Defense Analyses
Integrated Microcomputer Systems
Integrated Systems Analysts
Integrity Management International
Intel Corp.
Intelcom Group Corp.
Intelcom Support Services, Inc.
Intercontinental Mfg. Co.
Intergraph Corp.
Intermarine, USA
Intermetrics, Inc.
International Business Machines Corp.
International Marine Carriers
International Technology Corp.
Interstate Construction, Inc.
Interstate Electronics Corp.
Interstate Landscaping Co., Inc.
Intevac, Inc.
Irvin Industries, Inc.
Isometrics, Inc.
Israel Aircraft Industries, Ltd.
Israel Military Industries
Israel Shipyards, Ltd.
Isratex, Inc.
J&J Maintenance, Inc.
JT Construction Co., Inc.
Jacobs Engineering Group, Inc.
James, T.L. & Co., Inc.
Janes Information Group, Inc.
Jaycor
Jersey Central Power & Light Co.
Jianas Bros. Packaging Co.
Johns Hopkins University
Johnson Bros. Corp.
Johnson Controls, Inc.
Johnson, G.E. Construction Co.
Johnson, S.E. & Son, Inc.
Jonathan Corp., The
Jones Group, Inc., The
Jordan, W.M. Co., Inc.
Jorgensen, Roy Associates, Inc.
Jowett, Inc.
Junghans Feinwerktechik
K&F Industries, Inc.
KDI Precision Products, Inc.
KPMG Peat Marwick
Kaiser Aerospace & Electronics Corp.
Kaman Aerospace Corp.
Kaman Sciences Corp.
Kay & Associates, Inc.
Kaysam Corp. of America
Kearfott Guidance & Navigation Corp.
Keco Industries, Inc.
Keflavik Contractors
Kellogg Sales Co.
Kennedy, Roger P. General Contractor
Kestrel Shipholding Corp.
Key Airlines, Inc.
Kidde, Inc.
Kiewit & Al Johnson JV
Kilgore Corp.
Kimac Enterprises
Kingston Constructors, Inc.
Kollmorgen Corp.
Korea Electric Power Corp.
Kovatch Corp.
Kraft General Foods, Inc.
Kuk Dong Construction Co., Ltd.
LSA, Inc.
LTV Aerospace & Defense Co.
La Crosse Plumbing Supply Co.
Lajas Industries
Lally Mfg. Corp.
Land O Frost, Inc.
Landmark Petroleum, Inc.
Lane Construction Corp.
Larson, Al Boat Shop
Lathrop Construction Co.
Law Environmental, Inc.
Lawrence Associates, Inc.
Lear Siegler Management Services
Learjet Corp.
Leland Electrosystems, Inc.
Life Cycle Engineering, Inc.
Light Helicopter Turbine Engine Co.
Lilly, David B. Co., Inc.
Litton Systems, Inc.
Loc Performance Products Co.
Lockheed Aeromod Center, Inc.
Lockheed Aeronautical Systems Co.
Lockheed Aircraft Service Co.
Lockheed Corp.
Lockheed Missiles & Space Co.
Lockheed Sanders, Inc.
Lockheed Support Systems, Inc.
Locus, Inc.
Loggins Meat Co., Inc.
Logicon, Inc.
Logistic Services International
Logistics Management Institute
Logistics Support Group
Loral Corp.
Lord & Son Construction Co.
Lord Corp.
Lott Constructors, Inc.
Lucas Aul
Lucas Western, Inc.
Luhr Bros., Inc.
Lykes Bros. Steamship Co., Inc.
MCC Construction Corp.
MCI Telecommunications Corp.
MSM Security & Patrol Service
Mac H.B. Inc.
Maersk Line, Ltd.
Magann, W.F. Corp.
Magnavox Government & Industrial Electronics Co.
Mandex, Inc.
Manhattan Construction Co.
Mantech International Corp.
Mantech, VSE, & Potomac Research JV
Mapco, Inc.
Mar, Inc.
Mar Ship Operators, Inc.
Marino Construction Co., Inc.
Marion Merrell Dow, Inc.
Mark Diversified, Inc.
Marquardt Transportation, Inc.
Marriott Corp.
Mars, Inc.
Martin Baker Aircraft Co., Ltd.
Martin Electronics, Inc.
Martin Marietta Corp.
Martin Marietta, Diehl Co's., Thorn & Thompson JV
Martin Marietta Corp. & Westinghouse Electric Co. JV
Mason Chamberlain, Inc.
Mason Hanger Silas Mason, Inc.
Massachusetts Institute of Technology
Maxwell Laboratories, Inc.
Mayer, Oscar Foods Corp.
McCarthy Construction Co.
McCarty Corp., The
McDonnell Aircraft Co.
McDonnell Douglas Corp.
McDonnell Douglas Electronic Systems
McDonnell Douglas Helicopter Co.
McDonnell Douglas Missile & Space Systems Co.
McDonnell Douglas Space Systems Co.
McDonnell Douglas Training Systems, Inc.
McKnight Construction Co., Inc.
McLaughlin Research Corp.
McMullan, Robert & Son, Inc.
McMullen, John J. Associates, Inc.
McRae Industries, Inc.
Merck & Co., Inc.
Metal Trades, Inc.
Metcalf & Eddy, Inc.
Metric Systems Corp.
Metro Machine Corp.
Metters Industries, Inc.
Michael Industries, Inc.
Michelin Tire Corp.
Michigan, State of
Mid Atlantic Petroleum Co.
Midcon, Inc.
Midgard DSAG
Midwest Foundation Corp.
Mil Ray Food Co., Inc.
Milcom Systems Corp.
Miles, Inc.
Military Construction Corp.
Miller Herman, Inc.
Mills Mfg. Corp.
Miltope Corp.
Mine Safety Appliances Co.

Minnesota Mining & Mfg. Co.
Mip Instandsetzungsbetric
Mission Research Corp.
Mitre Corp.
Mobil Corp.
Modern Technologies Corp.
Mohamed A. Kharafi
Montgomery, J.M. Consulting Engineers
Moon Engineering Co., Inc.
Morgen & Oswood Construction Co.
Morrison Knudsen Co., Inc.
Mortenson, M. A. Companies
Motor Oils Hellas Corinth Refinery
Motorola Communications & Electronics
Motorola, Inc.
Munro & Co., Inc.
Murphy, G.W. Construction Co.
NASP National Contractor Team
NCR Corp.
NUS Corp.
Nabisco Brands, Inc.
Natco Limited Partnership
National Academy of Science
National Airmotive Corp.
National Beef Packing Co.
National Emergency Service
National Industries for the Blind
National Shipping Co. of Saudi Arabia
National Steel & Shipbuilding Co.
National Systems & Research Co.
National Technologies Association
Nations, Inc.
Navajo Refining Co.
Navcom Defense Electronics, Inc.
Navcom Systems, Inc.
Nelsons, R.T. Painting Service
Nero & Associates, Inc.
Nestle Foods Corp.
Network Equipment Technologies, Inc.
Neuman Bros. Inc.
New Mexico, State of
New Mexico State University
New York Shipyard
Newberg, Gust K. Construction Co.
Newimar SA
Newport News Shipbuilding & Dry Dock Co.
Nichols Research Corp.
Nimas Corp.
Norden Systems, Inc.
Norfolk Dredging Co., Inc.
Norfolk Shipbuilding & Dry Dock Corp.
Norse, Inc.
North American Mechanical Services
North Atlantic Industries, Inc.
North Carolina Dept. of Human Resources
Northern Telecom, Inc.
Northrop Corp.
Northrop Worldwide Aircraft Services, Inc.
Northwest Enviro Service, Inc.
Nova Group, Inc.
Nuclear Research Corp.
OH Materials Corp.
ORC Industries, Inc.
Ocean Star Shipping, Inc.
Ocean Technology, Inc.
Octagon Process, Inc.
Oil Refineries, Ltd.
Okinawa Electric Power Co.
Oklahoma Gas & Electric Co.
Olin Corp.
Olin Ordnance
Olin Winchester
Omni Contractors, Inc.
Orbital Sciences Corp.
Oregon Freeze Dry, Inc.
Oregon Iron Works, Inc.
Orincon Corp.
Oshkosh Truck Corp.
Outdoor Venture Corp.
Owl International, Inc.
PA GMBH
PA Holdings Corp.
PHH Homequity Corp.
PHP Healthcare Corp.
PPG Industries, Inc.
PRC Environmental Management
PRC, Inc.
Pacer Systems, Inc.
Pacific Architects & Engineers, Inc.
Pacific Scientific Co.
Pacific Ship Repair & Fabrication
Pacific Sierra Research Corp.
Pacifica Services, Inc.
Pall Land & Marine Corp.
Pan American World Airways
Par Technology Corp.
Para Flite, Inc.
Parker Hannifin Corp.
Parsons, Ralph M. Co., The
Patrol Ofisi A S Genel Mud
Patton Tully Transportation Co.
Peabody Construction Co., Inc.
Peerless Petrochemicals, Inc.
Peirce Phelps, Inc.
Pemco Aeroplex, Inc.
Pence, Howard W. Inc.
Penn Metal Fabricators, Inc.
Pennsylvania State University
Pentastar Electronics, Inc.
Perkin Elmer Corp., The
Petroleos Del Mediterraneo SA
Petroleos Del Notre
Pfizer, Inc.
Philip Morris Companies, Inc.
Philipp Holzmann AG
Phillips Petroleum Co.
Physics International Co.
Picker International, Inc.
Pickus Construction & Equipment Co.
Pietrus Foods, Inc.
Pile Foundation, Inc.
Pillsbury Co., The
Pine Bluff Sand & Gravel Co.
Piquniq Management Corp.
Pizzagalli Construction Co.
Placid Oil Co.
Planning Systems, Inc.
Polaroid Corp.
Post Telephone & Telegraph Ministry
Potomac Electric Power Co.
Potomac Systems Engineering
Power Conversion, Inc.
Prestolite Electric, Inc.
Pride Products, Inc.
Pride Refining, Inc.
Prime Computer, Inc.
Proctor & Gamble Distributing Co.
Propper International, Inc.
Puerto Rico Marine Management
Puerto Rico Sun Oil Co., Inc.
Pulau Electronics Corp.
Pulsar Credit Corp.
Purvis Systems, Inc.
QED Systems, Inc.
Quaker Oats Co., The
Questech, Inc.
Quintron Corp.
R&D Associates
R&D Maintenance Services
RJO Enterprises, Inc.
Racal Communication, Inc.
Radian Corp.
Radian, Inc.
Rados, Steve P. Inc.
Rafael Armaments Development
Ram Systems GMBH
Rand Corp., The
Rantec Microwave & Electronics
Raven Industries, Inc.
Raymond Engineering, Inc.
Raytheon Co.
Raytheon Service Co.
Raytheon Support Services, Co.
Refinery Associates of Texas
Remington Arms Co., Inc.
Repsol Petroleo SA
Republic Health Corp.
Research & Development Laboratories
Research Analysis & Maintenance
Research Management Corp.
Resource Consultants, Inc.
Rexon Technology Corp.
Reyes Industries, Inc.
Reynolds Metals Co.
Reynolds, R. J. Tobacco Co.
Rice, James Ed
Right Away Foods Corp.
Riverside Research Institute
Robbins Cioia, Inc.
Rockwell International Corp.
Rockwell Power Systems
Roe Enterprises, Inc.
Rohm & Haas Co.
Rohr Industries, Inc.
Rolls Royce, Inc.
Rosemount, Inc.
Rosenblatt M. & Son, Inc.
Royal Maid Association for the Blind
Royal Norwegian Naval Material
Rubatex Corp.
Rubicon Tankers, Ltd.
Ruscon Corp.
Rutter Rex, J.H. Mfg. Co., Inc.
Ryan Co., Inc.
Ryan Walsh, Inc.
S&H Mechanical Contractors
SAIC Engineering, Inc.
SCI Systems, Inc.
SCI Technology, Inc.
SFA, Inc.
SKF USA, Inc.
SPD Technologies, Inc.
SRI International

SRS Technologies
ST Research Corp.
Sabreliner Corp.
Saft America, Inc.
Samcorp General Contractors
San Diego Community College District
Sanders & AEL JV
Sargent Fletcher Co.
Sargent Industries, Inc.
Saudi Operations & Maintenance
Schafer, W. J. Associates, Inc.
Schlosser, W. M. Co., Inc.
Schneider, Inc.
Science Applications International Corp.
Scientific Atlanta, Inc.
Scientific Research Corp.
Sea Container America, Inc.
Sea Land Service, Inc.
Sealift, Inc.
Sechan Electronics, Inc.
Select Investigative Services
Sellers Oil Co., Inc.
Selm Servizi Elettrici Montedi
Semcor, Inc.
Sequa Corp.
Serv Air, Inc.
Service Engineering Co., Inc.
Shand Construction, Inc.
Sharp, George G., Inc.
Shell Guam, Inc.
Shell Oil Co.
Sherikon, Inc.
Shin Cheon Co., Ltd.
Short Brothers PLC
Sidran, Inc.
Siemens Corp.
Siemens Medical Systems, Inc.
Sierra Nevada Corp.
Silicon Graphics, Inc.
Simmonds Precision Products
Simon Closter Saro, Ltd.
Sippican, Inc.
Sisters of Charity
Smithkline Beecham Corp.
Smiths Industries, Inc., USA
Smoot, Sherman R. Co.
Softech, Inc.
Sohio Oil Co.
Sonalysts, Inc.
Sonatech, Inc.
Sony Corp of America
South Carolina, State of
South Coast Terminals, Inc.
Southeast Atlantic Cargo Operators
Southeastern Equipment Co., Inc.
Southern Air Transport
Southern Contracting Co.
Southern Packaging & Storage Co.
Southwest Marine, Inc.
Southwest Mobile Systems Corp.
Southwest Petro Chem, Inc.
Southwest Research Institute
Southwind Construction Corp.
Space & Sensors Associates
Space Applications Corp.
Space Data Corp.
Sparta, Inc.
Sparton Corp.
Spaw Glass Construction, Inc.
Spectrum Emergency Care, Inc.
Sperry Marine, Inc.
Ssangyong Oil Refining Co., Ltd.
Standard Products Co., The
Stanford Telecommunications
Stanford University
Star Food Processing, Inc.
Stellar Industries, Inc.
Stena Rederi AB
Sterimatics Corp.
Sterling Federal Systems, Inc.
Stevedoring Services of America
Stollar, R. L. & Associates
Storage Technology Corp.
Strand, Inc.
Strong Bill Enterprises, Inc.
Sumitomo Electric Fiber Optics
Sun Country
Sun Microsystems, Inc.
Sun Refining & Marketing Co.
Sundstrand Corp.
Sundt Corp.
Support Systems Associates
Supreme Beef Processors, Inc.
Sverdrup Technology, Inc.
Swift Eckrich, Inc.
Swiftships, Inc.
Synetics Corp.
Synoptic Systems Corp.
Syntex Laboratories, Inc.
Syscon Corp.
System Planning Corp.
System Resources Corp.
Systems Control Technology
Systems Engineering & Management Co.
Systems Engineering Associates
Systems Exploration, Inc.
Systems Research & Applications Corp.
TCS Technology, Inc.
TRW, Inc.
Tadiran Israel Electronic Industries
Taiyo Oil Co., Ltd.
Talley Defense Systems, Inc.
Tampa Shipyards, Inc.
Target Sportswear, Inc.
Techmatics, Inc.
Technical & Management Services Corp.
Technical Systems, Inc.
Technology Applications, Inc.
Technology Management & Analysis Corp.
Tecolote Research, Inc.
Tecom, Inc.
Tektronix, Inc.
Teledyne Industries, Inc.
Telephonics, Corp.
Tennessee Apparel Corp.
Tennier Industries, Inc.
Tenoco Oil Co., Inc.
Terry Mfg. Co.
Tesoro Alaska Petroleum Co.
Teval Corp.
Texaco Caribbean, Inc.
Texaco Refining & Marketing Co.
Texas Capital Contractors, Inc.
Texas Instruments, Inc.
Texas Utilities Electric Co.
Texcom, Inc.
Textron, Inc.
Therm, Inc.
Thiokol Corp.
Thompson, J. Walter Co.
Thyssen Henschel AG
Ti & Martin AAWS–M JV
Tiber Construction Co.
Tiburon Systems, Inc.
Tilley Constructors & Engineers
Todd Pacific Shipyards Corp.
Tokyo Denryoku KK
Tower Construction Co., Inc.
Tracor Aerospace, Inc.
Tracor Applied Sciences, Inc.
Tracor, Inc.
Trak International, Inc.
Trans Tec Services
Trans World Airlines, Inc.
Translant, Inc.
Transtac Management Corp.
Treadwell Corp.
Triax Pacific, Inc.
Trimble Navigation, Ltd.
Trinity Marine Group
Triton Marine Construction
Triwell Marketing & Refining, Inc.
Truetech, Inc.
Turtle Mountain Mfg. Co.
UNC, Inc.
URS Co.
U.S. Oil & Refining Co.
U.S. Sprint Communications Co.
Uniformed Services Benefit Plans
Union Carbide Chemical & Plastics Co.
Union Corp.
Union Explosives Rio Tinto SA
Union Underwear Co., Inc.
Uniroyal, Inc.
Unisys Corp.
Unisys Defense Systems, Inc.
United Airlines, Inc.
United Engineers & Constructors
United International Engineers
United Technologies Corp.
United Telecontrol Electronics
Universal Energy Systems, Inc.
Universal Maritime Service
University of California
University of Dayton
University of Illinois
University of Maryland
University of Pittsburgh
University of Southern California
University of Texas System
University of Washington
Upjohn Co., The
Urban General Contractors, Inc.
Urdan Industries USA, Inc.
Utah Construction & Development
Utah Power & Light Co.
Utah State University
VF Corp.
VSE Corp.
Valentec International Corp.
Valmac Industries, Inc.
Vanee Foods Co.
Varian Associates, Inc.
Varo, Inc.
Vector Research, Inc.

Veda, Inc.
Vickers, Inc.
Victory Maritime, Inc.
Viereck Co., Inc.
Vinnell Corp.
Vinnell Corp., Brown & Root JV
Virtexco Corp.
Vitin Garment Mfg. Co.
Vitro Corp.
Vitronics, Inc.
Wang Laboratories, Inc.
Warehouses Service Agency
Waterman Steamship Corp.
Watkins Johnson Co.
Wellco Enterprises, Inc.
Western Petroleum Co.
Western Pioneer, Inc.
Western Union Corp.
Westinghouse Electric Corp.
Westinghouse Furniture Systems
Westmont Industries
Weston, Roy F., Inc.
Whitesell Green, Inc.
Whittaker Corp.
Wilcox Electric, Inc.
Willard Marine, Inc.
Willbros Butler Engineers, Inc.
Williams International Corp.
Wingler Sharp Architects & Planners
Wisconsin Physicians Service Insurance
Wood Hopkins Contracting Co.
Woodward, Clyde Consultants
Work Wear Corp., Inc.
World Airways, Rosenbalm Aviation, Key Airlines, American Airlines, Evergreen International & Emery Worldwide JV
Wright Associates, Inc.
Wyeth Ayerst Laboratories, Inc.
Wyle Laboratories
Wylie, C.E. Construction Co.
Xerox Corp.
Yordi Construction, Inc.
Young & Rubicam, Inc.
Zachry, H.B. Co.
Zantop International Airlines
Zenith Data Systems, Corp.
Zenith Electronics Corp.
Zertotherm, Inc.

Dated: December 17, 1991.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-30508 Filed 12-20-91; 8:45 am]
BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PARTS 260 AND 265

[FRL-4093-9]

Hazardous Waste Management System: Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations at Hazardous Waste Facilities

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On January 18, 1991, the Environmental Protection Agency ("EPA" or "the Agency") proposed to amend 40 CFR § 265.91 to allow alternate placement of hydraulically downgradient monitoring wells at interim status facilities where existing physical obstacles prevent installations at the limit of the waste management area. EPA is today promulgating a final rule implementing amendments to §§ 260.10 and 265.91. Today's rule is necessary to allow facilities to install alternate ground-water monitoring wells in certain circumstances where they are unable to avoid existing physical obstacles. Today's rule provides that the owner or operator of an existing facility may demonstrate that an alternate hydraulically downgradient monitoring well location will meet several criteria. This demonstration must be certified by a qualified ground-water scientist. Today's rule also promulgates a definition of "qualified ground-water scientist."

EFFECTIVE DATE: These regulations become effective June 23, 1992.

ADDRESSES: The official docket for this rulemaking (Docket No. F-91-DGWF-FFFFF) is located in room M2427, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and is available for viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding federal holidays. The public must make an appointment to review docket materials, and should call the docket clerk at (202) 260-9327 for appointments. The public may copy, free of charge, a maximum of one hundred pages of material from any one regulatory docket. Additional copies are $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information about this rulemaking, contact the RCRA Hotline, Office of Solid Waste (OS-305), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (800) 424-9346 (toll free) or (703) 920-9810 in the Washington, DC metropolitan area. For technical information contact Hugh R. Davis, Office of Solid Waste (OS-341), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260-7656.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Authority

These regulations are issued under the authority of sections 1006, 2002(a), 3001, 3004, 3005, and 3015 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, (42 U.S.C. 6905, 6912(a), 6921-6927, 6924, 6925, 6930, 6934, 6935, 6937-6939, and 6974).

II. Background

On May 19, 1980, EPA promulgated comprehensive standards under 40 CFR part 265 for owners and operators of hazardous waste treatment, storage, and disposal facilities (TSDFs) that qualify for interim status (45 FR 33153). A facility owner or operator who has fully complied with the requirements for interim status specified in section 3005(e) of RCRA and 40 CFR 270.70 may comply with the part 265 regulations in lieu of part 264 pending final disposition of the permit application. Part 265, subpart F contains ground-water monitoring requirements applicable to owners and operators of interim status landfills, surface impoundments, and land treatment facilities.

Several challenges to the 1980 interim status regulations are currently pending before the United States Court of Appeals for the District of Columbia Circuit, including a challenge to the ground-water monitoring requirements of 40 CFR 265.91(a)(2) (*Shell Oil Co.* v. *EPA*, D.C. Cir. No. 80-1532 and consolidated cases). Petitioners in Shell Oil have requested review of whether the requirement in § 265.91(a)(2) to locate hydraulically downgradient wells "at the limit of the waste management area" is arbitrary and capricious or otherwise not in accordance with law. They have explained to the Agency that they believe § 265.91(a) should be amended to allow alternate placement of hydraulically downgradient monitoring wells where existing physical obstacles prevent well installation at the limit of the waste management area. The Agency entered

into a settlement agreement requiring it to make best efforts to propose and promulgate this change. Pursuant to the agreement, the Agency proposed to amend the well placement requirements for interim status facilities on January 18, 1991 (56 FR 2108). This proposal was consistent with the amendments to the well location requirements for permitted facilities (§ 264.95) proposed in the Federal Register on July 26, 1988 (53 FR 21860).

III. Summary of Today's Final Rule

The following is a summary of the amendments made in today's rule. The details of these amendments are discussed in section IV of this preamble "Public Comments on NPRM" and supporting background documents. With the exceptions noted below, the final rule generally adopts the amendments proposed.

Sections 265.91(a) (1) and (2) currently require interim status facility owners and operators to install and operate a ground-water monitoring system consisting, in part, of at least three hydraulically downgradient monitoring wells located at the limit of the waste management area. The number, locations, and depths of these wells must ensure detection as early as possible of any statistically significant amounts of hazardous waste or hazardous waste constituents that migrate from the waste management area to the uppermost aquifer.

The EPA proposed on January 18, 1991 (56 FR 2108) to amend the well placement requirements for interim status facilities to a form consistent with the proposed amendments to § 264.95 for permitted TSDFs. The Agency received comments on this proposed rule and is today publishing the final rule adding § 265.91(a)(3) in response to those comments. Detailed responses to major comments are given below in Section IV of this preamble.

Specifically, § 265.91(a)(3) provides that the owner or operator of an existing facility may demonstrate that an alternate hydraulically downgradient monitoring well location will meet several criteria outlined below. The demonstration must be in writing and kept at the facility. The demonstration must be certified by a qualified ground-water scientist (discussed below) and establish that: (1) An existing physical obstacle prevents monitoring well installation at the hydraulically downgradient limit of the waste management area; (2) the selected alternate downgradient location is as close to the waste management area as practical; and (3) the location ensures detection that is as early as possible, given the alternate location, of any statistically significant amounts of hazardous waste or hazardous constituents that migrate from the waste management area to the uppermost aquifer. EPA believes that alternate locations for downgradient wells meeting these criteria will protect human health and the environment by continuing to ensure the earliest possible detection of any migrating contaminants.

In addition to geologic features, buildings, highways, or railroads, the Agency believes that factors affecting the safety of personnel may also qualify as "physical obstacles". For example, the presence of overhead or underground electrical cables and wires, underground storage tanks and associated piping, and underground pipelines may prevent a safe well installation at the hydraulically downgradient limit of the waste management area at some sites. In these cases an alternate well location should be selected that insures detection of any statistically significant increases in constituent concentrations in the uppermost aquifer as early as possible.

Alternate locations of downgradient wells are not appropriate when physical obstacles at the limit of the waste management area may be avoided. For example, moving a well laterally from a physical obstacle, to a position still adjacent to the waste management area, may avoid the need for an alternate well location. However, the Agency does not intend to require placement of monitoring wells where installation or sampling would substantially raise the level of risk posed to individuals involved in those activities or where placement would require an extreme disruption to normal facility operations.

Today's rule also limits the availability of alternate locations of downgradient wells to units existing on the effective date of this amendment and to units subsequently made subject to interim status by new listings or expansions of the characteristics. Owners or operators of new, expanding or replacement units are not eligible to select alternate downgradient monitoring well locations as a result of physical obstacles. New, expanding, or replacement units can and should be designed to ensure that physical obstacles do not impede monitoring well placement at the downgradient limit of the waste management area. The Agency believes that wells placed at the hydraulically downgradient limit of the waste management area generally provide the greatest assurance of immediate detection.

In the proposed rule, demonstrations of the need for and location of alternate hydraulically downgradient monitoring wells must have been certified by a "qualified geologist or geotechnical engineer." Certifications by qualified geologists or geotechnical engineers are currently required under two interim status provisions: Section 260.90(c) demonstrations for waiver of ground-water monitoring requirements, and ground-water assessment plans submitted to the Regional Administrator under § 265.93(d)(2). Given the largely self-implementing interim status program, certification is necessary to provide the oversight to ensure technically sound decision-making with regard to hydrogeologic conditions. Several commenters, as is discussed in more detail below, felt that a "qualified geologist or geotechnical engineer" may not be appropriate for certifying alternate well demonstrations. The Agency agrees in general with these comments and is requiring in this rule that demonstrations of the necessity and location of alternate hydraulically downgradient monitoring wells must be certified by a "qualified ground-water scientist." This rule also promulgates a definition of "qualified ground-water scientist" in § 260.10. This definition is essentially the same, and is used for similar purposes as the definition of "qualified ground-water scientist" promulgated for solid waste disposal facilities (56 FR 50978).

IV. Public Comments on NPRM

EPA received comments in response to the notice of proposed rulemaking (NPRM) issued on January 18, 1991 (56 FR 2108). This section summarizes the major comments received and discusses how the Agency addressed specific concerns in the final rule. Additional discussion of comments received is provided in a separate response to comment document available in the docket for this rule.

A. Future Interim Status Units

Several commenters stated that some existing units that are not currently managing hazardous waste may be drawn into interim status because they are managing a waste that is identified as hazardous in the future. The commenters felt that these units, as well as units existing as of the date of the final rule, may be subject to physical constraints that necessitate alternative well placement. EPA agrees with the commenters that units existing as of the date of the final rule and those units that obtain interim status through future

rulemakings are eligible for alternate downgradient well placement.

B. New, Expanding and Replacement Units

The Agency received comments both in favor and against applying the alternate well location standard to new, expanding and replacement units. Several commenters argued that alternate downgradient well placement should be allowed for new, replacement and lateral expansions of existing units. These commenters argued that facilities may not be able to avoid physical obstacles which impede the placement of monitoring wells at the downgradient limit of the waste management area of new or expanding units.

The Agency continues to believe that alternate downgradient monitoring wells must be limited to existing units with existing physical barriers. Flexibility is necessary to address conditions existing prior to the effective date of this or future rulemakings. The Agency believes that planning on the part of the owner or operator will enable them to meet the performance standard of installing, operating, and maintaining a ground-water monitoring system capable of detecting releases of hazardous constituents. The Agency continues to believe that wells placed at the hydraulically downgradient limit of the waste management area have the highest probability of meeting this standard.

This rule, by only allowing alternate well locations for existing units, will not prevent the construction of new, expanding, or replacement units. Nor will it significantly impede the design of such units where physical obstacles are present. New, expanding, and replacement units can and must be designed with adequate space between the edge of the unit and any physical obstacle such that well installation equipment can be driven and operated in that space. In general, wells can be drilled in narrow spaces, such as has been done in the area between two existing surface impoundments. A facility replacing a unit with alternate well locations will be able to install new wells at the limit of the waste management area without losing a significant portion of the unit's waste management capacity. Additional design changes, such as increasing the depth of the waste management unit, may be made during the excavation and construction of the replacement unit to enable the owner/operator to recoup any capacity lost to well placement.

C. Professional Certification

In the proposed rule, the facility owner or operator must obtain certification of the alternate well location demonstration by a "qualified geologist" or "qualified geotechnical engineer." The proposed rule described the Agency's view of the qualifications of a "qualified geologist" and "qualified geotechnical engineer". Several commenters felt that a "qualified geologist or geotechnical engineer" may not be appropriate for certifying alternate well demonstrations. Commenters cited that certain geologists and geotechnical engineers are not qualified to perform hydrogeological assessments, to install ground-monitoring wells or to perform other ground-water related work. Commenters also felt that qualified hydrogeologists may not meet either of the Agency's definitions. One commenter suggested that the appropriate title for the individual certifying an alternate well demonstration was a "qualified ground water professional."

We agree in general with these comments and have modified the final rule in response. The final rule requires that alternate downgradient well location demonstrations be certified by a "qualified ground-water scientist", instead of a "qualified geologist or geotechnical engineer." This new definition is broader than the two definitions in the proposed rule. Thus, qualified individuals more clearly include hydrogeologists as well as geologists and geotechnical engineers. As commenters noted, a geologist or geotechnical engineer with a baccalaureate may not be qualified to perform hydrogeological assessments. The definition of "qualified ground-water scientist" in the final rule gives criteria, such as additional courses, that may render such an individual qualified. The Agency believes that specialized coursework and training should include physical geology, ground-water hydrology or hydrogeology, and pertinent environmental chemistry (e.g., organic chemistry, inorganic chemistry, soil chemistry, aquatic chemistry, or low temperature geochemistry).

The Agency agrees with commenters that the Agency description of the certifying individual should be defined in the regulations. In this rule, EPA is adding the following definition of "qualified ground-water scientist" to § 260.10. "A qualified ground-water scientist means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in ground-water hydrology and related fields as may be demonstrated by state registration, professional certification, or completion of accredited university courses that enable that individual to make sound professional judgments regarding ground-water monitoring and contaminant fate and transport." The Agency replaced the term "hydrogeological processes" from the proposed rule with "ground-water monitoring" in the final definition because the latter term more accurately describes the expertise required for the purposes of this definition.

The Agency believes that as the ground-water profession is multidisciplinary, this definition is not overly prescriptive and provides necessary flexibility. The Agency plans to revise other ground-water related certification provisions in 40 CFR part 265 so that they are consistent with the § 260.10 definition for qualified ground-water scientist in a future rulemaking.

Commenters also recommended specific certifying organizations. While the Agency does include professional certification in its definition of a qualified ground-water scientist, it does not agree that this definition must include certification by any specific organizations. The definition provides that the certification (or other experience) must demonstrate that the individual has sufficient training and experience in ground-water hydrology to make professional judgements regarding ground-water issues. Although the Agency does not endorse any specific organizations that provide certifications, it included certification as one of the methods to demonstrate the qualifications of the certifying individual.

D. Immediate Detection

The proposed rule required that an alternate location be as close to the downgradient limit of waste management area as possible while ensuring immediate detection of releases. Several commentors argued that an alternate well location, which is at a distance from the downgradient limit of the waste management area, will not be able to immediately detect releases. The Agency agrees with this comment. The Agency continues to believe that wells placed at the downgradient limit of the waste management area are optimally located to detect releases. The goal of today's rule is to require monitoring wells with alternate locations to detect releases as soon as possible. Accordingly, the final rule does not contain the phrase "immediate detection" and instead,

requires that the "* * * location ensures detection that, given the alternative location, is as early as possible * * *"

Commentors also requested clarification of the use of the word "practical" in the phrase, "the selected alternate downgradient location is as close to the limit of waste management area as practical." There are various circumstances, many site specific, that determine how close a well may be installed to an obstacle. No generic regulatory standard could provide meaningful guidance on all of the factors that might be relevant to an individual, site-specific decision. In general, EPA believes that a well should be installed as close to the obstacle as physically possible without (1) affecting the performance of the well; (2) damaging the obstacle; and, (3) endangering the installation or sampling crews. For example, a well should not be installed so close to a pipeline that it might damage the pipeline or cause contamination of the well. Similarly, a drilling crew must maintain a distance during well installation from obstacles, such as buried product storage tanks or electrical cables, that ensures their safety. The owner or operator should discuss any factors that influence the positioning of the well in his or her certified demonstration.

V. State Authorizations

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under sections 3008, 7003, and 3013 of RCRA, although authorized States have independent enforcement authority.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final authorization administered its hazardous waste program entirely in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in the State which the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA requirements apply in authorized States in the interim.

B. Effect on State Authorizations

Today's rule is not effective in authorized States since the requirements are not being imposed pursuant to the Hazardous and Solid Waste Amendments of 1984. Thus, the requirements will be effective only in those States that do not have final authorization. In authorized States, the requirements will not be applicable until the State revises its program to adopt equivalent requirements under State law.

Section 271.21(e)(2) requires that States that have final authorization must modify their programs to reflect more stringent Federal program changes, and must subsequently submit the modification to EPA for approval. Generally, these authorized State programs must be revised to adopt those changes in a Federal program that are more stringent or broader in scope than existing Federal standards.

For those Federal program changes that are less stringent or reduce the scope of the Federal program, Sates are not required to modify their programs (see § 271.1(k)). Today's rule reduces the stringency of § 265.91(a). Therefore, authorized States may, but are not required, to modify their programs to adopt requirements equivalent or substantially equivalent to those in today's rule. Because today's requirements are less stringent than the existing Federal requirements, it is unlikely that any authorized State has equivalent requirements.

VI. Regulatory Requirements

A. Regulatory Impact Analysis

Exexcutive Order 12291 requires EPA to determine whether a new regulation will be "major" and, if so, that a Regulatory Impact Analysis be conducted. A major rule is defined as a regulation that is likely to result in:

1. An annual effect on the economy of $100 million or more;

2. A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or

3. Significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Agency has determined that today's rule is not a major rule, because it does not meet the above criteria. Today's action adds flexibility to the current interim status ground-water monitoring requirements, and does not impose further resource burdens on the regulated community.

B. Paperwork Reduction Act

The information collection and recordkeeping requirements in this proposed rule have been submitted for approval to the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Recordkeeping burden on the public for this proposal is estimated at 1800 hours for the respondents, with an average of 20 hours per response. These burden estimates include all aspects of the recordkeeping effort and may include time for reviewing instructions, searching existing data sources, and gathering and maintaining necessary data.

List of Subjects in 40 CFR Parts 260 and 265

Administrative practice and procedure, Ground-water monitoring, Hazardous materials, Hazardous waste, and Reporting and recordkeeping requirements.

Dated: December 9, 1991.

F. Henry Habicht II,

Acting Administrator.

For the reasons set out in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

2. In § 260.10 by adding in alphabetical order the following definition:

§ 260.10 Definitions.

* * * * *

Qualified Ground-Water Scientist means a scientist or engineer who has

received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in ground-water hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university courses that enable that individual to make sound professional judgements regarding ground-water monitoring and contaminant fate and transport.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935.

2. In § 265.91 by adding paragraph (a)(3) to read as follows:

§ 265.91 Ground-water monitoring system.

(a) * * *

(3) The facility owner or operator may demonstrate that an alternate hydraulically downgradient monitoring well location will meet the criteria outlined below. The demonstration must be in writing and kept at the facility. The demonstration must be certified by a qualified ground-water scientist and establish that:

(i) An existing physical obstacle prevents monitoring well installation at the hydraulically downgradient limit of the waste management area; and

(ii) The selected alternate downgradient location is as close to the limit of the waste management area as practical; and

(iii) The location ensures detection that, given the alternate location, is as early as possible of any statistically significant amounts of hazardous waste or hazardous waste constituents that migrate from the waste management area to the uppermost aquifer.

(iv) Lateral expansion, new, or replacement units are not eligible for an alternate downgradient location under this paragraph.

* * * * *

[FR Doc. 91–30187 Filed 12–20–91; 8:45 am]

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40 CFR Part 280

[FRL–4086–5]

Underground Storage Tanks Containing Petroleum; Financial Responsibility Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today promulgating a rule to amend the financial responsibility requirements for underground storage tanks (USTs) containing petroleum that appeared in the **Federal Register** on October 26, 1988 (53 FR 43322), as amended October 31, 1990 (55 FR 46022). Specifically, this rule modifies the compliance dates under 40 CFR 280.91(d). Under the modification, all petroleum marketing firms owning 1 to 12 USTs at more than one facility or fewer than 100 USTs at a single facility and non-marketers with net worth of less than $20 million are required to comply with the requirements of 40 CFR part 280 subpart H—Financial Responsibility—by December 31, 1993. Today's rule extends the deadline from the previous date of October 26, 1991. This change will provide additional time for the development of financial assurance mechanisms (especially State assurance funds) to enable this group to comply.

EFFECTIVE DATE: The amendment to 40 CFR 280.91(d) contained in this rulemaking is effective December 23, 1991.

ADDRESSES: The public docket for this rule is in room M2427, U.S. EPA, 401 M St., SW., Washington, DC 20460. Call (202) 260–9327 for an appointment to review docket materials.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424–9346 (toll free) or (703) 920–9810 in Virginia. For technical questions, contact Andrea Osborne in the Office of Underground Storage Tanks at (703) 308–8883.

SUPPLEMENTARY INFORMATION: On October 26, 1988, EPA promulgated financial responsibility requirements applicable to owners and operators of underground storage tanks (USTs) containing petroleum (53 FR 43322). In the final rule, EPA established a phased schedule of compliance for owners and operators of petroleum USTs. Petroleum marketing firms with 1 to 12 USTs at more than one facility or fewer than 100 USTs at a single facility, local government entities, and non-marketers whose net worth is less than $20 million were required to comply with the financial responsibility requirements by October 26, 1990. The principal reason for adopting the phased compliance approach was to provide the time necessary for providers (including private insurance companies and States intending to establish State assurance funds) of financial assurance mechanisms to develop new policies and programs or conform their policies and programs with EPA requirements. (See 53 FR 43324.)

On October 31, 1990, EPA published regulations (55 FR 46022) extending for one year (to October 26, 1991) the compliance deadline for marketers with 1 to 12 USTs at more than one facility or fewer than 100 USTs located at a single facility and non-marketers whose net worth is less than $20 million. The compliance deadline for local governments was extended until one year after the promulgation of a final rule providing additional mechanisms for local governments. Additional mechanisms for local governments were proposed on June 18, 1990 (55 FR 24692).

Since October 1990, EPA has continued to monitor the development of financial assurance markets, especially (1) insurance for corrective action and third party liability and (2) State assurance funds, to determine whether financial assurance mechanisms are becoming available to satisfy the needs of the regulated community. Based on this on-going review, EPA believes that tank owners required to comply by October 26, 1991, need additional time to meet insurers' standards for coverage. Also, States need additional time to develop State assurance funds, to submit them to EPA for review and approval as financial assurance mechanisms, and to make any modifications necessary for approval. Therefore, EPA is extending the compliance date for marketers with 1 to 12 USTs at more than one facility or fewer than 100 USTs at a single facility and non-marketers whose net worth is less than $20 million from October 26, 1991 to December 31, 1993. The Agency believes that this 26-month extension for Category IV tank owners will provide adequate time for tank owners and operators to obtain assurance. By October 1990, when the deadline was previously extended, EPA had approved 14 State assurance funds and had begun to review 11 State assurance funds that were submitted to EPA for approval. (It is important to note that upon submission of a State assurance fund, the fund is considered to be approved unless and until EPA disapproves it.) During the subsequent 12 months, an additional 13 State assurance funds

have been approved by EPA to serve as financial responsibility compliance mechanisms. Currently, 27 State assurance funds have been approved by EPA and an additional 9 State assurance funds have been submitted to EPA for approval. EPA expects State assurance fund development to continue during the 26-month extension. The Agency notes, however, that States are not required to develop assurance funds and that several States have indicated that they do not intend to develop State fund programs. Nevertheless, EPA anticipates that the extension will allow all States intending to develop State funds adequate time to do so.

Additionally, States will have more time to develop and implement financial assistance programs (e.g., direct loan programs, loan guarantee programs, grant programs) which help owners and operators pay for technical improvements such as tank upgrading, which, in turn, helps owners and operators qualify for insurance. Four States—Alaska, Hawaii, Maryland, and Washington—indicated that they have or are developing State financial assistance programs, and that an extension would provide more time for qualified owners and operators to obtain financial assistance to upgrade their UST facilities to meet insurance underwriting criteria. Finally, extension of the compliance deadline to December 31, 1993 will relate the compliance deadline for Category IV owners and operators to the final compliance date for implementation of release detection. Implementation of a release detection program is a critical element of the underwriting criteria for many insurers, and the ability to demonstrate that tanks are not leaking will allow more owners and operators to obtain insurance. Under EPA's phased schedule for release detection, all owners and operators must implement release detection no later than December 23, 1993.

I. Authority

These regulations are issued under the authority of Sections 2002, 9001, 9002, 9003, 9004, 9005, 9006, 9007, and 9009 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6912, 6991, 6991a, 6991b, 6991c, 6991d, 6991e, 6991f, and 6991h).

II. Effective Date

This rule will be effective on December 23, 1991 pursuant to 5 U.S.C. 553(d). This rule may be made effective immediately because it extends a deadline for compliance in existing regulations and therefore is a "substantive rule which grants or recognizes an exemption or relieves a restriction." 5 U.S.C. 553(d)(1). The Agency also finds that there is good cause to make the rule effective immediately because the regulated community does not need time to come into compliance. 5 U.S.C. 553(d)(3).

III. Background

When devising the phased compliance approach, the Agency wanted to achieve the best balance between the need to demonstrate financial responsibility for UST releases and the time necessary for owners and operators to obtain assurance mechanisms. The Agency attempted to establish compliance dates that were as early as possible, considering the type of assurance different types of facilities were likely to obtain. Petroleum marketers owning or operating 1,000 or more USTs and non-marketers with more than $20 million in tangible net worth were required to comply by January 24, 1989, based primarily on their ability to qualify for self-insurance. Petroleum marketers with 100 to 999 USTs were required to comply by October 26, 1989. These marketers were estimated to be relatively more likely to be able to obtain insurance; some of them were also expected to qualify as self-insurers. Petroleum marketers owning 13 to 99 USTs at more than one facility were originally required to comply by April 26, 1990. However, on May 2, 1990, the Agency published a rule (55 FR 18566) extending this compliance date to April 26, 1991. These marketers were thought to be less likely to be able to obtain insurance than members of the October 26, 1989, compliance group. Petroleum marketers owning or operating fewer than 13 USTs at more than one facility or owning or operating only one facility with fewer than 100 USTs, and UST owners and operators who were not petroleum marketers (including local government entities) were required to comply by October 26, 1990. This group was expected to rely primarily on State assurance funds for compliance. On October 31, 1990, EPA extended the compliance deadline for one year for small marketers (marketers with fewer than 13 USTs or fewer than 100 USTs at a single facility) and small non-marketers (non-marketers with less than $20 million in net worth). This extension was based on the rate of development of State assurance funds. In addition, EPA extended the compliance deadline for local governments until one year after publication of a final rule with additional mechanisms for local governments to demonstrate compliance. Additional mechanisms for local governments were proposed on June 18, 1990 (55 FR 24692). The deadline for compliance by local governments is not affected by this rule.

Through monitoring the development of financial assurance mechanisms, the Agency has learned more about the way insurers operate in the UST insurance market. EPA now believes that the extended compliance date of October 26, 1991 for Category IV tank owners (marketers owning 1 to 12 USTs or fewer than 100 USTs at one facility and non-marketers whose net worth is less than $20 million) did not allow adequate time for compliance. When devising the original and revised phased compliance schedule, the Agency expected that members of this compliance group would rely on insurance and State assurance funds. The Agency had originally believed that 24 months from promulgation of the final financial responsibility rule would provide adequate time for owners and operators to upgrade their USTs to meet insurers' requirements and for States to develop and submit assurance funds to EPA. Since promulgation of the 1988 final rule, however, EPA has learned that tank owners and operators require additional time to comply with conditions imposed on them by the insurance industry. Some of these conditions include operation of only tanks younger than 15 years of age, clean site conditions, a reliable method of leak detection, etc. For example, some insurers have informed EPA that they have rejected UST coverage applications because of existing contamination, poor tank management, and inadequate leak detection monitoring. Many members of this compliance group may not be able to meet these standards by October 26, 1991, and thus would be required to seek an alternative financial assurance mechanism.

On August 14, 1991, EPA proposed to extend the compliance deadline for this group (56 FR 40292). EPA based the proposal on its understanding that more members of this compliance group than the Agency had originally projected must rely on State assurance funds, rather than on insurance, to demonstrate compliance with the financial responsibility requirements. EPA believed that, in order for owners and operators to rely on State assurance funds as compliance mechanisms, States must have more time to submit their State assurance funds to EPA for approval.

At this time, EPA has approved 27 State assurance funds to serve as financial responsibility compliance mechanisms that provide full or partial coverage; 9 more have formally

submitted their State assurance funds to EPA for approval.

In addition to State assurance funds, which serve as financial responsibility compliance mechanisms, some States, such as Alaska, Hawaii, Oregon, Washington, and Maryland, are developing financial assistance programs, such as grant programs and loan programs, to assist UST owners in upgrading their facilities to meet insurance underwriting standards. The State of Washington has also implemented a reinsurance program, under which the State relies on private insurers to sell insurance but provides reinsurance coverage to limit the insurers' risk and reduce premium costs.

Comments on the proposed rule were received from 57 commenters. A Response to Comments Document is in the public docket for the rule. Most commenters supported the extension of the compliance deadline for Category IV owners and operators. Commenters asserted that the proposed extension would allow the time needed for owners and operators seeking insurance to meet insurers' standards for coverage. They also stated that an extension would allow the time necessary for States that do not have State assurance funds or financial assistance programs to develop such funds and programs; whereas in States where these funds and programs exist, the extension would provide States with more time to develop outreach programs, and would provide owners and operators with more time to participate.

Some commenters argued against extending the compliance deadline, however, stating that affordable private insurance is available to both marketers and nonmarketers, and that an extension would discourage UST owners from taking the necessary steps toward compliance and would undermine the credibility of the UST program. Some of the comments regarding the availability and affordability of insurance in certain States were countered directly by comments from UST owners in those States that they were able to obtain only minimal pollution liability coverage, with high deductibles, and that the costs for this coverage were prohibitive. Some of the commenters opposing a general extension acknowledged that an extension was justified in States without State assurance funds.

One commenter, who removed tanks before the proposal to extend the compliance deadline, argued that an additional extension places those who have already complied with the regulations at a competitive disadvantage with respect to those who have not. The Agency believes that this situation is an unfortunate result of the regulatory development process, but is not indicative of the potential effects on the majority of the regulated community. The Agency is unable to determine whether an extension is necessary until near the deadline for compliance, however, and so is unable to provide more advanced notice of the extension. This difficulty is exacerbated by statutory requirements to obtain public participation in the rulemaking process, which further restricts EPA's ability to provide definitive answers about forthcoming changes in the regulations. The Agency regrets any problems experienced by specific UST owners and operators as a result of the changes in the regulatory deadline.

Regarding the length of an extension, many commenters supported the proposal to extend the compliance deadline to December 31, 1992. One commenter proposed a shorter extension of the deadline to allow States more time to develop State assurance funds, yet not undermine the financial responsibility requirements through excessive delay of compliance deadlines. Several commenters favored an extension until December 31, 1993. These included the Hawaii Department of Health, which requested the extra time to implement its loan program for UST owners, and the National Air Transportation Association, which advocated synchronizing the compliance schedule for financial responsibility requirements with that for release detection requirements. Other commenters also suggested longer extensions; two of these requested an indefinite extension.

Based on a review of the comments, EPA has decided to extend the compliance date to December 31, 1993, for small petroleum marketing firms (those with fewer than 13 USTs or fewer than 100 USTs at a single facility) and nonmarketers with net worth of less than $20 million. This 26-month extension will allow all States that intend to develop State assurance funds or financial assistance programs to do so, and will allow UST owners and operators in these States to participate. It will also delay the need for meeting financial responsibility requirements until after the December 22, 1993 compliance deadline for release detection under 40 CFR 280.40. Installing release detection may be a requirement for obtaining insurance in some areas; this extension will assure that all UST owners seeking insurance would have already complied with Federal release detection requirements. The Agency notes that the extension provided by this rule does not preclude States from adopting an earlier deadline; in those States where a State assurance fund exists, States may find it appropriate to maintain the previous deadlines for compliance with financial responsibility requirements. This final rule applies to the Federal compliance date only, and does not preclude different State compliance deadlines.

Several commenters requested that the extension be broadened to include owners and operators in compliance Category III, which were required to have complied by April 26, 1991. Commenters argued that these owners and operators are also having difficulty obtaining insurance or otherwise demonstrating financial responsibility, and that extending the compliance deadline for owners and operators in Category IV only would place owners and operators in Category III at a competitive disadvantage. EPA believes, however, that owners and operators with financial assurance mechanisms may have an advantage over competitors without these mechanisms since the infrequent, unknown and possibly large costs associated with a leak may be greater than the regular, known, and possibly smaller costs of the financial assurance mechanism. In addition, EPA analysis suggests that up to 80% of the owners and operators in Category III have already obtained assurance mechanisms through State funds and private insurance. The Agency emphasizes that its intention has been and continues to be to require demonstration of financial responsibility at the earliest date reasonably achievable, which for Category III has already passed. UST owners and operators in Category III were required to have demonstrated compliance with the financial responsibility requirements more than six months ago. The Agency believes that "extending" the deadline at this time would penalize those owners and operators who have made a good faith effort to comply with the requirements.

Several commenters argued for special treatment for USTs owned by Indian Tribes and for USTs located on tribal lands. The commenters claimed that these USTs are not covered by State assurance funds, are not eligible for coverage by the LUST Trust Fund, are located in geographic regions that offer a low potential for contamination of groundwater supplies, and have limited access to insurance. While Indian Tribes cannot get State program grants or LUST Trust Fund Cooperative Agreements (as States can), they are eligible to receive LUST Trust Fund

dollars from EPA under certain circumstances. State financial assurance funds do not necessarily exclude tribally-owned tanks; however, since States do not have taxing powers over tribal lands, States cannot collect the taxes and fees that are usually required for participation and access to these State funds unless the Tribe or individual owner opts to pay the fee voluntarily to participate in the fund.

The Agency anticipates that the extension will provide additional time for many owners and operators of USTs located on tribal lands to obtain financial assurance mechanisms. Nevertheless, EPA acknowledges the concerns expressed by these commenters. As discussed below, EPA intends to continue to monitor the development of financial assurance mechanisms during the extension period to determine whether specific groups of UST owners and operators, including owners and operators of USTs located on tribal lands, may require additional consideration.

USTs directly owned or operated by Tribal governments are not within the scope of this rule because the Agency treats them as local governments for the purposes of the financial responsibility requirements. Tribal governments will be eligible to use the new mechanisms being developed for local governments by the Agency and will be required to comply within 12 months of publication of the new mechanisms for demonstrating financial responsibility.

IV. Discussion of Options Considered But Not Proposed

In addition to the proposed rule, EPA considered, but did not propose, two additional options to grant relief to UST owners and operators. Under the first option, a subset of those entities currently required to comply by October 26, 1991 would be granted an additional extension. Under the second option, any UST facility meeting certain Federally-specified conditions as determined by the States would receive an extension.

Under the first option, retail marketers in Category IV that provided essential services such as being the sole source of petroleum products for a rural community and whose tanks posed minimal environmental risks would be granted an extension of the compliance deadline of up to 90 days following the final date for compliance with the technical standards for new tanks (i.e., March 22, 1999). Owners and operators must generally meet these technical requirements (which include tank upgrading, leak detection, etc.) to qualify for private insurance.

If EPA were to adopt the second option, EPA would extend the federal deadline for any facility, regardless of its compliance category, if the State made certain findings based on federally determined criteria. The extension would last up to 90 days following the final date for compliance with the technical standards for new tanks (March 22, 1999). The specified criteria could include facilities that (1) had been identified by States as entities in need of an extension, (2) sold petroleum products on a retail basis, (3) were the sole provider of a class of petroleum transportation fuels (e.g., gasoline or diesel fuel) within a 25-mile radius, and (4) met certain environmental criteria such as that the underground storage tank not be too close to groundwater or that the percentage of the local population that relies on groundwater as their drinking water source not exceed a certain number. Under this option, the federal extension could be granted to local governments, especially those in isolated rural areas that provide essential community services (e.g., public health and safety). Additionally, EPA could allow extensions for Indian tribes owning and operating USTs on Indian lands or to owners and operators of USTs on Indian lands that provided essential services.

Most commenters opposed Option 1. Some claimed that the definitions of "rural" or "sole source provider" would prove unworkable. Others claimed that non-marketers have an equivalent need for an extended compliance deadline. A few commenters stated that the definitions could provide some firms with unfair competitive advantages. A few commenters supported Option 1. Commenters in favor of Option 1 stated that current UST regulations are reducing the retail availability of petroleum products in rural areas where retail outlets for these products may already be scarce. Commenters also proposed definitions of "rural area" for EPA to consider if the Agency were to propose Option 1.

Many more commenters supported Option 2, under which any facility unable to comply with the financial responsibility deadline, or having difficulty in obtaining financial assurance, could be granted an extension in States where certain findings are made based on Federally-determined criteria. Others advocated extensions when neither State assurance funds, financial assistance programs, nor affordable insurance were available. Some commenters challenged the use of "sole provider" as a criterion, while others suggested definitions for "sole provider" for EPA's consideration if the Agency were to propose Option 2. Commenters also proposed environmental criteria to be considered for use under Options 1 or 2.

Three commenters requested that EPA review the special circumstances of tribal governments and of UST owners and operators on tribal lands. The commenters noted that Indian tribes do not impose taxes and therefore do not have the financial resources to self-insure. At the same time, they said that State assurance funds generally do not apply to tribes, because States do not have the authority to levy and collect taxes on Indian lands. EPA acknowledges the concerns expressed by these commenters. EPA intends to use the time available during this extension period to continue to monitor the development of financial assurance mechanisms and to determine whether specific groups of UST owners and operators, including owners and operators of USTs located on tribal lands, may require additional consideration. Under today's rule, however, category IV USTs on Tribal lands that are not owned by Tribal governments must demonstrate financial responsibility by December 31, 1993.

USTs directly owned or operated by Tribal governments are not within the scope of today's rule. The Agency treats Indian Tribes as local governments for the purposes of the financial responsibility requirements. Consequently, USTs owned by Tribal governments will be required to comply within one year of the publication of the final rule providing additional mechanisms for local governments to demonstrate financial responsibility; these mechanisms were proposed on June 18, 1990 (55 FR 24692).

EPA appreciates the efforts of commenters in providing information relative to Options 1 and 2. These comments suggest that some specific classes or categories of UST owners or facilities may face exceptional or unique difficulty in complying with the financial responsibility requirements by December 31, 1993. Although neither option is being adopted in today's rule, EPA is continuing to review how and whether some variation of Option 2 should be adopted. EPA will use the 26 month period provided by today's rule to continue to monitor the development of programs to assist the most affected segments of the regulated community and to determine whether additional relief may be necessary. If further relief is determined to be appropriate, after considering all statutory, environmental,

economic, and programmatic concerns, EPA will determine the best method, if any, to provide the relief. The Agency believes, however, that more information will be necessary to characterize fully the segments that may require further assistance and to develop appropriate criteria. To obtain this information, EPA intends to continue its dialogue with States and the regulated community.

V. Economic Impacts

This section provides an estimate of the economic impacts of the proposed rule. Because the proposed rule will not cause an annual impact on the economy of $100 million or more and will not cause an increase in the costs of production or the prices charged by the affected community, a Regulatory Impact Analysis is not required. Instead, EPA has prepared an economic impact analysis to estimate the number of affected facilities and the costs to affected facilities under the proposed and alternate options, and has evaluated the impacts on small entities as required by the Regulatory Flexibility Act.

A. Economic Impact Analysis

The economic analysis examines the potential economic effects of extending the compliance deadline. It provides an estimate of the number of potentially affected entities, a comparison of the financial condition of affected entities with and without a State assurance fund, and an analysis of rural stations.

EPA analyses have suggested that a large number of USTs and UST-owning entities are subject to the October 26, 1991 deadline. Of the approximately 1.7 million USTs subject to the technical and financial responsibility standards, about 790,000 are owned by petroleum marketers with 12 or fewer USTs, by marketers that own or operate fewer than 100 USTs at a single facility, or by non-marketers with net worth of less than $20 million. These USTs are located at about 216,000 facilities, and are owned by about 213,000 firms (for an average of 3.8 USTs per owner). As a result, the extension of the compliance deadline will affect a significant proportion of the UST-owning population.

The development of State assurance funds and State financial assistance programs provides relief to UST owners and operators, particularly those with fewer facilities and USTs. Small service stations (including single-outlet stations) required to obtain private insurance or otherwise cope with cleanup costs without State aid face potentially severe impacts. EPA estimates that 45 percent of small stations could suffer severe financial distress, and 41 percent could fail. (The figure for severe financial distress includes those firms that would fail; thus, about 90 percent of those firms suffering financial distress would fail.) Small stations in rural areas may be even more heavily affected, because they tend to have a smaller revenue base and are less financially robust than stations in metropolitan areas.

In general, State assurance funds can reduce instances of failure over the next ten years if their deductibles are small enough. State assurance funds with $10,000 deductibles can reduce failures from 41 percent to only 14 percent. State assurance funds with $50,000 deductibles are predicted to reduce failures by a much smaller amount. State financial assistance programs that help firms upgrade their USTs can also help by alleviating some of the burden associated with obtaining insurance.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act generally requires all federal agencies to review the impact of their regulations to determine whether the regulations will have a significant economic impact on a substantial number of small entities. If so, the Agency must prepare a Regulatory Flexibility Analysis. EPA believes that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed extension of the compliance date will provide relief to members of this compliance group by allowing them additional time to comply with the financial responsibility requirements. Accordingly, the Agency has concluded that the law does not require a Regulatory Flexibility Analysis, and certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 280

Administrative practice and procedure, Environmental protection, Hazardous materials insurance, Oil pollution, Penalties, Petroleum, Reporting and recordkeeping requirements, State program approval, Surety bonds, Underground storage tanks, Water pollution control.

Dated: December 16, 1991.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, part 280 of title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 280—TECHNICAL STANDARDS AND CORRECTIVE ACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS (UST)

1. The authority citation for part 280 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991, 6991(a), 6991(b), 6991(c), 6991(d), 6991(e), 6991(f), and 6991(h).

2. Section 280.91 is amended by revising paragraph (d) to read as follows:

§ 280.91 Compliance dates.

* * * * *

(d) All petroleum UST owners not described in paragraphs (a), (b), or (c) of this section, excluding local government entities; December 31, 1993.

[FR Doc. 91-30581 Filed 12-20-91; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 205

RIN 0970-AA81

Aid to Families With Dependent Children and Adult Assistance Programs; Computer Matching and Privacy Protection Act

AGENCY: Administration for Children and Families (ACF), HHS.

ACTION: Interim final rule.

SUMMARY: This interim final rule applies to State agencies administering the Aid to Families with Dependent Children (AFDC) Program under title IV-A and the Adult Assistance Programs under titles I, X, XIV, and XVI (Aid to the Aged, Blind, or Disabled) of the Social Security Act. It implements provisions of the Computer Matching and Privacy Protection Act of 1988 and the Computer Matching and Privacy Protection Amendments of 1990, amending the requirement for independent verification of computer match findings before imposing any adverse action(s).

DATES: Comments must be received on or before January 22, 1992.

EFFECTIVE DATE: December 23, 1991.

ADDRESSES: Comments should be submitted in writing to the Assistant Secretary for Children and Families, Attention: Mr. Mack A. Storrs, Director, Division of Policy, Office of Family Assistance, Fifth Floor, 370 L'Enfant

Promenade, SW., Washington, DC 20447. Comments may be inspected between 8 a.m. and 4:30 p.m. during regular business days by making arrangements with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Mr. Mack Storrs, Director of Policy, Office of Family Assistance, Fifth Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447, telephone (202) 401–9289.

SUPPLEMENTARY INFORMATION: The Computer Matching and Privacy Protection Act of 1988 (CMPPA) defines a matching program as

"* * * any computerized comparison of—(i) two or more automated systems of records or a system of records with non-Federal records for the purpose of—(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers or services with respect to cash, on in-kind assistance or payments under Federal benefit programs * * *"

Current Federal-State computer matching activities, as well as any proposed Federal matches to be performed by State agencies for the purpose of establishing or verifying the eligibility of applicants for and recipients of AFDC and Adult Assistance, meet the criteria of a "matching program" as described in the CMPPA. State-developed matching activities involving a comparison with other State or non-Federal records are exempt from the verification requirements set forth in these rules.

Regulatory Provisions

Prior to the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), the CMPPA required States to provide a 30-day notice before adverse actions (i.e., denying, reducing, suspending, or terminating assistance payments) could be taken as a result of the findings of a computer match. The OBRA–90 amendments authorize programs that have in their statute or regulations a different time period for notification (e.g., a 10 day timely notice period) to substitute that other period. If no such notice requirement is provided, the program must adopt a 30-day notice period before adverse action can be taken as a result of the findings of a computer match. Since the AFDC and Adult Assistance programs are bound by the 10-day timely notice requirement at § 205.10(a)(4)(i)(A), this 10-day period will apply to adverse actions based on computer match findings.

The CMPPA requires State agencies to independently verify the computer match information in order to confirm its accuracy. It expressly prohibits a recipient agency from taking an adverse action(s) against an individual prior to independently verifying the accuracy of the information. The OBRA–90 amendments also preclude the imposition of an adverse action against an individual until the agency has independently verified the findings of the computer match. However, the amendments also provide for a waiver procedure where a State can accept the match information without prior independent verification provided that the applicable Federal Data Integrity Board determines, in accordance with guidelines by the Office of Management and Budget, that: (1) Information provided by certain identified agencies is restricted to identification and amount of benefits paid by the source agency under a Federal benefit program; and (2) that there is a high degree of confidence in the accuracy of the information provided. The regulations at § 205.56(b) have been amended to reflect these new requirements.

The provisions currently found at § 205.56(b) pertaining to unearned income information for the Internal Revenue Service (IRS) have also been revised. Specific procedures for the verification of IRS information will be set forth in agreements developed by IRS.

The CMPPA also requires that the appropriate verification procedures be set out in agreements negotiated between matching agencies and matching providers. Such agreements must then be approved by the Federal agency Data Integrity Boards. Section 205.58 has been revised to incorporate this requirement.

Regulatory Procedures

Justification for Dispensing with Notice of Proposed Rulemaking

The amendments to the regulation are being published in interim final form. The Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, if the Department for good cause finds that Notice of Proposed Rulemaking is unnecessary, impractical or contrary to the public interest, it may dispense with such notice if it incorporates a brief statement in the interim final regulation of the reasons for doing so.

The Department finds that there is good cause to dispense with Notice of Proposed Rulemaking with respect to these changes. We find that publication of this regulation in proposed form would be unnecessary. This regulation is procedural and generally implements the statutory provisions. While Notice of Proposed Rulemaking is being waived, we are interested in comments regarding any changes which should be made to these interim rules. We will review any comments that are received within 30 days from the date of publication of this interim final rule and, if appropriate, we will publish final rules with any necessary changes.

Executive Order 12991

These interim final rules have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required because these regulations will not: (1) Have an annual effect on the economy of $100 million or more; (2) impose a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

This rule does not require any information collection activities and therefore, no approval is necessary under the Paperwork Reduction Act.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small businesses. The primary impact of these proposed rules is on State governments and individuals. Therefore, we certify that these rules, if promulgated, will not have a significant economic impact on a substantial number of small entities because they affect benefits to individuals and payments to States. Thus, a regulatory flexibility analysis is not required.

(Catalog of Federal Domestic Assistance Programs 13.780, Assistance Payments-Maintenance Assistance.)

List of Subjects in 45 CFR Part 205

Computer technology, Grant programs—social programs, Privacy, Public assistance programs, Reporting and recordkeeping requirements, Wages.

Dated: August 28, 1991.

Jo Anne B. Barnhart,

Assistant Secretary for Children and Families.

Approved: October 22, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 205 of chapter II, title 45, Code of Federal Regulations is amended as set forth below:

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

1. The authority citation for part 205 is revised to read as follows:

Authority: 5 U.S.C. 552a note; 42 U.S.C. 602, 603, 606, 607, 611, 1302, 1306(a), and 1320b–7

2. Section 205.56 is amended by revising paragraph (b) to read as follows:

§ 205.56 Requirements governing the use of income and eligibility information.

* * * * *

(b)(1) State agencies shall not take any adverse action to terminate, deny, suspend or reduce benefits to an applicant or recipient, based on information produced by a Federal computer matching program that is subject to the requirements in the Computer Matching and Privacy Protection Act (CMPPA) unless:

(i) The information has been independently verified in accordance with the independent verification requirements set out in the State agency's written agreement as required by § 205.58 or

(ii) The independent verification requirement has been waived by the Department's Data Integrity Board.

(2) The CMPPA defines a matching program as any computerized comparison of:

(i) Two or more automated systems of records or a system of records with non-Federal records for the purpose of:

(A) Establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

(B) Recouping payments or delinquent debts under such Federal benefit programs, or

(ii) Two or more automated Federal personnel or payroll system of records or a system of Federal personnel or payroll records with non-Federal records.

* * * * *

3. Section 205.58 is amended by revising paragraphs (a) and (b)(4) to read as follows:

§ 205.58 Income and eligibility information; specific agreements required between the State agency and the agency supplying the information.

(a) A State plan under title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that, in carrying out the requirements of §§ 205.55 and 205.56, the State agency will enter into specific written agreements as described in paragraph (b) of this section with those agencies providing income and eligibility information. Agreements with Federal agencies are subject to the approval by the appropriate Federal Data Integrity Boards. The agreements will contain the procedure to be used in requesting and providing information.

(b) * * *

(4) The type of information and reporting periods for which information will be provided and the verification methodologies to be used;

* * * * *

[FR Doc. 91–29724 Filed 12–20–91; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 556

[Docket No. 75–21; Notice 3]

RIN 2127–AE30

Exemption for Inconsequential Defect or Noncompliance

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

ACTION: Final rule.

SUMMARY: A manufacturer which determines that its motor vehicle or motor vehicle equipment fails to comply with a Federal motor vehicle safety standard or contains a safety-related defect may, under part 556, Exemption for inconsequential defect or noncompliance, petition to be exempted from the obligation under the National Traffic and Motor Vehicle Safety Act to notify owners and remedy the noncompliance or defect, upon a showing that the noncompliance or defect is inconsequential as it relates to motor vehicle safety. Under part 573, Defect and noncompliance reports, a manufacturer making a noncompliance or defect determination must, within 5 working days of that determination, file a report with NHTSA. The final rule adopted by this notice requires a manufacturer petitioning under part 556 to attach a copy of its part 573 report with its petition.

DATES: The effective date of the final rule is January 22, 1992.

FOR FURTHER INFORMATION CONTACT: Taylor Vinson, Office of Chief Counsel, NHTSA [202–366–5263].

SUPPLEMENTARY INFORMATION: Under 49 CFR 573.5(a), "Each manufacturer shall furnish a report to the NHTSA" for each noncompliance with a Federal motor vehicle safety standard or each safety related defect in the vehicles or motor vehicle equipment that he manufactures "that he or the Administrator determines to exist." Section 573.5(b) requires that the manufacturer submit the report "not more than 5 working days after" a noncompliance or safety related defect "has been determined to exist." A manufacturer making such a determination is required by the National Traffic and Motor Vehicle Safety Act to notify its purchasers and to remedy the noncompliance or the safety related defect. However, under 49 CFR 556.4(a), the manufacturer may file a petition with the Administrator for a determination that the noncompliance or safety related defect is inconsequential as it relates to motor vehicle safety. Such petition must be filed within 30 days after the determination. If the petition is granted, the manufacturer is excused from the obligation to notify and remedy.

It is clear that if a noncompliance or safety related defect does not exist, the obligation to notify and remedy does not arise. Thus § 556.4(a) extends the right to petition only to "A manufacturer who has determined the existence, in a motor vehicle or item of replacement equipment that he produces, of a defect related to motor vehicle safety or a noncompliance with an applicable Federal motor vehicle safety standard * * *". In other words, the right extends only to a manufacturer which has the related obligation to file a part 573 report.

On occasion, the fact that a manufacturer must determine the existence of a noncompliance before the manufacturer can file a part 556 petition does not appear clear to manufacturers seeking an inconsequentiality determination. When the agency receives a petition, but no part 573 report relating to the noncompliance or defect forming the basis for the petition, the agency must take time to obtain the manufacturer's determination of noncompliance before it can consider the petition. This delay is not in the

interest of safety in those instances in which the Administrator ultimately denies the petition because it is important that notification and remedy begin as soon as practicable after the denial. Although the agency believes that the relationship between part 573 and part 556 is presently unambiguous, it wishes to make the relationship even clearer by explicitly providing in part 556 that a petitioning manufacturer is required to submit a copy of its part 573 report as part of its petition. It is therefore adding that requirement as § 556.4(b)(6) (the regulation already requires the manufacturer to submit its petition in three copies; thus, three copies of the report will also be required).

In accordance with 5 U.S.C. 553(b)(3)(A) and (B), because the amendment is procedural in nature and does not alter the existing requirement to submit part 573 reports containing defect or noncompliance determinations, it is hereby found for good cause shown that notice and public procedure thereon are unnecessary, and the amendment is effective thirty days after its publication in the **Federal Register**.

Rulemaking Analyses

A. Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

After considering the impacts of this rulemaking action, NHTSA has determined that the action is not major within the meaning of Executive Order 12291 "Federal regulation", nor significant under Department of Transportation regulatory policies and procedures. The action does not involve any substantial public interest or controversy. There is no substantial effect upon State and local governments. There is no substantial impact upon a major transportation safety program. Therefore, a full regulatory evaluation analyzing the economic impact of the final rule has not been prepared.

B. Regulatory Flexibility Act

The agency has also considered the effects of this action in relation to the Regulatory Flexibility Act. I certify that this action will not have a significant economic impact upon a substantial number of small entities. The economic impact of providing additional copies of a report that is already required, is not significant. This action will also not affect the price of new motor vehicles or motor vehicle equipment.

C. Executive Order 12612 (Federalism)

The agency has analyzed the action in accordance with the principles and criteria contained in Executive Order 12612 "Federalism" and determined that the action does not have sufficient Federalism implications to warrant the preparation of a federalism Assessment.

D. National Environmental Policy Act

NHTSA has analyzed this action for purposes of the National Environmental Policy Act. The action will not have a significant effect upon the environment.

List of Subjects in 49 CFR Part 556

Motor vehicle safety, motor vehicles, motor vehicle equipment.

In consideration of the foregoing, 49 CFR part 556 is amended as follows:

PART 556—[AMENDED]

1. The authority citation for part 556 continues to read as follows:

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50.

§ 556.4 [Amended]

2. In Section 556.4, new paragraph (b)(6) is added to read as follows:

* * * * *

(b) * * *

(6) Be accompanied by three copies of the report the manufacturer has submitted, or is submitting, to NHTSA in accordance with part 573 of this chapter, relating to its determination of the existence of safety related defect or noncompliance with an applicable safety standard that is the subject of the petition.

* * * * *

Issued on December 16, 1991.

Jerry Ralph Curry,

Administrator.

[FR Doc. 91–30492 Filed 12–20–91; 8:45 am]

BILLING CODE 4510–59–M

Proposed Rules

Federal Register
Vol. 56, No. 246
Monday, December 23, 1991

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1435

Sugar and Crystalline Fructose Marketing Allotment Regulations for Fiscal Years 1992 Through 1996

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document announces a 30-day extension of time, until February 3, 1992, for comments on the proposed rule published in the **Federal Register** on December 2, 1991 (56 FR 61191). The proposed rule set forth proposed regulations for standby marketing allotments on sugar and crystalline fructose.

DATES: All comments on the proposed rule must be submitted on or before February 3, 1992 in order to be assured of consideration.

ADDRESSES: Comments should be mailed or delivered to Dean Ethridge, Deputy Administrator for Program Planning and Development (DAPPD), Agricultural Stabilization and Conservation Service (ASCS), room 3090, South Agriculture Building, P.O. Box 2415, U.S. Department of Agriculture, Washington, DC 20250. Comments received may also be inspected at room 3741, South Agriculture Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC between 9 a.m. and 4:30 p.m., Monday through Friday except holidays.

FOR FURTHER INFORMATION CONTACT: Robert D. Barry, Assistant to the Deputy Administrator for Program Planning and Development, ASCS; telephone (202) 720–3391.

SUPPLEMENTARY INFORMATION: Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938, as amended by the Food, Agriculture, Conservation, and Trade Act of 1990, provided for the imposition of marketing allotments on sugar processed from domestically produced sugarcane and sugar beets and on crystalline fructose manufactured from corn, during the fiscal years 1992 through 1996, if imports of sugar would otherwise be less than 1.25 million short tons, raw value. On December 2, 1991 the Commodity Credit Corporation published a proposed rule setting forth proposed regulations to implement these "standby" marketing allotments.

The proposed rule provided for a 30-day period for public comments; such comments were required to be received on or before January 2, 1992 in order to be assured of consideration. Representatives of the sugar and crystalline fructose industries have requested that this comment period be extended by 30 days, to February 3, 1992, due to the pending revision of several marketing allotment provisions by the Food, Agriculture, Conservation, and Trade Act Amendments of 1991, the recent intensification of negotiations on agricultural policy reforms in the Uruguay Round of multilateral trade negotiations under the General Agreement on Tariffs and Trade (GATT), and the onset of the holiday season. In the interests of receiving the fullest possible public comment on the proposed regulations, CCC will grant this request.

Notice

Notice is hereby given that the period of time for submitting comments on the proposed rule published on December 2, 1991 (56 FR 61191) is extended to February 3, 1992.

Signed the 17th day of December, 1991, in Washington, DC.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 91–30587 Filed 12–20–91; 8:45 am]

BILLING CODE 3410–05–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–56]

Richard P. Grill; Filing of a Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking.

SUMMARY: Mr. Richard P. Grill requests that the Nuclear Regulatory Commission (NRC) amend its regulations that establish general design criteria for nuclear power plants, as necessary, to add lightning induced and other electrical transients to the required list of phenomena that licensed nuclear power plants and other nuclear facilities must be designed to withstand safely. The petitioner requests that the NRC require licensees of nuclear power plants and other nuclear facilities to consider the effect of electrical transients on the operability and reliability of nuclear safety related systems and potential accident scenarios analyses.

DATES: Submit comments by February 21, 1992. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch. For a copy of the petition, write: Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, Washington, DC 20555, Telephone: (301) 492–7758 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

Background

The NRC has received a petition for rulemaking submitted by Richard P. Grill. The petition was assigned Docket No. PRM–50–56 on August 19, 1991. The petitioner has requested that the NRC amend appendix A to 10 CFR part 50, "General Design Criteria for Nuclear Power Plants," to add lightning induced and other electrical transients to the required list of phenomena that licensed nuclear power plants and other nuclear facilities must be designed to withstand. The petitioner has requested that the NRC modify Design Criteria 2, 13, 14, 17, 18, 19, 21, 22, 23, 24, 29, 63 and 64 of appendix A to 10 CFR part 50 to require licensees of nuclear power plants and other nuclear facilities to consider the effect of electrical transients on the operability and reliability of nuclear safety related systems and potential accident scenarios analyses. The requested amendment would also require licensees to take whatever actions are necessary to assure that electrical transients cannot compromise the safety of the facility and the health and safety of the public. The petitioner requests that these design requirements be mandatory for all new license applications as well as for license renewal for operating plants. The petitioner requests that the Commission first conduct the research necessary to develop a technical basis for issuing the regulations and for supplying guidance to its licensees.

The Petitioner

The petitioner was formerly the Chief, Site Safety Branch, Division of Reactor Licensing, U.S. Atomic Energy Commission in the late 1960's and early 1970's. In 1976, petitioner accepted a position with the NRC, in the Environmental Standards Branch.

The petitioner contends that some members of the staff of the Atomic Energy Commission and the Nuclear Regulatory Commission have urged that a comprehensive study be conducted to quantify the potential risk and consequences from electrical transients since the late 1960's. As the Branch Chief responsible for analysis of the hazards posed by natural phenomena on nuclear power plants, the petitioner actively sought to have the electrical transient issue addressed. After joining the NRC in 1976, the petitioner renewed efforts to have the issue addressed. These efforts included a direct appeal to the Commission. As a result, a Draft Regulatory Guide and Value/Impact Statement, entitled "Lightning Protection for Nuclear Power Plants," was issued for public comment by the Commission in August 1979. The draft guide was submitted to the Advisory Committee on Reactor Safeguards (ACRS) for review and a final draft version was submitted to the ACRS in February 1981. The guide (which had not received NRC Staff consensus) was discussed at the February 5–7, 1981, ACRS meeting. The ACRS returned the regulatory guide to the staff for further action and recommended that the NRC Staff utilize consultants to provide the necessary expertise for this specialized subject. A final version of this Regulatory Guide was never published.

The petitioner contends that the draft Regulatory Guide was weak on justification because the studies necessary to show whether or not electrical transients posed a threat had not been done. In fact, page 10 of the guide states "The staff has not reviewed the surge protection aspects of nuclear power plants and, therefore, is not thoroughly familiar with the present practices used for the protection of systems important to safety from transient overvoltages."

Need for the Suggested Amendments

The petitioner believes that potential effects of transient electrical surges on the integrity of safety related control and monitoring systems have not been rigorously analyzed nor have any implications for safety been factored into preventative design conservatisms. The petitioner states that, to his knowledge, no commercial nuclear power plant design in the United States has ever been thoroughly studied to see what effect the range of electrical transients from lightning strikes, switching surges, or other sources, might have on the facility. The petitioner asserts that a complete analysis of this issue has never been conducted by the NRC.

The petitioner contends that because the effects of lightning and other electrical transients have not been analyzed, the effects were not considered in the development of General Design Criteria or Safety Class 1 specifications. Therefore, the design or electrical safety sensing and control systems may not have utilized equivalent levels of conservatism now found in the remainder of the facility.

According to the petitioner, lightning strikes and switching surges are relatively common occurrences at or near electrical generating stations and their associated transmission lines. Generating station designers have long known electrical transients could damage generators or other equipment and interrupt electrical service. All generating stations are protected to some level against a transient's gross effects as a matter of prudent economics. Lightning arresters, for example, are provided to decouple massive electrical surges on a transmission line resulting from a lightning strike. Protective devices, however, do not assure protection of more delicate control circuits or instrumentation from the pulse the arrester allows to pass before interrupting the transient.

The petitioner states that transients can also enter the circuitry by any number of alternate paths from outside or inside the plant. These transients can enter directly on electrical supply and instrumentation lines from direct contact with a source of electricity or by induced currents generated by electromagnetic impulse (EMP) phenomena in the atmosphere (lightning, nuclear detonations), switching procedures, ferromagnetic effects or electromagnetic emission from other adjacent equipment, i.e., radio or radar transmitters, arc welders, thyristor dimmer switches, radio frequency heaters, electric motors, etc. These transients are not considered crucial for conventional generating stations as the maximum consequence is plant shutdown and a resultant loss of revenue. The transients could be extremely important for a nuclear powered station, however, as the bottom line in this case could be the health and safety of the public, not dollars.

The petitioner also states that as safety related control systems at nuclear facilities have become more complex and sophisticated, their vulnerability to electrical transients has increased. Relatively sturdy vacuum tubes used in earlier plants have been replaced, first by transistors and more recently by solid state integrated logic systems. These later systems can be disrupted by quite small fluctuations of current.

The petitioner contends that industry standards have been developed for protection of conventional electrical and electronic circuits because of the vulnerability of these electronic systems. According to the petitioner, the NRC does not require the use of even these conventional standards much less require more rigorous standards commensurate with the safety consequences of failure of nuclear power plant protective systems. Therefore, the petitioner doubts that the electrical/electronic definition of "Safety Class 1" is as equally rigorous and reassuring as that for other design parameters.

The petitioner contends that members of the NRC Staff have indicated that they are aware of several incidents which have occurred in nuclear power plants that can be attributed to lightning effects such as the shut down of the

Humbolt Bay plant and the explosion in the off-gas system of Vermont Yankee.

The Solution

The petitioner requests that the NRC amend its regulations pertaining to General Design Criteria for Nuclear Power Plants, as necessary, to add lightning induced and other electrical transients to the required list of phenomena that licensed nuclear power plants and other nuclear facilities must be designed to safely withstand. The petitioner requests licensees be required to take whatever actions are necessary to assure such transients cannot compromise the safety of the facility and the health and safety of the public.

According to the petitioner, other Government agencies, such as the Defense Nuclear Agency and the Defense Communications Agency, have devoted significant resources to investigation of surge disruption in similarly complex electronic circuitry. While the transients investigated in these studies originate from sources other than natural phenomena, such as EMP from postulated nuclear explosions, the effects on circuitry are similar. The petitioner further states that the analytical tools already developed by these agencies could be modified for use by the NRC and the commercial nuclear industry to determine the magnitude of this potential threat and to suggest remedial courses of action, should they be necessary.

Petitioner suggests that the NRC answer a simple question posed over 20 years ago "Do electrical transients produced by lightning or other causes present a significant hazard to the safety of nuclear facilities? Specifically, the petitioner suggests that the NRC take the following actions:

1. Initiate a research study to determine the current state of knowledge of lightning and other electrical surge protection. Assemble the results of this study into a comprehensive reference report.

2. Initiate another study to identify and quantify potential consequences of all types of electrical transiets on licensed nuclear power plants and other nuclear facilities.

3. Prepare and publish a rule in the **Federal Register** to require that each relevant NRC licensee analyze and modify, if necessary, its facility to assure safety related nuclear systems will not be compromised by electrical transients.

4. Utilizing these studies, licensee experience and analysis, and relevant industry standards, develop electrical transient protection guidance specifically tailored to the exceptionally high reliability requirements of nuclear facility safety related control systems.

5. In order to assure prompt resolution of other nuclear safety issues, determine why the NRC was so reluctant to address this issue.

The Petitioner's Suggested Amendments

The petitioner has requested a generic amendment to the general design criteria provisions for nuclear power plants, 10 CFR Part 50.

I. The amendment would—

1. Revise Design Criteria 2, 13, 14, 17, 18, 19, 21, 22, 23, 24, 29, 63 and 64 of appendix A, to require licensees of nuclear power plants and other nuclear facilities to consider the effect of electrical transients on the operability and reliability of nuclear safety related systems and potential accident scenario analyses.

2. Require licensees to take whatever actions are necessary to assure such transients cannot compromise the safety of the facility or the health and safety of the public; and

3. Be mandatory for all new license applications as well as for license renewals of existing plants.

II. The petitioner suggests that prior to proceeding with the suggested amendments the Commission must first conduct the research necessary to develop a technical basis for issuing the regulations and for supplying guidance to its' licensees.

Request for Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing discussion.

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Dated at Rockville, Maryland, this 17th day of December 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91-30576 Filed 12-20-91; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-CE-90-AD]

Airworthiness Directives; Beech 90, 99, and 100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would supersede AD 91-12-12, which currently requires a one-time inspection of the rudder trim tab drainage area for proper drainage provisions on certain Beech 90, 99, and 100 series airplanes, and subsequent modification if correct drainage provisions do not exist. The Federal Aviation Administration has determined that the actions specified by AD 91-12-12 should also apply to other serial numbered airplanes currently not affected by this AD. The actions specified by the proposed AD are intended to prevent structural damage or imbalance to the rudder caused by improper drainage of water from the rudder trim tab.

DATES: Comments must be received on or before February 3, 1992.

ADDRESSES: Beech Service Bulletin No. 2365, Revision 1, dated December 1991, may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91-CE-90-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Don Campbell, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4128; Facsimile (316) 946-4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the

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

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

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 91–CE–90–AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Airworthiness Directive (AD) 91–12–12, Amendment 39–7023 (56 FR 26020, June 6, 1991), currently requires a one-time inspection of the drainage area of the rudder trim tab for proper drainage provisions on certain Beech 90, 99, and 100 series airplanes, and subsequent modification if correct drainage provisions do not exist. The actions are accomplished in accordance with Beech Service Bulletin No. 2365, dated January 1991.

The ending serial number on the Model C90A airplanes in the applicability of AD 91–12–12 is LJ–1244. Since the AD has become effective (May 21, 1991), the Federal Aviation Administration (FAA) has determined that the actions specified by AD 91–12–12 should apply to all Model C90A airplanes up to and including serial number LJ–1280. The manufacturer (Beech) has since issued Service Bulletin No. 2365, Revision 1, dated December 1991, which incorporates the revised serial number applicability.

The FAA has examined the above situation, reviewed all available information related to the circumstances described above, and has decided that further AD action should be taken to incorporate all Model C90A airplanes up to and including serial number LJ–1280 into the current AD action. Since the condition described is likely to exist or develop in other Beech 90, 99, and 100 series airplanes of the same type design, the proposed AD would retain the requirements of AD 91–12–12, but would expand the applicability of the Model C90A airplanes. The proposed actions would be accomplished in accordance with the instructions in Beech Service Bulletin No. 2365, Revision 1, dated December 1991. It would supersede AD 91–12–12, Amendment 39–7023.

It is estimated that 2,068 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 hour per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $113,740. However, AD 91–12–12 required the same actions as the proposed AD on 2,032 airplanes. The proposed AD would pose an additional cost impact of $1,980 (36 airplanes times 1 hour at $55) than that already required by AD 91–12–12.

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

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.69.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 91–12–12, Amendment 39–7023 (56 FR 26020, June 6, 1991), and adding the following new AD:

Beech: Docket No. 91–CE–90–AD.

Applicability: Models 65–90, 65–A90, 65–A90–1, 65–A90–2, 65–A90–3, 65–A90–4, B90, and C90 airplanes (all serial numbers (S/N)); Model C90A airplanes (S/N LJ–1063 through LJ–1280); Models E90, H90, 99, 99A, A99A, B99, C99, 100, A100, and B100 airplanes (all S/N), certificated in any category.

Compliance: Required within the next 150 hours time-in-service after the effective date of this AD, unless already accomplished (AD 91–12–12, Amendment 39–7023).

To prevent structural damage or imbalance to the rudder caused by improper drainage of water from the rudder trim tab, accomplish the following:

(a) Inspect the rudder trim tab for proper moisture drainage provisions in accordance with the instructions in Beech Service Bulletin No. 2365, Revision 1, dated December 1991. If the correct drainage provisions do not exist, prior to further flight, modify the rudder trim tab in accordance with the instructions in the referenced service bulletin.

Note: Except for a change in the applicability paragraph, the requirements of this AD are the same as AD 91–12–12, Amendment 39–7023, which is superseded by this action.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request of Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine this document at the FAA, Central Region Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on December 17, 1991.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-30527 Filed 12-20-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 220

Collection From Third Party Payers of Reasonable Costs of Healthcare Services

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the DoD regulation that implements 10 U.S.C. 1095. This statute generally provides for collection by the United States from third party payers of reasonable costs of healthcare services provided in facilities of the Uniformed Services to DoD beneficiaries who are also beneficiaries under the third party payer's plan. This proposed rule would implement recent legislative amendments to section 1095 that expanded the third party collection authority to cover outpatient services, automobile liability and no-fault insurance policies, and Medicare supplemental insurance plans. Active duty members are included in collections from automobile liability and no-fault insurance carriers. The proposed rule would also revise methods for determining reasonable costs for inpatient care services.

DATES: Comments must be received by February 21, 1992.

ADDRESSES: Comments should be sent to: Office of the Deputy Assistant Secretary of Defense (Health Services Operations), Attn: Operations and Management Support, room 3E343, The Pentagon, Washington, DC 20301-1600.

FOR FURTHER INFORMATION CONTACT: CDR Steven D. Olson, MSC, USN at (703) 693-2570.

SUPPLEMENTARY INFORMATION:

I. Background

Congress enacted 10 U.S.C. 1095 as part of the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, section 2001(a)(1), to permit the Department of Defense to collect from third party payers reasonable inpatient hospital care costs incurred on behalf of most DoD health care beneficiaries. This legislation was based on the premise that private health care plans should not avoid payment for inpatient healthcare services provided to their beneficiaries solely because those beneficiaries also happen to be entitled to space available care in military facilities. To implement this statute, DoD issued a proposed rule October 8, 1986, and a final rule September 25, 1987.

After several years of experience, Congress indicated its disappointment regarding the relatively low level of collections being made under the program. As one step to address this, in 1989, Congress amended the statute to provide that funds collected, rather than being turned over to the general treasury, would be credited to the appropriations account supporting the facility that provided the care. Public Law 101-189, section 727. The intent of this amendment was to provide an incentive for facilities of the Uniformed Services to aggressively implement this program.

Improved implementation was also the objective of regulatory revisions promulgated by DoD in 1990. A proposed rule was issued January 16, 1990, 55 FR 1473, and a final rule, May 29, 1990, 55 FR 21,742. The result was a significantly revised regulation setting forth DoD's interpretations of key statutory provisions and related requirements and procedures.

Two government reports in 1990 are also noteworthy as background. The DoD Inspection General released an exhaustive audit report calling for a much more active collection program. I.G. Audit No. 9FR-0031. Draft versions of this report stimulated much of the 1990 rule making activity. On a related front, the General Accounting Office issued a report entitled, "Military Health Care: Recovery of Medical Care Costs From Liable Third Parties Can Be Improved." This report addressed collections in tort liability cases, such as automobile accident cases, under the Federal Medical Care Recovery Act (FMCRA), and recommended expanding that authority to cover no-fault automobile insurance policies and to permit retention of collected funds at the facility that provided the care.

These two reports stimulated further Congressional action in 1990. In the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, section 713, Congress made three significant changes to 10 U.S.C. 1095. First, Congress expanded the collection authority to cover outpatient services. The original statute only covered impatient hospital care. Second, based on the GAO report, Congress supplemented current legal authority to collect in tort liability cases with new authority to also collect from no-fault insurance carriers. Congress folded both the pre-existing tort liability case authority and the new no-fault authority under the framework of section 1095, thus allowing retention of funds collected at the facility in both types of cases. Third, reacting to one of the Inspector General's recommendations, Congress expanded section 1095 to cover Medicare supplemental insurance plans. Similar statutory changes (but not including the outpatient care provision) were made in the Department of Defense Appropriations Act of FY 1991, Public Law 101-511, section 8075.

The Senate Appropriations Committee explained its proposed provision, which was enacted, as one which:

> Would allow the Department of Defense to collect from Medicare supplemental insurance policy carriers and from automobile liability and no-fault insurance carriers for treatment of eligible patients in military hospitals. As an incentive for military hospitals to make these collections, net proceeds would remain at the collecting medical facility. (S. Rept. 101-521, p. 48.)

In making these statutory revisions, Congress clearly expressed its intent regarding the operation of the third party collection program. The Conference Committee Report on the Authorization Act said "the conferees are disappointed to note" the "major flaws" in the program identified by the Inspector General, which if not corrected, could result in a failure "to collect approximately $318 million from primary health insurance plans for fiscal years 1990 through 1994." The Conference Report concluded:

> The conferees expect that the Department of Defense will correct these deficiencies, and will aggressively implement the expanded authority provided in this section. (H. Conf. Rept. 101-923, p. 618.)

This proposed rule is to implement the expanded authority. It is important to note that Active Duty beneficiaries are excluded from third party collections except in cases involving automobile liability and no-fault insurance. In addition, the proposed rule will revise current methods for calculating reasonable costs of inpatient hospital care services.

II. Provisions of the Proposed Rule

A. Outpatient Services

1. Expansion of Authority

The recent statutory amendment added outpatient services to the section 1095 collection program by replacing the previous references to "inpatient hospital care" with the new authority to collect for all "healthcare services." We

propose to make a comparable revision to the regulation at various places. Specifically, this change would be made in the heading for part 220, §§ 220.1, 220.2, 220.8 and 220.9.

2. Per Visit Rate

Another proposed revision to § 220.8 involves the calculation of reasonable costs for outpatient services. Congress addressed this by authorizing "all-inclusive per visit rates" as the basis for outpatient services collections section 1095(f)(2). Based on this authority, DoD proposes to adopt this method for computing reasonable costs for most outpatient care. Thus, collections for most outpatient services will be based on a standard per visit fee, representing the average cost in facilities of the Uniformed Services of an outpatient visit. Multiple outpatient visits on the same day to different clinics will result in one charge for each clinic visit. Multiple visits on the same day to the same clinic will only have one charge. As a general rule, the standard per visit amount will be all-inclusive. No additional charge will be made for routine laboratory, radiology, pharmacy or other services provided in conjunction with an outpatient visit. A separate charge for same day/ ambulatory surgery will be published annually.

However, when the provision of services is at the request of a provider outside of the Military Health Service System (MHSS) rather than in conjunction with an outpatient visit at a military medical treatment facility (MTF), charges shall be made for certain high cost ($100 or more) ancillary services and procedures such as laboratory, radiology, pharmacy, pulmonary function, cardiac catheterization, hemodialysis, hyperbaric medicine, electrocardiography, electroencephalography, electroneuromyography, pulmonary function, inhalation and respiratory therapy and physical therapy services. For example, patients seen by civilian practitioners under the CHAMPUS program often obtain prescribed laboratory and radiology tests as well as prescription drugs from a local MTF. DoD Partnership Program providers acting in their MHSS role are not considered outside providers for this purpose.

The per visit rate, described above, will not vary based on the precise medical procedures involved in the visit. The rate for certain outside provider requested high cost ancillary services, however, will be based on the cost of the type of service provided. The particular high cost services, drugs or procedures covered by the special rule will be published annually, along with the rate applicable to each service.

The adoption of this method of computing costs of third party collection conforms to the method currently followed in cases in which private payment is required, including automobile accident cases under the Federal Medical Care Recovery Act. In addition, it will rely upon the same data and computation systems as were used to establish the per diem rates that have been used for inpatient hospital services collections under this program. Also, this method provides a simple, economical method for third party collections. As in the case of the per diem amounts, the applicable visit charge, the same day/ambulatory surgery charge, and the rates for externally requested high cost ancillary services shall be updated and published annually. For treatment rendered in fiscal year 1992, the standard per visit amount is $77.

3. Effective Date

A new § 220.6(d) is proposed to reflect the Congressional effective date for the expansion of the third party collection program to outpatient care. It would not apply to plans that have been in continuous effect without amendment or renewal since prior to the effective date of the statutory amendment (November 5, 1990), to the extent that such plans clearly exclude payment to the Federal government for care in military facilities.

4. Timetable for Actual Billings

In issuing this proposed rule, our purpose is to establish all regulatory requirements that will be needed to carry out this expansion to the program. However, with respect to outpatient services billings, we note that for most facilities of the Uniformed Services, a number of internal systems adjustments are not completed that are necessary to the operation of the program. Therefore, in some areas of the country, actual billings for outpatient services will not promptly follow completion of the rule making activity. Activities are permitted to back bill for care provided between the effective date of this rule and the provision of internal systems to implement the program.

B. Medicare Supplemental Insurance Plans

1. Extension of Collection Authority

The current § 220.6(b) excludes Medicare supplemental insurance plans from section 1095. Based on the recent Congressional action, we propose to include such plans in the program by amending § 220.6 and the definition section (to be redesignated as § 220.12). In addition, we propose to add a new § 220.10 concerning special rules applicable to Medicare supplemental insurance plans.

2. Services Covered

Because Medicare is excluded as a third party payer under this program, and because Medicare supplemental insurance plans generally define themselves relative to the primary Medicare coverage, there is a need for a special rule for third party collections from Medicare supplemental plans for care provided in facilities of the Uniformed Services. Congress provided the special rule. The House Armed Services Committee, which originated this provision, explained:

> In authorizing collection from Medicare supplemental policies, the committee intends that the right of the United States to collect would be comparable to the obligation that the third party payer would incur if the healthcare services were provided under Medicare.

H. Rept. 101–665, p. 214; see also H. Conf. Rept. 101–923, p. 618. Similarly, the Appropriations Act general provision states that in connection with Medicare supplemental policies:

> The facility of the uniformed services shall be treated as if it were a Medicare eligible provider and the services provided as if they were Medicare-covered services.

Public Law 101–511, section 8075.

The basic policy Congress wants to put in place is that Medicare supplemental plans should be no better or worse off when their insured beneficiaries receive care in a facility of the Uniformed Services than those plans are when their insured beneficiaries receive care from civilian providers. In this way, these plans do not enjoy a windfall when their insured beneficiaries receive care in a facility of the Uniformed Services. Our proposed § 220.10(a) adopts a general policy consistent with this Congressional intent.

3. Inpatient Charges

The proposed rule goes on to apply the above general philosophy in the context of inpatient hospital care. To do so, notice must be taken of the liability of a Medicare supplemental insurance carrier in the usual civilian hospital context, which is to pay the inpatient deductible amount for hospital services under Medicare Part A and the 20% cost share for professional services under Medicare Part B. The Medicare inpatient

deductible is an initial amount, set by statute at $520 in 1987 and updated annually thereafter (the 1991 amount is $628), followed by additional amounts beginning on the 61st day of care in long-stay cases. Based on this, in the typical case, the Medicare supplemental insurance carrier would be responsible for the initial inpatient deductible amount for hospital services, 20% of the professional services provided, and additional amounts after the 61st day. The proposed § 220.10(b), consistent with the Congressional policy, establishes this as the maximum liability of the Medicare supplemental insurance carrier.

4. Outpatient Charges

Similarly, the proposed § 220.10(c) would establish the rule that a Medicare supplemental policy would be responsible for the Medicare Part B professional deductible amount (the first $100 per year), plus 20% of the outpatient charges for remaining services that are within the Medicare program's scope of services. The normal outpatient charges would apply with respect to services not covered by Medicare but within the scope of the supplemental policy. Under Medicare, after the deductible is met, the beneficiary cost share for outpatient care is 20%; this then becomes the responsibility of the Medicare supplemental plan. Thus, as an example based on this provision, in FY 1992, the amount that would be collected from a Medicare supplemental insurance plan for a normal visit, after the $100 deductible has been met, would be 20% of the $77 per visit cost, or $15.

The amount payable from a Medicare supplemental insurance plan for ancillary services and procedures ordered by an outside provider would be based on 20% of the charges for that service or procedure.

5. Medicare Claim not Required

In regard to claims procedures, another special rule is necessary to accomplish the outcome intended by Congress. The usual procedure for Medicare supplemental carriers is to accept claims only after the primary claim has been processed and paid by Medicare. In this way, the remaining liability, which becomes the responsibility of the supplemental policy, is apparent. However, a different process is required in section 1095 cases because there will be no claim to Medicare. Instead, the third party payer is statutorily required to accept the claim as involving Medicare covered services from an authorized provider.

This is not a significant imposition because the nature of the liability and the amount involved are readily apparent or determined, based on standard, pre-set per diem or per visit amounts and the standard Medicare inpatient deductible. Thus, the third party payer's liability is not a function of complex calculations that can only be made after action by the primary payer; it is straightforward and easily determined based on information presented with the claim.

6. Effective Date

Proposed § 220.10(e) reflects the statutory effective date of the expansion of the § 1095 authority to cover Medicare supplemental plans. The provision is similar to that mentioned above in connection with outpatient services.

C. Automobile Liability and No-Fault Automobile Insurance Policies

1. Extension of Collection Authority

In the recent statutory amendments, Congress amended the definition of "third party payer" to include policies issued by "an automobile liability insurance or no-fault insurance carrier" section 1095(h)(1). We propose to make a comparable amendment in proposed § 220.12. Most of the normal rules and procedures of part 220 will apply to these types of cases. However, as with Medicare supplemental plans, some special rules are needed in connection with automobile liability and no-fault policies.

2. Active Duty Members Covered

The first special rule is that the third party collection authority in automobile cases applies to active duty members. The usual rule of section 1095 is that active duty members are excluded. This is likely based on the fact that active duty members typically do not have other health insurance. However, under the Federal Medical Care Recovery Act, automobile liability cases have long followed a different rule, which Congress has now adopted for automobile cases under the third party collection program. Section 1095(i)(1). Thus, under proposed § 220.11(a), medical services provided in a facility of the Uniformed Services to an active duty member in cases in which a third party automobile liability insurance or no-fault insurance carrier is a responsible payer, the carrier has a duty to pay.

3. Relation to Federal Medical Care Recovery Act

Under the Federal Medical Care Recovery Act (FMCRA), Public Law 87–693 (42 U.S.C. 2651 *et seq.*), the United States has a right to collect in cases "creating a tort liability upon some third person." 42 U.S.C. 2651(a). In the recent amendments, Congress intended to expand collection authority to no-fault insurance cases and to bring both tort liability and no-fault cases under the framework of section 1095. However, in cases based on tort liability, Congress did not intend to reinvent a new body of law on determining tort liability. Tort liability is determined by state law. The House Armed Services Committee stated that the statutory amendment "would not affect the current tort liability recovery authority governed by the Medical Care Recovery Act." H. Rept. 101–665, p. 214. Similarly, the Appropriations Act general provision makes clear that in automobile insurance cases, "should tort liability be a basis for payment, the standards of the Federal Medical Care Recovery Act * * * shall apply." Public Law 101–511, section 8075.

Proposed § 220.11(b) sets forth our proposed interpretation that in tort liability cases, section 1095 and the FMCRA provide concurrent authority and that in such section 1095 cases, matters regarding the determination of tort liability shall be governed by the same substantive standards as would be applied under the FMCRA (i.e., state law). In addition, the Department of Justice FMCRA regulations, 28 CFR part 43, shall apply to these concurrent authority cases. The FMCRA, however, has no relevance to section 1095 collections involving no-fault insurance carriers. Finally, in both types of cases under section 1095, other matters and procedures, such as the amount billed, billing procedures, etc., are governed by part 220.

4. Effective Date

Proposed § 220.11(c) reflects the effective date enacted by Congress for the extension of section 1095 collection authority to automobile liability insurance and no-fault insurance carriers. It is the same as that referenced above for Medicare supplemental policies and outpatient services.

D. Inpatient Services

1. Rate Structure

DoD has historically used a single rate for reimbursement for various healthcare services. The rate has taken the form of a single per diem charge, per visit charge or procedure charge and has been based on the actual costs of rendering healthcare services as reflected in the Medical Expense and Performance Reporting System

(MEPRS). MEPRS is the standard expense reporting system for all fixed medical treatment facilities (MTFs) within the Department of Defense (DoD) and is the accepted source of healthcare information for Congress and offices and agencies of the Executive Branch. A single rate has the advantage of administrative simplicity and enables use by all MTFs including those with limited automated capabilities. Although a single rate based on the average cost of healthcare services results in some paying more than actual cost, others pay less and the assumption is that the over and under payments offset each other and collections approximate costs.

It is DoD's intent to transition to a multiple rate structure. The proposed multiple rates will result in charges that more closely approximate the actual costs of delivering specific categories of medical services, such as surgical care, obstetrical care, pediatric care, etc., while maintaining the simplicity still needed by most MTFs because of limited automated support. The movement to multiple rates is an interim step toward patient level rates based on a classification system such as Diagnosis Related Groups.

As with the single rate, data to support computation of multiple rates will be obtained from MEPRS data consolidated from all DoD MTFs. Cost data will be aggregated for each of the clinical services identified below and an average cost computed for each clinical service. This average cost shall form the basis for the rates established for reimbursement for healthcare services under the provisions of the TPC program. Patients treated in an intensive care unit any time during the 24 hour nursing period shall be charged the intensive care per diem charge in lieu of a charge for the clinical service to which the patient is currently assigned.

a. *Medical Care Services:* Includes Internal Medicine, Cardiology, Dermatology, Endocrinology, Gastroenterology, Hematology, Nephrology, Neurology, Oncology, Pulmonary and Upper Respiratory Disease, Rheumatology, Physical Medicine, Clinical Immunology, HIV III—Acquired Immune Deficiency Syndrome (AIDS), Infectious Disease, Allerge, and Medial Care Not Elsewhere Classified.

b. *Surgical Care Services:* Includes General Surgery, Cardiovascular and Thoracic Surgery, Neurosurgery, Ophthalmology, Oral Surgery, Otolaryngology, Pediatric Surgery, Plastic Surgery, Proctology, Urology, Peripheral Vascular, Trauma Service, Head and Neck Service and Surgical Care Not Elsewhere Classified.

c. Obstetrical and Gynecological Care.

d. Pediatric Care: Includes Pediatrics, Nursery, Adolescent Pediatrics and Pediatric Care Not Elsewhere Classified.

e. Orthopaedic Care: Includes Orthopaedics, Podiatry and Hand Surgery.

f. Psychiatric Care and Substance Abuse Rehabilitation.

g. Family Practice Care.

h. Burn Unit Care.

i. Medical Intensive Care/Coronary Care.

j. Surgical Intensive Care.

k. Neonatal Intensive Care.

l. Organ and Bone Marrow Transplants.

In accordance with current practice, the per diem rate for each of the above categories of care shall be subdivided into three categories: Hospital charges, Professional charges, and Ancillary charges.

The effective date for implementation of a multiple rate schedule shall be April 1, 1992.

E. Standard Billing Forms

DoD has elected to follow the generally accepted practice of standardizing the use of billing forms to prepare bills for both inpatient and outpatient medical care and services rendered to dependents and retirees. The MTF shall use the DD Form 2502, "Uniform Billing for Inpatient Hospital Costs" (UB82), to prepare bills for inpatient and outpatient care to third party payers. UB82 data element usage shall be consistent with the standards defined by the National Uniform Billing Committee. If updated versions of the UB82 become nationally accepted, the DoD will update their version of the form.

F. Definitions

Proposed § 220.12 would revise current § 220.10 in connection with the definition of several key terms used in part 220. These proposed definitions are straightforward and self-explanatory.

III. Regulatory Procedures

This proposed rule is not a major rule under Executive Order 12291. It would not have a impact of $100 million or other significant economic impacts. Similarly, the rule does not significantly affect a substantial number of small entities within the meaning of the Regulatory Flexibility Act. As stated above, for the most part, this proposed rule would simply incorporate into the third party collection program regulation the recently enacted statutory requirements and establish basic procedures for their implementation.

This is a proposed rule. We invite public comments on all matters covered by this proposal.

List of Subjects in 32 CFR Part 220

Claims, Health insurance, Medical records.

For the reasons stated in the preamble, 32 CFR part 220 is proposed to be amended as follows:

PART 220—COLLECTION FROM THIRD PARTY PAYERS OF REASONABLE COSTS OF HEALTHCARE SERVICES

1. The authority citation for part 220 is proposed to be revised to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 1095.

2. The heading for part 220 is revised as set forth above.

3. Section 220.1 is proposed to be revised to read as follows:

§ 220.1 Purpose and applicability.

This part implements the provisions of 10 U.S.C. 1095. In general, 10 U.S.C. 1095 establishes the statutory obligation of third party payers to reimburse the United States the reasonable costs of healthcare services provided by facilities of the Uniformed Services to most Uniformed Services medical care beneficiaries who are also covered by a third party payer's plan. This part establishes the Department of Defense interpretations and requirements applicable to all healthcare services subject to 10 U.S.C. 1095.

4. Section 220.2 is proposed to be amended by revising paragraph (a) to read as follows:

§ 220.2 Statutory obligation of third party payer to pay.

(a) *Basic rule.* Pursuant to 10 U.S.C. 1095(a)(1), a third party payer has an obligation to pay the United States the reasonable costs of healthcare services provided in any facility of the Uniformed Services to a Uniformed Services beneficiary who is also a beneficiary under the third party payer's plan. The obligation to pay is to the extent that the beneficiary would be eligible to receive reimbursement or indemnification from the third party payer if the beneficiary were to incur the costs on the beneficiary's own behalf.

* * * * *

5. Section 220.3 is proposed to be amended by revising paragraph (b)(1) to read as follows:

§ 220.3 Exclusions impermissible.

* * * * *

(b) *General rules.* * * *

(1) Express exclusions or limitations in third party payer plans that are inconsistent with 10 U.S.C. 1095(b) are inoperative.

* * * * *

6. Section 220.6 is proposed to be amended by revising paragraph (b) and adding a new paragraph (d) to read as follows:

§ 220.6 Certain payers excluded.

* * * * *

(b) *Supplemental plans.* CHAMPUS (see 32 CFR part 199) supplemental plans and income supplemental plans are excluded from any obligation to pay under 10 U.S.C. 1095.

* * * * *

(d) *Third party payer plans prior to November 5, 1990, in connection with outpatient care.* The provisions of 10 U.S.C. 1095 and this section concerning outpatient services are not applicable to third party payer plans:

(1) That have been in continuous effect without amendment or renewal since prior to November 5, 1990; and

(2) For which the facility of the Uniformed Services or other authorized representative of the United States makes a determination, based on documentation provided by the third party payer, that the policy or plan clearly excludes payment for such services. Plans entered into, amended or renewed on or after November 5, 1990, are subject to this section, as are prior plans that do not clearly exclude payment for services covered by this section.

7. Section 220.8 is proposed to be revised to read as follows:

§ 220.8 Reasonable costs.

(a) *Per diem rates—In general.* As authorized by 10 U.S.C. 1095(f)(1), the computation of reasonable costs for purposes of collections for inpatient hospital care under 10 U.S.C. 1095 and this part shall be based on per diem rates. The per diem charge shall be equal to the inpatient full reimbursement rate, as provided in paragraphs (b) and (c) of this section. Per diem rates shall be updated and published annually. For purposes of billing third party payers other than automobile liability and no-fault insurance carriers, per diem rates shall be subdivided into three categories:

(1) Hospital charges.

(2) Professional charges.

(3) Ancillary charges.

(b) *Unified per diem rates for care provided prior to April 1, 1992.* For inpatient hospital care provide prior to April 1, 1992, the computation of reasonable costs shall be based on the unified per diem full reimbursement rate for all clinical categories of hospital care. For purposes of this paragraph (and paragraph (c) of this section), charges for patients hospitalized before and after the April 1 start date shall be based on the determination method in effect for the respective periods of hospitalization.

(c) *Clinical groups per diem rates for care provided on or after April 1, 1992.* For inpatient hospital care provided on or after April 1, 1992, the computation of reasonable costs shall be based on the per diem full reimbursement rate applicable to the clinical category of services involved. Patients treated in an intensive care unit any time during the 24 hour nursing period shall be charged the intensive care per diem charge in lieu of a charge to the clinical service to which the patient is currently assigned. For this purpose, the clinical groups are as follows:

(1) Medical Care Services. This includes internal medicine, cardiology, dermatology, endocrinology, gastronenterology, hematology, nephrology, neurology, oncology, pulmonary and upper respiratory disease, rheumatology, physical medicine, clinical immunology, HIV III—Acquired Immune Deficiency Syndrome (AIDS), infectious disease, allergy, and medical care not elsewhere classified.

(2) Surgical Care Services. This includes general surgery, cardiovascular and thoracic surgery, neurosurgery, ophthalmology, oral surgery, otolaryngology, pediatric surgery, plastic surgery, proctology, urology, peripheral vascular, trauma service, head and neck service and surgical care not elsewhere classified.

(3) Obstetrical and Gynecological Care.

(4) Pediatric Care. This includes pediatrics, nursery, adolescent pediatrics and pediatric care not elsewhere classified.

(5) Orthopaedic Care. This includes orthopaedics, podiatry and hand surgery.

(6) Psychiatric Care and Substance Abuse Rehabilitation.

(7) Family Practice Care.

(8) Burn Unit Care.

(9) Medical Intensive Care/Coronary Care.

(10) Surgical Intensive Care.

(11) Neonatal Intensive Care.

(12) Organ and Bone Marrow Transplants.

(d) *Medical services and subsistence charges included.* Medical services charges pursuant to 10 U.S.C. 1078 or subsistence charges pursuant to 10 U.S.C. 1075 are included in the claim filed with the third party payer pursuant to 10 U.S.C. 1095. For any patient of a facility of the Uniformed Services who indicates that he or she is a beneficiary of a third party payer plan, the usual medical services or subsistence charge will not be collected from the patient to the extent that payment is received from the payer. Thus, except in cases covered by § 220.8(j), payment of the claim made pursuant to 10 U.S.C. 1095 will satisfy all of the third party payer's obligation arising from the inpatient hospital care provided by the facility of the Uniformed Services on that occasion.

(e) *Per visit rates.* As authorized by 10 U.S.C. 1095(f)(2), the computation of reasonable costs for purposes of collections for most outpatient services shall be based on an all-inclusive per visit rate. The per visit charge shall be equal to the outpatient full reimbursement rate and includes all routine ancillary services. A separate charge will be calculated for cases that are considered same day/ambulatory surgeries. These rates shall be updated and published annually.

(f) *Same day/ambulatory surgery rate.* The same day/ambulatory rate will be established pursuant to paragraph (c)(2) of this section.

(g) *Special rule for services ordered and paid for by a facility of the Uniformed Services but provided by another provider.* In cases where a facility of the Uniformed Services purchases ancillary services or procedures, from a source other than a Uniform Services facility, the cost of the purchased services will be added to the per diem or per visit rate. Examples of ancillary services and other procedures covered by this special rule include (but are not limited to): Laboratory, radiology, pharmacy, pulmonary function, cardiac catheterization, hemodialysis, hyperbaric medicine, electrocardiography, electroencephalography, electroneuromyography, pulmonary function, inhalation and respiratory therapy and physical therapy services.

(h) *Special rule for certain high cost ancillary services ordered by outside providers and provided by a facility of the Uniformed Services.* (1) If a Uniformed Services facility provides certain high cost ancillary services, prescription drugs or other procedures based on a request from a source other than Uniformed Services facility and are not incident to any outpatient visit or inpatient services, the reasonable cost will not be based on the usual per visit or per diem rate. Rather, a separate standard rate shall be established based on the cost of the particular high-cost service, drug or procedure provided.

(2) This special rule applies only to services, drugs or procedures having a cost of at least $100. The reasonable cost for the services, drugs or procedures to which this special rule applies shall be calculated and published annually.

(i) *Special rule for PRIMUS and NAVCARE clinics.* The Uniformed Services maintain certain contracts clinics called PRIMUS clinics by the Army and Air Force and NAVCARE clinics by the Navy. These are outpatient clinics which provide only primary care services. Services provided by these clinics are paid for by a facility of the Uniformed Service, of which the PRIMUS or NAVCARE clinic is considered operationally to be an extension. A separate, uniform per visit charge, representing the average cost to the Department of Defense for a visit in all PRIMUS and NAVCARE clinics shall be the basis of the charge for these clinics. This rate shall be calculated and published annually.

(j) *Special rule for former Public Health Service facilities.* In connection with the former Public Health Service facilities described in § 220.12(c), the computation of reasonable costs for purposes of collections under 10 U.S.C. 1095 and this part may differ from such computations under § 220.8. Reasonable costs for such facilities shall be determined by the Department of Defense based on approximate government costs for similar services under CHAMPUS.

(k) *Special rule for Partnership Program providers.* In cases in which the professional provider services are provided under the Partnership Program (or similar program operated under the authority of 10 U.S.C. 1096), the professional charges component of the total per diem rate will be deleted, as applicable, from the claim from the facility of the Uniformed Services. The third party payer will receive a claim for professional services directly from the individual healthcare provider, who is not an employee or agent of the Department of Defense. Such claims are not covered by 10 U.S.C. 1095 or this part, but are governed by statutory and regulatory requirements of the CHAMPUS program (see 32 CFR part 199). The same is true for professional services provided on an outpatient basis under the Partnership Program.

(l) *Alternative determination of reasonable costs.* Any third party payer that can satisfactorily demonstrate a prevailing rate of payment in the same geographic area for the same or similar aggregate groups of services that is less than the per diem or per visit rate (or other amount as determined under paragraphs (f) through (k) of this section) of the facility of the Uniformed Services may, with the agreement of the facility of the Uniformed Services (or other authorized representatives of the United States), limit payments under 10 U.S.C. 1095 to that prevailing rate for that aggregate category of services. The determination of the third party payer's prevailing rate shall be based on a review of valid contractual arrangements with other facilities or providers constituting a majority of the services for which payment is made under the third party payer's plan. This paragraph does not apply to cases covered by § 220.11.

8. Section 220.9 is proposed to be amended by revising paragraph (b) to read as follows:

§ 220.9 Rights and obligations of beneficiaries.

* * * * *

(b) *Availability of healthcare services unaffected.* The availability of healthcare services in any facility of the Uniformed Services will not be affected by the participation or nonparticipation of a Uniformed Services beneficiary in a health care plan of a third party payer. Whether or not a Uniformed Services beneficiary is covered by a third party payer's plan will not be considered in determining the availability of healthcare services in a facility of the Uniformed Services.

* * * * *

9. Section 220.10 is proposed to be redesignated as § 220.11 and revised and new §§ 220.10 and 220.12 are proposed to be added to read as follows:

§ 220.10 Special rules for Medicare supplemental plans.

(a) *Statutory obligation of Medicare supplemental plans to pay.* The obligation of a Medicare supplemental plan to pay shall be determined as if the facility of the Uniformed Services were a Medicare-eligible provider and the services provided as if they were Medicare-covered services. In general, Medicare supplemental plans are responsible for amounts comparable to beneficiary out-of-pocket costs under normal operation of the Medicare program.

(b) *Inpatient hospital care charges.* Notwithstanding the provisions of § 220.8 of this part, charges to Medicare supplemental plans for inpatient hospital care services provided to beneficiaries of such plans shall not, for any admission, exceed the sum of:

(1) The Medicare inpatient hospital deductible amount.

(2) The Medicare inpatient hospital coinsurance amount (if any); and

(3) 20 percent of the professional charge subdivision of the applicable per diem rate, multiplied by the number of days of care provided.

Only one deductible charge shall be made per hospital admission, except that in the case of an admission that occurs within 60 days of the discharge from a prior admission, no second deductible charge shall be made.

(c) *Outpatient care charges.* Notwithstanding the provisions of § 220.8, the payment responsibility of Medicare supplemental plans for outpatient care services shall be as follows:

(1) For outpatient services within the Medicare program's scope of services, the responsibility of Medicare supplemental plans shall be to pay the amounts charged pursuant to § 220.8, up to the beneficiary's annual Part B professional deductible amount.

(2) After reaching the beneficiary's annual Part B deductible, the amount for remaining outpatient services within the Medicare program's scope of services, the responsibility of Medicare supplemental plans shall be to pay 20 percent of the rates established pursuant to § 220.8.

(3) For outpatient services not within the Medicare program's scope of services but covered by the Medicare supplemental plan, the responsibility of Medicare supplemental plan shall be to pay the amounts charged pursuant to § 220.8.

(d) *Medicare claim not required.* Notwithstanding any requirement of the Medicare supplemental plan policy, a Medicare supplemental plan may not refuse payment to a claim made pursuant to this section on the grounds that no claim has previously been submitted by the provider or beneficiary for payment under the Medicare program.

(e) *Exclusion of Medicare supplemental plans prior to November 5, 1990.* This section is not applicable to Medicare supplemental plans:

(1) That have been in continuous effect without amendment since prior to November 5, 1990; and

(2) For which the facility of the Uniformed Services (or other authorized representative of the United States) makes a determination, based on documentation provided by the Medicare supplemental plan, that the plan agreement clearly excludes payment for services covered by this section. Plans entered into, amended or renewed on or after November 5, 1990, are subject to this section, as are prior plans that do not clearly exclude

payment for services covered by this section.

§ 220.11 Special rules for automobile liability insurance and no-fault automobile insurance.

(a) *Active duty members covered.* In addition to Uniformed Services beneficiaries covered by other provisions of this part, this section also applies to active duty members of the Uniformed Services. As used in this section, "beneficiaries" includes active duty members.

(b) *Effect of concurrent applicability of the Federal Medical Care Recovery Act.*

(1) *In general.* In many cases covered by this section, the United States has a right to collect under both 10 U.S.C. 1095 and the Federal Medical Care Recovery Act (FMCRA), Public Law 87–693 (42 U.S.C. 2651 et seq.). In such cases, the authority is concurrent and the United States may pursue collection under both statutory authorities.

(2) *Cases involving tort liability.* In cases in which the right of the United States to collect from the automobile liability insurance carrier is premised on establishing some tort liability on some third person, matters regarding the determination of such tort liability shall be governed by the same substantive standards as would be applied under the FMCRA including reliance on state law for determinations regarding tort liability. In addition, the provisions of 28 CFR part 43 (Department of Justice regulations pertaining to the FMCRA) shall apply to claims made under the concurrent authority of the FMCRA and 10 U.S.C. 1095. All other matters and procedures concerning the right of the United States to collect shall, if a claim is made under the concurrent authority of the FMCRA and this section, be governed by 10 U.S.C. 1095 and this part.

(c) *Exclusion of automobile liability insurance and no-fault automobile insurance plans prior to November 5, 1990.* This section is not applicable to automobile liability insurance and no-fault automobile insurance plans:

(1) That have been in continuous effect without amendment since prior to November 5, 1990; and

(2) For which the facility of the Uniformed Services (or other authorized representative of the United States) makes a determination, based on documentation provided by the third party payer, that the policy or plan clearly excludes payment for services covered by this section. Plans entered into, amended or renewed on or after November 5, 1990, are subject to this section, as are prior plans that do not clearly exclude payment for services covered by this section.

§ 220.12 Definitions.

(a) *Automobile liability insurance.* Automobile liability insurance means insurance against legal liability for health and medical expenses resulting from personal injuries arising from operation of a motor vehicle. Automobile liability insurance includes:

(1) Circumstances in which liability benefits are paid to an injured party only when the insured party's tortious acts are the cause of the injuries; and

(2) Uninsured and underinsured coverage, in which there is a third party tortfeasor who caused the injuries (i.e., benefits are not paid on a no-fault basis), but the insured party is not the tortfeasor.

(b) *CHAMPUS supplemental plan.* A CHAMPUS supplemental plan is an insurance, medical service or health plan exclusively for the purpose of supplementing an eligible person's benefit under CHAMPUS. (For information concerning CHAMPUS, see 32 CFR part 199.) The term has the same meaning as set forth in the CHAMPUS regulation (32 CFR 199.2).

(c) *Facility of the Uniformed Services.* A facility of the Uniformed Services means any medical or dental treatment facility of the Uniformed Services (as the term is defined in 10 U.S.C. 101(43)). Contract facilities such as Navy NAVCARE clinics and Army and Air Force PRIMUS clinics that are funded by a facility of the Uniformed Services are considered to operate as an extension of the local military treatment facility and are included within the scope of this program. Facilities of the Uniformed Services also include several former Public Health Services facilities that are deemed to be facilities of the Uniformed Services pursuant to section 911 of Public Law 97–99 (often referred to as "Uniformed Services Treatment Facilities" or "USTFs").

(d) *Healthcare services.* Healthcare services include inpatient, outpatient, and designated high-cost ancillary services.

(e) *Insurance, medical service or health plan.* Any plan or program that provides compensation or coverage for expenses incurred by a beneficiary for health or medical services and supplies. It includes:

(1) Plans or programs offered by insurers, corporations, organized health care groups or other entities.

(2) Plans or programs for which the beneficiary pays a premium to an issuing agent as well as those plans or programs to which the beneficiary is entitled as a result of employment or membership in, or association with, an organization or group; and

(3) Medicare supplemental insurance plans.

(f) *Medicare supplemental insurance plan.* A Medicare supplemental insurance plan is an insurance, medical service or health plan exclusively for the purpose of supplementing an eligible person's benefit under Medicare. The term has the same meaning as "Medicare supplemental policy" under Medicare program regulations (42 CFR 403.205).

(g) *No-fault insurance.* No-fault insurance means an insurance contract providing compensation for health and medical expenses relating to personal injury arising from the operation of a motor vehicle in which the compensation is not premised on who may have been responsible for causing such injury. No-fault insurance includes personal injury protection and medical payments benefits in cases involving personal injuries resulting from operation of a motor vehicle.

(h) *Third party payer.* A third party payer is an entity that provides an insurance, medical service or health plan by contract or agreement. It includes:

(1) State and local governments that provide such plans.

(2) Insurance underwriters and private employers (or employer groups) offering self-insured or partially self-insured and/or partially underwritten health insurance plans; and

(3) Automobile liability insurance and no-fault insurance carriers.

(i) *Third party payer plan.* A third party payer plan is any plan provided by a third party payer, but not an income supplemental plan or workers compensation plan.

(j) *Uniformed Services beneficiary.* For purposes of this part, a Uniformed Services beneficiary is any person who is covered by 10 U.S.C. 1074(b), 1076(a), or 1076(b). For purposes of § 220.11 (but not for other sections), a Uniformed Services beneficiary also includes active duty members of the Uniformed Services.

Dated: December 16, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 261 and 290

RIN 0596-AB02

Cave Resources Management

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement the Federal Cave Resources Protection Act of 1988 which requires the identification, protection, and maintenance, to the extent practical, of significant caves on National Forest System lands. The proposed rule would establish criteria to be considered in identification of significant caves. It would also integrate cave management into existing forest planning and management processes, protect cave resource information to prevent vandalism and disturbance of significant caves, and establish general prohibitions to protect cave resources from abuse and degradation. Public comment is invited on the proposed rule.

DATES: Comments must be received in writing by March 23, 1992.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2350), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

The public may inspect comments received on this proposed rule in the Office of the Director, Recreation, Cultural Resources, and Wilderness Management Staff, fourth floor, central wing, Auditors Building, 201 Fourteenth Street SW., Washington, DC between the hours of 8:30 a.m. and 4:30 p.m. Those wishing to inspect comments are encouraged to call ahead (202-205-1313) to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Susan Rutherford, Recreation, Cultural Resources, and Wilderness Management Staff, (202) 205-1313.

SUPPLEMENTARY INFORMATION:

Background

The Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301-4309; 102 Stat. 4546), hereafter referred to as the "Act", seeks to secure, protect, and preserve significant caves on Federal lands for the perpetual use, enjoyment, and benefit of all people. The Act also seeks to foster increased cooperation and exchange of information between governmental authorities and those who utilize caves located on Federal lands for scientific, educational, or recreational purposes. The Act establishes the policy that Federal lands be managed in a manner which protects and maintains, to the extent practicable, significant caves. Finally, the Act requires the Secretary of Agriculture to issue such regulations as he deems necessary to achieve the purposes of the Act on National Forest System lands. The regulations are required to include, but need not be limited to, criteria for the identification of significant caves.

This proposed rulemaking would establish criteria to be considered in the identification of significant caves located on National Forest System lands and for carrying out other provisions of the Act relating to protecting significant caves and fostering cooperation and exchange of information between governmental authorities and those who utilize caves.

An advance notice of proposed rulemaking was published in the Federal Register on March 3, 1989 (54 FR 9066), inviting comments on what should be included in a proposed rule, and particularly requesting suggestions as to criteria for determining what constitutes a significant cave. A total of nine comments were received in response to that notice: four from agencies of State government, two from business entities, two from individuals, and one from a Federal agency.

Respondents identified resource values that they felt should be considered in determining the significance of caves. These included the presence and type of water; archaeological, cultural, and historic resources; biological resources, including bat guano; recreational values; and the amount and degree of past use or evidence of vandalism. Others urged that the concept of "significance" be carefully circumscribed, that care should be taken to make sure that not all caves be labeled significant, that surface uses and particularly mineral exploration and development not be unduly restricted by cave regulations, and that access to significant caves not be limited to just special interest groups. Some respondents addressed the need for sufficient funding to maintain caves that are used for recreation; others suggested the establishment of a permit system for regulating access to significant caves, while others urged that access not be regulated at all.

All of these comments were carefully considered during the preparation of this proposed rulemaking, except those comments that addressed funding which is beyond the scope of this rulemaking.

Proposed Rule

During consideration of rules that might be needed to implement the Federal Cave Resources Protection Act, the Forest Service has carefully examined the provisions of the Act in the context of existing agency cave management policy as well as existing Federal regulations governing administration of National Forest System lands.

Prior to passage of the Act, the Forest Service managed caves in accordance with general authorities established by the Organic Act of 1897 (16 U.S.C. 551), the Antiquities Act of 1906 (16 U.S.C. 431 *et seq.*), the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa *et seq.*), the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), and the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*). Agency cave management policy focused on managing caves as nonrenewable resources to maintain their values; balancing surface resource management and cave use with protection of cave values; and incorporating cave management activities, considerations, and prescriptions in Forest Plans. These policies are generally consistent with the Act and will be revised and strengthened as necessary to accord with the Act and regulations issued pursuant to the Act.

There are currently no regulations for the determination of significant caves on National Forest System lands. The current mechanism for protecting cave resources from destruction and damage is found in 36 CFR part 261—Prohibitions, which sets forth acts and conduct prohibited on National Forest System lands and areas where persons are subject to civil or criminal penalty.

In considering implementing regulations, the Forest Service has placed a high priority on coordinating its approach with the U.S. Department of the Interior (USDI) agencies and on reaching agreement with USDI agencies on an interagency approach to identification of significant cave resources.

Based on its review of existing regulation and policy, consideration of comments received in response to the advance notice and consultation with other agencies and cave interests, the Forest Service proposes to establish a new part 290 and amend part 261 in title 36 of the Code of Federal Regulations for the issuing of cave resource protection rules. A discussion of the major provisions of the proposed rules follows.

Section 290.1—Purpose and Scope

This section states that the purpose of the rule is to implement the Act and, in conjunction with rules at part 261, to

provide the basis for managing and protecting cave resources on National Forest System lands.

Section 290.2—Definitions

This section is an alphabetical listing of terms and definitions used in the proposed rule. These definitions are needed for consistency in the interpretation of cave-related terms. The definitions came from a variety of sources including the Act, the existing policy in the Forest Service Manual, and from consultation with interested publics and other agencies. These definitions are essentially the same as those being proposed for adoption by USDI.

Section 290.3—Determining Significant Caves

The Secretary of Agriculture will cooperate and consult with the Secretary of the Interior to devise similar procedures for the listing of significant caves. Proposed procedures to nominate, evaluate, and determine significant caves for listing are available for public review and comment. A copy of the proposed procedures may be obtained by writing or calling the person listed under **FOR FURTHER INFORMATION.** A call for nominations will be published in a **Federal Register** notice.

For caves located on National Forest System lands, determination of significance would be made by the Regional Forester and incorporated into forest plans. Nomination and evaluation after the initial listing of significant caves would be accomplished on a continuing basis through forest plan amendments and revisions.

(a) *Criteria for the Identification of Significant Caves.* The identification of the criteria for determining significance is required by the Act. Six criteria are proposed to be considered in the determination of whether a cave should be listed as significant. These criteria are the cave's biota, cultural resources, hydrology, geologic/mineralogic/paleontologic resources, educational/scientific value, and recreational value. These proposed criteria reflect recommendations received in response to the advance notice of proposed rulemaking (54 FR 9066) and are essentially the same as those being proposed by USDI.

(b) *Records and documentation.* This paragraph would require a written document for each significant cave be made by the appropriate official and retained as a permanent record. The minimum documentation is described. A list of significant caves on National Forest System lands would be maintained as an appendix to individual forest plans. The specific location of cave(s) would be confidential pursuant to section 5 of the Act and under the provisions of § 290.4 of this rule.

Section 290.4—Confidentiality of Cave Information

In order to protect cave resources, the Forest Service shall not make the specific location of any significant cave available to the public under the Freedom of Information Act (5 U.S.C. 552) unless certain conditions are met. This section describes the extent of the information that would be confidential, conditions that must be met for the release of locational information, who would make the decision, and the informational requirements for gaining access to confidential data about significant caves or caves for which determination of significance is pending. Based upon the authority found at section 5 of the Act, decisions to disclose confidential cave information would be made at the sole discretion of the authorized officer, as identified in § 290.2 of this rule, and would not be subject to further administrative review or appeal.

The provisions of this section use essentially the same language as the statute except that confidentiality of cave location would be extended to caves which have been nominated but for which final determination is pending. This extension would ensure that cave information given to the Forest Service during the cave nomination process would remain confidential and the cave's resources would be protected until a determination of significance is made.

The Act limits access to confidential cave data to Federal and State governmental agencies, or to bona fide educational and research institutions. This section prescribes these limits but also includes individuals or organizations involved in assisting the Forest Service in cave management activities. This is proposed to strengthen and promote individual and organization cooperative efforts in management of caves on National Forest System lands.

To provide protection of cave resources as required by section 7(a) of the Act, the Forest Service also proposes to revise the general prohibitions at 36 CFR part 261, Subpart A as follows:

Section 261.2—Definitions

This section would be amended to include the definitions for "cave" and "cave resources".

Section 261.8—Fish and Wildlife

The prohibitions relating to fish and wildlife would be amended to prohibit altering the free movement of any animal or plant life into or out of a cave.

Section 261.9—Property

The prohibitions relating to property would be amended to prohibit certain activities affecting cave resources without a special use authorization.

Section 261.10—Occupancy and Use

The prohibitions against discharging firearms in existing areas would be expanded to prohibit discharging a firearm into or within any cave.

Subpart B of part 261 authorizes forest officers to prohibit specific acts by written, posted order. To protect cave resources, it is proposed to amend the rules of subpart B as follows:

Section 261.58—Occupancy and Use

When provided by an order, it would be prohibited to deposit any bodily waste in caves except into receptacles provided for that purpose.

Environmental Impact

Based on environmental analysis, this proposed rule would not have a significant effect on the human environment; therefore, an environmental impact statement will not be prepared. Copies of the environmental assessment and finding of no significant impact may be obtained by writing or calling the persons or offices listed under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT.**

Controlling Paperwork Burdens on the Public

The information required by the proposed rule constitutes new information collection requirements as defined in 5 CFR part 1320, Controlling Paperwork Burdens on the Public. In accordance with those rules and the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the Forest Service has requested Office of Management and Budget review and approval of the information requirements for submitting nominations for significant cave determinations and for requesting access to confidential cave information. The agency estimates that each person will spend an average of one hour preparing and submitting the information required to gain access to confidential cave information. Reviewers wishing to comment on the proposed information requirements in §§ 290.3 and 290.4 of this proposed rule are encouraged to send their written

views to the Forest Service and to: Regulatory Desk Officer (FS), Office of Information and Regulatory Affairs, Attention: Docket Library, room 3201 NEOB, Washington, DC 20503.

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12291 on Federal Regulations. It has been determined that this is not a major rule. The rule will not have an effect of $100 million or more on the economy, substantially increase prices or costs for consumers, industry, or State or local governments, nor adversely affect competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete in foreign markets. In short, little or no effect on the National economy will result from this rule, since this action consists primarily of technical and administrative changes to the rules to accommodate provisions of the Federal Cave Resources Protection Act.

Moreover, this rule has been considered in light of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), and it has been determined that this action will not have a significant economic impact on a substantial number of small entities.

Finally, this proposed rule has been considered in light of Executive Order 12630 which requires the preparation of a Takings Implication Assessment, or TIA, for agency actions which may present the risk of a taking of private property. Since this proposed rule governs the administration of federally owned lands, private property rights will not be affected and neither a TIA nor further analysis under the Executive Order is necessary.

List of Subjects

36 CFR Part 261

Crime, Law enforcement, and National forests.

36 CFR Part 290

Caves, National forests.

Therefore, for the reasons set forth in the preamble, it is proposed to amend chapter II of title 36 of the Code of Federal Regulations as follows:

1. Add a new part 290 to read as follows:

PART 290—CAVE RESOURCES MANAGEMENT

Sec.

Authority: 16 U.S.C. 4300–4309; 102 Stat. 4546.

§ 290.1 Purpose and scope.

The rules of this part implement the requirements of the Federal Cave Resources Protection Act (16 U.S.C. 4301–4309), hereafter the "Act". The rules apply to cave management on lands owned in fee title by the United States which are administered as part of the National Forest System. These rules, in conjunction with rules at 36 CFR part 261, provide the basis for identifying and protecting significant caves on National Forest System lands in accordance with the Act.

§ 290.2 Definitions.

For the purposes of this subpart, the terms listed in this section have the following meaning:

Authorized officer means the Forest Service employee delegated the authority to approve an action described in this part. Generally, this will be a Regional Forester, Forest Supervisor, or District Ranger depending on the scope and level of the duty to be performed.

Cave means any naturally occurring void, cavity, recess, or system of interconnected passages which occurs beneath the surface of the earth or within a cliff or ledge (including any cave resource therein, but not including any vug, mine tunnel, aqueduct, or other manmade excavation) and which is large enough to permit an individual to enter, whether or not the entrance is naturally formed or manmade. Such term shall include any natural pit, sinkhole, or other feature which is an extension of a cave entrance.

Cave resources mean any materials or substances occurring naturally in caves on National Forest System lands, such as animal life, plant life, paleontological resources, historical resources, sediments, minerals, speleogens, and speleothems.

Secretary means the Secretary of Agriculture.

Significant cave means a cave located on National Forest System lands that have been evaluated by the authorized officer and determined to have biotic, cultural, mineralogic, paleontologic, geologic, hydrologic, or other resources that have important value for scientific, educational, or recreational purposes.

Vug means a small cavity in a vein or in rock, usually lined with crystals.

§ 290.3 Determining significant caves.

(a) *Nominations for initial and subsequent listings.* The Secretary of Agriculture shall cooperate and consult with the Secretary of the Interior to devise a similar nomination process for the initial listing of significant caves and shall give public notice of the nomination process. Subsequent determinations shall be made through the forest plan amendment or revision process (36 CFR part 219).

(b) *Criteria for the Identification of Significant Caves.* A significant cave on National Forest System lands shall possess one or more of the following features, characteristics, or values, which are deemed by the authorized officer to be unusual, significant, or otherwise meriting special management.

(1) *Biota.* The cave provides habitat for cave-dependent organisms or animals. The cave contains species or subspecies of flora or fauna native to caves, that occur in large numbers or variety, are sensitive to disturbance, or are found on State or Federal sensitive, threatened, or endangered species lists.

(2) *Cultural.* The care contains historical properties or archeological resources (as described in 36 CFR 800.2) which are eligible for or listed on the National Register of Historic Places.

(3) *Geologic/Mineralogic/Paleontologic.* The cave possesses one or more of the following features:

(i) Fragile or outstanding examples of geologic or mineralogic features or features useful for study.

(ii) Deposits of sediments or features useful for evaluating past events.

(iii) Paleontologic resources with potential to contribute important scientific knowledge.

(4) *Hydrologic.* The cave is a part of a hydrologic system or contains water which is important to humans, biota, or development of cave features.

(5) *Recreational.* The cave provides or could provide recreational opportunities by virtue of challenge or scenic values.

(6) *Educational or Scientific.* The cave offers opportunities for educational or scientific use; or the cave is virtually in a pristine state, lacking evidence of human disturbance or impact; or the length, volume, total depth, pit depth, height, or similar measurements are worthy of note.

(c) *Records and documentation.* The authorized officer shall evaluate the criteria in (b) above in making a determination as to whether a cave is significant. If deemed significant, the authorized officer shall document the significant cave's location, resource values which justified the significant classification, and other pertinent data. This documentation shall be retained as a permanent record in accordance with the confidentiality provision in Section 5 of the Act. The listing of significant

caves for a forest will be maintained in that forest's management plan, except that information concerning the specific location of a significant cave may not be made available to the public unless the provisions of § 290.4 of this rule are satisfied.

§ 290.4 Confidentiality of cave information.

(a) No Forest Service employee shall disclose the specific location of a significant cave or a cave which has been nominated but final determination is pending, unless the authorized officer determines that disclosure will further the purposes of the Act and will not create a substantial risk of harm, theft, or destruction to cave resources.

(b) Notwithstanding subsection (a) above, the authorized officer may make confidential cave information available to employees of a Federal or State governmental agency having a direct programmatic interest in such information, or a bona fide educational or research institute having a demonstrated need for information pursuant to cave program activities. For the purposes of this Act, "employees of a Federal or State governmental agency" shall include individuals or organizations assisting with cave management activities under State or Federal Government auspices. To request information, such entities shall make a written request to the authorized officer which includes the following:

(1) A legal description of the area for which the information is sought;

(2) A statement of the purpose for which the information is sought; and

(3) Written assurances that the requesting party will maintain the confidentiality of the information and protect the cave and its resources.

(c) Decisions to permit or deny access to confidential cave information are made at the sole discretion of the authorized officer and are not subject to further administrative review or appeal under 5 U.S.C. 552 or 36 CFR part 217 or § 251.82.

§ 290.5 Information requirements.

The information required to obtain access to confidential cave information represents a new information requirement as defined in 5 CFR part 1320, Controlling Paperwork Burdens on the Public. In accordance with those rules and the Paperwork Reduction Act of 1980 as amended (44 U.S.C. 3507), the Forest Service has requested Office of Management and Budget review and approval of the information required to be addressed to obtain access to confidential cave information (§ 290.4). Preparation of a request to access confidential cave information is estimated to take one hour. Reviewers who wish to comment on this information requirement should submit their views to the Chief of the Forest Service at the address listed earlier in this document as well as to the Forest Service Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

PART 261—PROHIBITIONS

2. Revise the authority citation for part 261 to read as follows:

Authority: 16 U.S.C. 551; 16 U.S.C. 472; 7 U.S.C. 1011(f); 16 U.S.C. 1246(i); 16 U.S.C. 1133(c)–(d)(1); 16 U.S.C. 4306, 4307.

Subpart A—General Prohibitions

3. Revise § 261.2 by adding the following definitions alphabetically to read as follows:

§ 261.2 Definitions.

* * * * *

Cave means any naturally occurring void, cavity, recess, or system of interconnected passages which occurs beneath the surface of the earth or within a cliff or ledge (including any cave resource therein, but not including any vug, mine tunnel, aqueduct, or other manmade excavation) and which is large enough to permit an individual to enter, whether or not the entrance is naturally formed or manmade. Such term shall include any natural pit, sinkhole, or other feature which is an extension of a cave entrance.

Cave resources means any materials or substances occurring naturally in caves on National Forest System lands, such as animal life, plant life, paleontological resources, historical resources, sediments, minerals, speleogens, and speleothems.

* * * * *

4. Revise § 261.8 by adding by adding a new paragraph (e) to read as follows:

§ 261.8 Fish and Wildlife.

* * * * *

(e) Curtail the free movement of any animal or plant life into or out of a cave.

* * * * *

5. Revise § 261.9 by adding a new paragraph (j) to read as follows:

§ 261.9 Property.

* * * * *

(j) Excavating, damaging, or removing any cave resource from a cave without a special use authorization.

6. Revise paragraph (d) of § 261.10 to read as follows:

§ 261.10 Occupancy and use.

* * * * *

(d) Discharging a firearm or any other implement capable of taking human life, causing injury, or damaging property as follows:

(1) In or within 150 yards of a residence, building, campsite or occupied area:

(2) Across or on a Forest Development road or body of water adjacent thereto, or in any manner or place whereby any person or property is exposed to injury or damage as a result in such discharge: or

(3) Into or within any cave.

* * * * *

Subpart B—Prohibitions in Areas Designated by Order

7. Revise § 261.58 by adding a new paragraph (dd) to read as follows:

§ 261.58 Occupancy and use.

* * * * *

(dd) Depositing any body waste in caves except into receptacles provided for that purpose.

* * * * *

Dated: December 17, 1991.

George M. Leonard,

Associate Chief.

[FR Doc. 91–30599 Filed 12–20–91; 8:45 am]

BILLING CODE 3410-11-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM91–1]

Rules of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Proposed Rulemaking; Establishing Date for Additional Comments.

SUMMARY: The Commission has solicited suggestions from interested persons for improvements in the Commission's rules of practice. At the request of a party, the Commission is establishing January 29, 1992, as the date for additional comments.

DATES: Additional comments responding to the advance notice of proposed rulemaking must be submitted on or before January 29, 1992.

ADDRESSES: Comments and correspondence should be sent to Charles L. Clapp, Secretary of the Commission, suite 300, 1333 H Street, NW., Washington, DC 20268–0001 (telephone: 202/789–6840).

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268–0001 (telephone: 202/789–6820).

SUPPLEMENTARY INFORMATION: The Commission issued an advance notice of proposed rulemaking on June 14, 1991, inviting interested parties to submit comments on possible ways of improving the Commission's rules of practice. 56 FR 28850 (June 25, 1991). The Commission has granted two requests from the Postal Service for extensions of time for comments. 56 FR 4213–14 (Aug. 29, 1991); 56 FR 42713–14 (Oct. 29, 1991). The date that has been established for comments is December 30, 1991.

On December 11, 1991, Advertising Mail Marketing Association (AMMA) filed a motion requesting that the date for filing comments be extended to January 29, 1992. AMMA says that the time needed for parties' consideration of a report by the Institute of Public Administration (referenced by the Commission at 56 FR 56955 (Nov. 7, 1991)) warrants an extension of time.

The Commission understands the parties' requirements for adequate time to consider the issues involved in this proceeding. The comments will be more helpful if the parties give careful consideration when making their suggestions. A number of parties, including AMMA,[1] have already presented comments, which the Commission is using in its ongoing consideration of the issues involved in this proceeding. We believe that, independent of the parties' further evaluation and subsequent comments on the topics noted by AMMA in its motion for an extension, work may proceed on the suggestions already presented and those submitted by the December 30, 1991, deadline. The practical problem before us is to balance the need for further evaluation with the equally important need to make progress in this docket.

In order to give AMMA and other parties the time AMMA believes is necessary, we will accept additional comments through January 29, 1992. However, we strongly encourage all parties to observe the December 30, 1991, deadline. Parties who have filed comments before the January 29, 1992, deadline are welcome to file additional comments on that date.

[1] AMMA was called Third Class Mail Association when it filed Comments on October 25, 1991.

Issued by the Commission on December 17, 1991.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 91–30579 Filed 12–20–91; 8:45 am]

BILLING CODE 7710–FW–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 440 and 441

[MB–41–P]

RIN 0938–AF12

Medicaid Program; Required Coverage of Nurse Practitioner Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule—

- Requires State Medicaid agencies to furnish nurse practitioner services to categorically needy recipients;
- Gives State Medicaid agencies the option of furnishing nurse practitioner services to all medically needy recipients;
- Requires State Medicaid agencies to cover the services regardless of whether the nurse practitioner is under the supervision of, or associated with, a physician or other health care provider;
- Sets forth the requirements that a nurse practitioner must meet in order to qualify as a pediatric and family nurse practitioner; and
- Provides for the Medicaid agency to pay the nurse practitioner directly under an independent provider agreement or through the employing provider.

This proposed rule is necessary to confirm Medicaid regulations to the provisions of sections 1905(a)(21) and 1902(a)(10)(A) of the Social Security Act, as amended by section 6405 of the Omnibus Budget Reconciliation Act of 1989.

The purpose of the amendments is to ensure that nurse practitioner services are made available to all or most Medicaid recipients.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on February 21, 1992.

ADDRESSES: Mail written comments to the following address: Health Care Financing Administration, Department of Health and Human Services Attention: MB–41–P, P.O. Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept audio or video comments on facsimile (FAX) copies of comments. In commenting, please refer to file code MB–41–P. Comments received timely will be available for public inspection as they are received, beginning approximately 3 weeks after publication of this document, in room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Robert Wardwell, (301) 966–5659.

SUPPLEMENTARY INFORMATION:

I. Background

Title XIX of the Social Security Act (the Act) provides authority for States to establish Medicaid programs to provide medical assistance to needy individuals. Section 1902(a)(10) of the Act describes most of the groups of individuals to whom medical assistance may be provided under two broad classifications: The categorically needy (section 1902(a)(10)(A)) and the medically needy (section 1902(a)(10)(C)). The categorically needy classification is further divided in two subgroups: The mandatory categorically needy which, generally, States with Medicaid programs must cover (section 1902(a)(10)(A)(i)); and the optional categorically needy which States, at their option, may cover (section 1902(a)(10)(A)(ii)). Coverage of the medically needy group is also at States' option. Section 1905 of the Act defines medical assistance and specifies the services that constitute medical assistance.

Nurse practitioners are recognized as important contributors in meeting the nation's health care needs by (1) improving the quality and accessibility of health care services; (2) increasing the productivity of medical practices and institutions; and (3) lessening the load on physicians, particularly in underserved areas. These practitioners have been accepted in a wide range of settings under many different payment methods, have the potential to reduce health care costs, and play legitimate

roles in the health care system. Nurse practitioner services furnished by certified pediatric nurse practitioners (CPNPs) or certified family nurse practitioners (CFNPs) can be especially useful for certain groups for whom health care services are currently inaccessible or inadequate. These include—

- Persons living in medically underserved rural and inner-city areas, or in group homes or nursing homes;
- Well children and pregnant women; and
- The chronically ill.

II. Statutory Provisions

In order to increase the availability and accessibility of nurse practitioner services to eligible Medicaid recipients, Congress enacted on December 19, 1989 the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239). Specifically, section 6405 of Public Law 101–239 added section 1905(a)(21) to the Act, and made a conforming amendment to section 1902(a)(10)(A) of the Act, which requires that a State plan for medical assistance must provide services furnished by CPNPs and CFNPs to the categorically needy.

Nurse practitioner services are mandated for all categorically needy eligibility groups except certain groups of aged, blind and disabled, that is, qualified Medicare beneficiaries and qualified working disabled individuals who are only entitled to Medicare Part A and Part B premiums, deductible, and coinsurance, or only Part A or only Part B premiums.

In addition, under section 1902(a)(10)(C), States may provide nurse practitioner services to the medically needy. The medically needy option allows States to provide Medicaid to individuals and families who have too much income and, in some instances, too many resources to be eligible as categorically needy.

Section 6405 of Public Law 101–239 amended section 1905(a)(21) of the Act to require States to pay nurse practitioners for their services, whether or not those practitioners are under the supervision of, or associated with, a physician or other health care provider. The statute has the effect of requiring that States offer "direct" payment to CPNPs and CFNPs as one of the payment options. In other words, the State plan must provide that the CPNP and CFNP may enter into an independent provider agreement with the State Medicaid agency. As an alternative method of payment, the State plan must provide that the CPNP and CFNP be paid through the employing provider.

Payment levels for nurse practitioner services are not specifically provided for in Public Law 101–239 or in these proposed regulations. General rules on payment levels for Medicaid services, including those furnished by nurse practitioners are set forth in 42 CFR part 447—Payment for Services; therefore, additional regulations are not necessary.

States have previously had the option to pay nurse practitioners directly for their services. Most States have the legislative authority to implement this option; however, only a few States have actually done so. There are a few States that do not have the legislative authority or have restricted authority.

Under section 6405 of Public Law 101–239, States are required to offer nurse practitioners the option of direct payment with State Medicaid agencies for services furnished. These statutory provisions became effective July 1, 1990 and were implemented throughout manual instructions. The instructions were published in the State Medicaid Manual, Part 4, Services, in August 1990 (Transmittal Number 48). Therefore, since July 1, 1990, States have been required to offer direct payment to nurse practitioners for their services as the statute requires.

The House Budget Committee report (H.R. Rep. No. 247, 101st Cong., 1st Sess. (1989)) that accompanied Public Law 101–239 did not provide any further explanatory or clarifying information regarding required coverage of nurse practitioner services. There are no current Medicaid regulations specifying how States may pay for nurse practitioners' services.

III. Provisions of the Proposed Regulations

In accordance with sections 1902(a)(10)(A) and 1905(a)(21) of the Act, we would amend 42 CFR parts 440 and 441. Part 440 sets forth the general provisions for all services. Part 441 sets forth the requirements and limits applicable to particular services.

We propose to add a new § 440.166 to define "nurse practitioner services" as including those services that are furnished within the scope of practice authorized by State law or regulations, by a practitioner who meets the requirements for a CPNP or a CFNP, regardless of whether the nurse practitioner is under the supervision of, or associated with, a physician or other health care provider.

We would require a certified pediatric nurse practitioner to meet all of the following requirements:

- Be currently licensed to practice in the State as a registered professional nurse;
- In the State in which he or she furnishes the services, meets the State requirements for qualification of pediatric nurse practitioners or nurse practitioners; and
- Be currently engaged in a pediatric nurse practice within the scope of applicable State law.

We would require a certified family nurse practitioner to meet all of the following requirements:

- Be currently licensed to practice in the State as a registered professional nurse;
- In the State in which he or she furnishes the services, meets the State requirements for qualification of family nurse practitioners or nurse practitioners; and
- Be currently engaged in a family nurse practice within the scope of applicable State law.

We would give States discretion in defining "currently engaged." In this way, States can tailor the definition to suit their individual needs.

Section 1905(a)(21) of the Act authorizes the Secretary to define "certified pediatric nurse practitioner" and "certified family nurse practitioner". To expand access to children in all States, we have elected to consider a CPNP or a CFNP to be any nurse practitioner licensed by State law and engaged in pediatric or family practice, respectively, consistent with the State law. We believe these requirements would increase accessibility to health care while assuring the delivery of quality services.

Section 440.166(d) would permit a certified nurse practitioner to be paid by the Medicaid agency, under an independent provider agreement, or through the employing provider, as set forth in § 441.22(c).

Current manual instructions establish more stringent standards than these proposed regulations in that they require nurse practitioners to be certified by national accrediting bodies. Pediatric nurse practitioners must be certified by the American Nurses' Association (ANA) or by the National Board of Pediatric Nurse Practitioners and Associates (NBPNP). Family nurse practitioners must be certified by the ANA. Several States do not require accreditation by national groups in order to practice as a CPNP or CFNP. The ANA and the NBPNP would prefer that we require their certification of pediatric and family nurse practitioners. However, the proposed rule would give States the flexibility to decide whether to require that pediatric or family nurse practitioners be certified by national accrediting organizations such as the

ANA, or the NBPNP, or be recognized by the States' Boards of Nursing to ensure that the necessary, formal education and training from an accredited nursing program has been satisfactorily completed. This flexibility is offered since some States' Boards of Nursing specify certain criteria, other than testing, that nurse practitioners must meet to practice in the State.

We would revise § 440.210 to include nurse practitioner services, to the extent they are authorized under State law or regulations, as a required service for the categorically needy.

We propose to add a new § 440.225 to specify that any service that is not required as a mandatory service for the categorically needy (§ 440.210) or the medically needy (§ 440.220) may be furnished under the State plan at the State's option.

We would amend part 441, subpart A, which sets forth the requirements and limits applicable to particular services. We propose to amend § 441.10 to cite sections 1902(a)(10)(A) and 1905(a)(21) of the Act as the authority for furnishing nurse practitioner services. In addition, we propose to make technical changes to § 441.10 that are unrelated to the nurse practitioner provision.

We propose to add a new § 441.22 to require that, to the extent nurse practitioners are authorized to practice under State law or regulations, the State plan must meet the following requirements:

- Provide that nurse practitioner services are furnished to the categorically needy.
- Specify whether those services are furnished to the medically needy.
- Provide that the nurse practitioner—

  May enter into an independent provider agreement; or

  Be paid through the employing provider.

As noted above, the requirements of the law have been implemented through manual instructions (State Medicaid Manual, Part 4—Services). In accordance with the statute, States have been required to offer direct payment for nurse practitioner services since July 1, 1990. We will issue revised manual instructions if we publish these proposed requirements as a final rule.

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are notable to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "Dates" section of this preamble, and, if we proceed with the final rule, we will respond to the comments in the preamble of the final rule.

V. Information Collection Requirements

This rule contains no information collection requirements. Consequently, this rule need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980.

(44 U.S.C. 3501 et seq.)

VI. Regulatory Impact Statement

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed rule that meets one of the E.O. 12291 criteria for a "major rule"; that is, that would be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, physicians and all nurse practitioners who work on a consulting basis or are self-employed are considered to be small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 11029(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This proposed rule would require State Medicaid agencies to make direct payment available to CPNPs and CFNPs. This means that the State plan must provide that the nurse practitioner may enter into an independent provider agreement with the State Medicaid agency, for those services furnished which the CPNP and CFNP are legally authorized to perform under State laws or regulations, regardless of whether the nurse practitioner is under the supervision of, or associated with, a physician or other health care provider. This proposed rule is designed to increase access to certain services for children by mandating direct payment for CPNP and CFNP services even when they are not furnished under the direct supervision of a physician. This may happen particularly in rural and inner city areas where there is a shortage of doctors. We estimate that the impact on program costs due to this proposed rule would be minimal for several reasons. Initially, the total number of these types of nurse practitioners is small. In addition, we believe many of the nurse practitioners currently employed by physicians, hospitals, and clinics may not elect to bill directly for their services because States often pay nurse practitioners at a lower rate than they pay physicians for the same services, so the total fiscal effect on program costs appears to be negligible.

This proposed rules would not meet the $100 million criterion nor would it meet the other E.O. 12291 criteria. Therefore, this proposed rule is not a major rule under E.O. 12291, and an initial regulatory impact analysis is not required.

For similar reasons, we are not preparing analyses for either the RFA of section 1102(b) of the Act since we have determined, and the Secretary certifies, that this proposed rule would not result in a significant economic impact on a substantial number of small entities and would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

List of Subjects

42 CFR Part 440

Grant programs-health, Medicaid.

42 CFR Part 441

Family planning, Grant programs-health, Infants and children, Medicaid, Penalties, Prescription drugs, Reporting and recordkeeping requirements.

42 CFR chapter IV would be amended as follows:

PART 440—SERVICES: GENERAL PROVISIONS

A. Part 440 is amended as follows:

1. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart A—Definitions

2. A new § 440.166 is added to read as follows:

§ 440.166 Nurse practitioner services.

(a) *Definition of nurse practitioner services. Nurse practitioner services* means services that are furnished within the scope of practice authorized by State law or regulations, by a practitioner who meets the requirements for a certified pediatric nurse practitioner or a certified family nurse practitioner, regardless of whether the nurse practitioner is under the supervision of, or associated with, a physician or other health care provider.

(b) *Requirements for certified pediatric nurse practitioner.* The practitioner must be a registered professional nurse who meets all of the following requirements:

(1) Is currently licensed to practice in the State as a registered professional nurse.

(2) In the State in which he or she furnishes the services, meets the State requirements for qualification of pediatric nurse practitioners or nurse practitioners.

(3) Is currently engaged in a pediatric nurse practice within the scope of applicable State law.

(c) *Requirements for certified family nurse practitioner.* The practitioner must be a registered professional nurse who meets all of the following requirements:

(1) Is currently licensed to practice in the State as a registered professional nurse.

(2) In the State in which he or she furnishes the services, meets the State requirements for qualification of family nurse practitioners or nurse practitioners.

(3) Is currently engaged in a family nurse practice within the scope of applicable State law.

(d) *Payment for nurse practitioner services.* In accordance with § 441.22(c) of this subchapter, which concerns payment for nurse practitioner services, the Medicaid agency may pay for nurse practitioner services by paying the—

(1) Nurse practitioner under an independent provider agreement; or

(2) Provider employing the nurse practitioner.

Subpart B—Requirements and Limits Applicable to All Services

3. In § 440.210, paragraphs (a) introductory text and (a)(1) are revised to read as follows:

§ 440.210 Required services for the categorically needy.

(a) A State plan must specify that, at a minimum, categorically needy recipients are furnished the following services:

(1) The services defined in §§ 440.10 through 440.50, 440.70, and (to the extent nurse-midwives and nurse practitioners are authorized to practice under State law or regulation) the services defined in §§ 440.165 and 440.166, respectively.

* * * * *

4. A new § 440.225 is added to read as follows:

§ 440.225 Optional services.

Any of the services defined in subpart A of this part, that are not required under §§ 440.210 and 440.220 may be furnished under the State plan at the State's option.

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

B. Part 441 is amended as follows:

1. The authority citation for part 441 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart A—General Provisions

2. Section 441.10 is revised to read as follows:

§ 441.10 Basis.

This subpart is based on the following sections of the Act which state requirements and limits on the services specified or provide Secretarial authority to prescribe regulations relating to services:

Section 1102 for end-stage renal disease (§ 441.40).

Section 1138(b) for organ procurement organization services (§ 441.13(c)).

Section 1902(a)(10)(A) and 1905(a)(21) for nurse practitioner services (§ 441.22).

Section 1902(a)(10)(D) and 1907(a)(7) for home health services (§ 441.15).

Section 1903(i)(1) for organ transplant procedures (§ 441.35).

Section 1903(i)(5) for certain prescribed drugs (§ 441.25).

Section 1903(i)(6) for prohibition (except in emergency situations) of FFP in expenditures for inpatient hospital tests that are not ordered by the attending physician or other licensed practitioner (§ 441.12).

Section 1905(a)(4)(C) for family planning (§ 441.20).

Section 1905(a)(12) and (e) for optometric services (§ 441.30).

Section 1905(a)(17) and (m) for nurse-midwife services (§ 441.21).

Section 1905(a) (following (a)(18)), for prohibition of FFP in expenditures for certain services (§ 441.13).

3. A new § 441.22 is added to read as follows:

§ 441.22 Nurse practitioner services.

To the extent that nurse practitioners are authorized to practice under State law or regulations, the State plan must meet the following requirements:

(a) Provide that nurse practitioner services are furnished to the categorically needy.

(b) Specify whether those services are furnished to the medically needy.

(c) Provide that the nurse practitioner—

(1) May enter into an independent provider agreement and be paid directly through that agreement; or

(2) Be paid through the employing provider.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program).

Dated: August 23, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: October 23, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 91–30353 Filed 12–20–91; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91–65; Notice 1]

RIN 2127–AE15

Federal Motor Vehicle Safety Standards; Burnish Procedures and Recovery Requirements for Air Braked Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice responds to a petition for rulemaking submitted by Rockwell International requesting that the agency amend two aspects of Standard No. 121, Air Brake Systems: the adjustment procedure for brake burnish during road testing and the recovery requirement for truck and bus front brakes.

As to brake burnish, the proposal would allow up to three brake adjustment during the burnish procedure at intervals specified by the vehicle manufacture and at the conclusion of burnishing. The agency tentatively concludes that this amendment would

bring the road test burnish procedures closer to conditions found in actual vehicle usage, particularly given the anticipated use of a new generation of non-asbestos brake block which may experience lining swell early in the burnish tests.

As to the recovery requirement, the proposal would no longer require front axle brakes on trucks and buses to comply with the minimum pressure requirements related to the brake chamber. The agency tentatively concludes that this amendment would improve brake performance by removing a regulation that prevents the use of larger brakes on front axles.

DATES: *Comments.* Comments must be received on or before March 9, 1992.

Proposed Effective Date. The proposed amendments would become effective 30 days after publication of a final rule in the **Federal Register**.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Richard C. Carter, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–5274).

SUPPLEMENTARY INFORMATION:

Background

1. Burnish Requirements

Standard No. 121, Air Brake Systems (49 CFR 571.121), specifies road tests and dynamometer tests to measure whether air brakes on vehicles comply with the standard's performance requirements. Among the requirements applicable to vehicles with air brakes are "burnish" procedures conducted at the outset of both road testing and dynamometer testing. A burnish procedure consists of a series of brake applications (hereafter referred to as "snubs") that serve to break in the brakes on a new vehicle. The burnish procedures are intended to simulate the break-in of the brakes under normal driving conditions.

Under the current road test burnish procedures, two options, "a" and "b," are available until September 1, 1993 (see S6.1.8.1.) Brakes on vehicles manufactured on or after that date must be burnished under option"b." The burnish procedures in both options consist of 500 brake applications. In addition, both options specify that the brakes be adjusted during the burnish procedure, if necessary, in accordance with the manufacturer's recommendations, after the 125th, 250th, and 376th snubs and after burnish is completed.

There are two principal differences between the options. First, in option "a," the snubs are made to slow the vehicle to 20 miles per hour (mph) from speeds ranging from 40 mph to 60 mph, while all the snubs in option "b" slow the vehicle from 40 mph to 20 mph. Second, in option "a," the maximum temperature of the hottest brake on the vehicle is not permitted to exceed 550° F, while option "b" does not contain provisions about the maximum permissible brake temperature.

A dynamometer test to measure mechanical force is also specified in Standard No. 121 (see section S6.2.6). Before the dynamometer test, brakes are burnished by making 400 stops from 40 mph at a deceleration of 10 fsps. For these brake applications, the standard specifies that the "initial brake temperature" shall be within a stated range. "Initial brake temperature" is defined as "the average temperature of the service brakes on the hottest axle of the vehicle 0.2 mile before any brake application."

The current burnish procedures resulted from a rulemaking conducted in response to a petition from International Harvester (IH) that culminated in a final rule published on March 14, 1988 (49 FR 8191.) IH had petitioned the agency to amend the burnish procedures to take account of the differing characteristics of disc and drum brake systems. In considering new burnish procedures, the agency issued a notice of proposed rulemaking (NPRM) (48 FR 29560; June 27, 1983) and a supplemental notice of proposed rulemaking (SNPRM) (50 FR 21313; May 23, 1985) to amend the pre-road testing burnish procedures in Standard Nos. 105 and 121. The NPRM proposed that if the temperature of the hottest brake exceeded 550° F at a snub condition of 40 to 20 mph, then the remaining snubs would be run from 40 to 20 mph without regard to the brake temperature. The NPRM also proposed to specify brake adjustments at equal intervals during the burnish. For the road test burnishes, the adjustments would be made manually after the 125th, 250th, and 375th snubs, in accordance with the manufacturer's recommendation. For the dynamometer test burnishes, the brakes would be adjusted manually after the 100th, 200th, and 300th snubs. This proposal incorporated past agency interpretations and preambles stating that brake adjustments are permitted during burnish. Such adjustments are made to account for the effects of high temperature and for uneven wear on different brakes.

In response to comments and additional information available to the agency, the agency issued the SNPRM to set forth four alternative methods for amending the burnishing procedures. The approach that was ultimately adopted was based primarily on agency testing indicating that brakes on heavy duty vehicles should be burnished by 500 snubs slowing the vehicle from 40 to 20 mph, without regard to brake temperatures generated during the burnish. The agency again solicited comments about the need for manual adjustments, and proposed that such adjustments be made at specified intervals in accordance with the manufacturer's recommendations. In response to comments critical of specifying the adjustments at designated intervals, the agency explained that such an approach would result in more repeatable test results by standardizing the procedures to be followed by all parties.

The final rule adopted the SNPRM's proposal about brake adjustments, as proposed. In the final rule, the agency explained that standardizing intervals at which adjustments could be made would reduce a potential source of variability.

2. Brake Recovery During Dynamometer Testing

Section S5.4 specifies requirements that foundation brake assemblies must meet during dynamometer tests for retardation, brake power, and recovery. These requirements are specified to achieve the required deceleration. During brake recovery, the chamber pressure for non-antilock systems must be within the range of 85 to 20 psi. The purpose of the 85 psi requirement at the high end of the test specification is to ensure that the brakes can recover from the elevated test temperatures. These elevated temperatures can cause the brakes to fade and may also permanently alter the physical characteristics of the brake block material. This provision ensures that there has not been a permanent change in the physical condition of the brake block material which requires a higher pedal force or air pressure. The purpose of the 20 psi requirement at the low end of the test specification is to check for overly aggressive brake blocks with an unstable coefficient of friction resulting from the exposure to high temperature conditions.

Petition

On January 8, 1991, Rockwell International (Rockwell) submitted a petition for rulemaking, requesting that the agency amend two aspects of Standard No. 121: (1) The adjustment procedure for brake burnish during road testing, and (2) the recovery requirement for truck and bus front brakes.

In regard to brake burnish, Rockwell explained that it has experienced problems with dragging brakes during the early part of the burnish. The brake drag has resulted from overheating of the brake linings and drums to the extent that the test was stopped because of the concern due to excessive temperatures. These problems were caused by the automatic slack adjustors adjusting to the expanding hot drum and by the initial swell of the lining that occurs under testing. For Rockwell's brake design, which employs non-asbestos brake blocks, lining swell occurs early in burnish, typically around the 50th snub. While a manual adjustment would alleviate the problem of lining swell, the first manual adjustment is not allowed under the current requirements until the 125th snub. Accordingly, Rockwell requested that to permit readjustment at the time of the initial swell, the standard should not specify the exact snub numbers at which brakes can be manually adjusted. Instead, the requirements should allow four manual adjustments, if necessary. The petition did not request changes to the brake adjustment provisions in the dynamometer test.

In regard to brake recovery, Rockwell stated that the 20 psi requirement results in brake size and input power being limited because if a brake's performance level is too high, the pressure will be less than 20 psi. This limitation historically has had minor impact because recovery typically has fallen in the mid-range. However, this provision hampers the trend toward designing vehicles with larger front axle brakes, a trend which the agency has encouraged to improve brake performance. Rockwell requested that the standard be amended to exclude truck and bus front axle brakes from the minimum pressure requirements to allow use of larger brake sizes and input powers. The petitioner stated that the concern about early lock-up would generally not apply to front axle brakes because of the dynamic weight transfer to front axles during deceleration.

Agency Proposal

General

After conducting its initial review, NHTSA previously granted each part of the petition and, in this notice, has decided to propose amendments to Standard No. 121 to effectuate the petition.

First, the burnish requirements in the road test conditions and dynamometer test conditions would be amended to allow up to three brake adjustments during the burnish procedure, at intervals specified by the vehicle manufacturer, and a final adjustment at the conclusion of burnishing. This would modify the current burnish requirement which allows adjustments, but only at intervals specified in the regulation. The agency has also decided to propose amending the brake adjustment provisions for dynamometer tests to obtain consistency in its regulation, even though the petitioner did not request this change. This proposal also anticipates the potential need for future rulemaking on this issue.

Second, the brake recovery requirement would be amended to exclude front brakes of trucks and buses from the minimum pressure requirement. This proposal would remove a requirement that appears to impede the development of larger front brakes on heavy vehicles. Accordingly, this rulemaking would be consistent with the agency's policy of encouraging vehicles designed with front brakes that do a larger share of the total braking. This goal is explained in reports about the agency's testing of heavy vehicles at the Vehicle Research and Testing Center (VRTC) ("NHTSA Heavy Duty Vehicle Brake Research Program Report No. 1, "Stopping Capability of Air Braked Vehicles," (DOT HS 806 738, April 1985) and Report No. 9, "Stopping Distances of 1988 Heavy Vehicles.")

Burnish Procedure

As with all the Federal Motor Vehicle Safety Standards, Standard No. 121 is designed to evaluate the real-world experiences of motor vehicles. The agency established the burnish procedures to simulate the break-in that brakes get when they are initially used on the public roads. The 1988 amendments in large part succeeded in bringing the road test burnish procedure closer to conditions found in actual vehicle usage, especially for disc brakes.

After evaluating the Rockwell petition, the agency tentatively concludes that it may be necessary to modify the burnish procedures to account for the new generation of non-asbestos brake blocks. Unlike conventional asbestos brake blocks, these new types of brake blocks respond to elevated temperatures with increased swelling. One potential way to alleviate the problem of lining swell would be to allow manual brake adjustment during the burnish tests when swelling occurs. Accordingly, the agency is proposing to amend the adjustment schedule in S6.1.8.1 to permit adjustment at intervals specified by the vehicle manufacturer. The agency requests comments about the need for and appropriateness of this proposal.

In the 1988 rulemaking about burnish, NHTSA considered the timing for manual brake adjustment. At the time, the agency decided to specify the intervals at which manual adjustments could be made. Specifically, manual adjustments were permitted after the 125th, 250th, and 375th snubs and after completing the burnish, with each adjustment made in accordance with the manufacturer's recommendations. In specifying the adjustments at designated times, the agency was attempting to standardize the procedures to be followed by all parties. The agency was concerned that if it did not specify how often and when adjustment could be made, the standard might incorporate a potential source of variability.

In response to the problems identified by the Rockwell petitions, NHTSA has reevaluated the need to specify the intervals between snubs. The agency tentatively concludes that the standard need not specify the intervals at which such adjustments could be made. Specifying the adjustment intervals might provide somewhat greater uniformity among vehicles because all brakes that need adjustment during burnishing would be adjusted at the same time. However, such a procedure does not take into account the differences among brake systems, i.e., while the Rockwell system apparently needs adjustment early in the testing, a different system may need adjustments later in the process. Given that each brake system may need adjustment at different times (or not at all), the agency now tentatively concludes that it is not appropriate to specify a particular adjustment schedule for all brake designs. An alternative approach would be for the agency to propose the initial adjustment at an earlier point (e.g., the 50th snub) but retain the other adjustment intervals. The agency requests comments about how best to prescribe the adjustment schedule to allow flexibility to accommodate new brake designs, while ensuring that the agency can enforce the burnish requirements.

As mentioned above, Rockwell did not petition to change the adjustment cycle intervals specified in S6.2 "Dynamometer test conditions." In terms of adjustment during burnish, that

provision states that "The brakes shall be adjusted three times during the burnish procedure, after 100, 200, and 300 stops, and at the conclusion of the burnishing, in accordance with the manufacturer's recommendation" (see S6.2.6.) The agency notes that the temperature rise during burnishing is not so significant a problem during the dynamometer test because the large cooling fans used with that stationary test provide greater cooling than the road test's ambient wind conditions. Nevertheless, the agency has decided to propose amending the brake adjustment provisions for dynamometer tests to obtain consistency between its provisions about burnish. This proposal also anticipates the potential need for future rulemaking on this issue.

The agency is also proposing to change the definition for "initial brake temperature." While the present definition is appropriate for road testing situations, it is not appropriate for dynamometer testing because the dynamometer test is a stationary test fixture rather than an over-the-road vehicle. The present definition which refers to initial brake temperature, as the average temperature of the service brakes on the hottest axle of the vehicle 0.2 mile before any brake application, is being extended to include the equivalent of 0.2 miles in terms of time (i.e., 12 seconds) on the dynamometer. The time of 12 seconds is equivalent to the distance of 0.2 miles at sixty miles per hour. The agency welcome comments about this proposed modification to the definition of initial brake temperature.

Brake Chamber Pressure During Recovery

Section S5.4.3. currently specifies provisions about a vehicle's brake recovery during the dynamometer testing. Within two minutes after completing the brake power tests, the brake of a vehicle (other than either front axle brake of a truck-tractor) must be capable of making 20 consecutive stops from 30 mph at a deceleration rate of 12 ft/s/s at one minute intervals. During these stops, the service line air pressure needed to attain the deceleration rate must not be more than 85 lb/in ^{2} and not less than 20 lb/in ^{2} for a non-anti-lock brake system. The lower limit is 12 lb/in ^{2} for brakes controlled by an antilock system.

These pressure requirements of the brake chamber during recovery serve two purposes. The 85 psi requirement at the high end of the test specification ensures that brakes can recover from the elevated temperatures which cause brakes to fade. Such high temperatures may also permanently alter the physical characteristics of the brake block material. Accordingly, this test ensures that there has not been a permanent change in the brake block material's physical condition requiring a higher pedal force of air pressure. The 20 psi requirement at the low end of the specification checks for overly aggressive brake blocks with an unstable coefficient of friction resulting from exposure to high temperature conditions. One effect of the 20 psi requirement is to prevent the use of larger brakes on the front axle because such systems may go below the fixed lower pressure limit. This is so because an inverse relationship exists between air pressure and brake size (i.e., a lower air pressure such as one under 20 psi is capable of activating a larger brake system.)

After reviewing the situation in light of Rockwell's petition, the agency has decided to propose amending the requirement so that front axle brakes on trucks and buses would no longer have to comply with the minimum pressure requirements for the brake chamber during the recovery tests. Such an amendment would remove a regulation that may impede the use of larger brakes on front axles. In terms of brake performance, a major agency priority has been to encourage large front brakes, a measure which results in improved braking performance through the ability of the front brakes to compensate for the forward transfer of weight that occurs during braking. This agency policy is set forth in the VRTC test studies cited above and the agency's report to Congress entitled "Improved Brake Systems for Commercial Vehicles" (PB91–182600). This report may be examined at the agency's Technical Reference Office, room 5108, at no charge. It is available from the National Technical Information Service (NTIS), Springfield, VA 22161 for a small charge. Along with the agency's interest in encouraging larger front brakes, vehicle manufacturers are increasingly equipping their vehicles with larger front axles, bearings, and brakes to improve their vehicles' overall durability and performance. The agency requests comments about the need for this amendment.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has analyzed this proposal and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The main effect of the burnish proposal would be to provide burnish procedures that are more representative of the actual "break-in" that vehicle brakes typically receive while in use on the nation's roads, without favoring any particular braking system design. In particular, allowing adjustment consistent with the manufacturer's recommended adjustment schedule would more fully account for differences among brake systems. The main effect of the proposal about recovery requirements would be to remove a restriction that prevented the installation of better performing front brakes.

The proposed amendment of the burnish procedures would not result in any significant cost increase because it serves to provide greater flexibility to manufacturers during the burnish testing. The agency anticipates that the rulemaking's costs would be less than $1.00 per vehicle. The agency estimates that it would take approximately one and one half hours in labor time to conduct the test: One hour to set up the test by plumbing the test gauges into the front axle brake system and another ½ hour for running and recording data. At a labor cost of $30 per hour and the testing of four units for each axle design, the agency expects the cost to be approximately $180 per test. This cost would be allocated among 200 to 1000 vehicles with a given axle design, resulting in a cost of $0.18 to $0.90 per vehicle. The proposed amendment to the recovery requirements would result in a cost savings because front axle brakes on trucks and buses would no longer have to comply with certain requirements. The agency welcomes comments about the costs associated with the test procedure.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the proposed amendments would not have a significant economic impact on a substantial number of small entities. Few of the truck tractor manufacturers or brake manufacturers affected by this rulemaking are small entities. Some of the trailer manufacturers may qualify as small entities. However, as explained above, this rule would not significantly increase the production or certification costs for those manufacturers that do qualify as small entities. Small organizations and governmental jurisdictions which purchase these vehicles would not be

affected since the cost impacts of this rule would be minimal, as described above. Accordingly, a regulatory flexibility analysis has not been performed.

Executive Order 12612 (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 rule would not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws would be affected.

National Environmental Policy Act

Finally, the agency has considered the environmental implications of this proposed rule in accordance with the National Environmental Policy Act of 1969 and determined that the proposed rule would not significantly affect the human environment.

Public Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

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

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

PART 571—[AMENDED]

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

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.121 [Amended]

2. In § 571.121, would be revised by amending the following definition as follows:

* * * * *

Initial brake temperature means the average temperature of the service brakes on the hottest axle of the vehicle 0.2 mile before any brake application in the case of road tests, or 12 seconds before any brake application in the case of dynamometer testing.

* * * * *

§ 571.121, S5.4.3 [Amended]

3. In § 571.121, S5.4.3 would be revised to read as follows:

S5.4.3 *Brake recovery.* Except as provided in S5.4.3(a) and (b), starting 2 minutes after completing the tests required by S5.4.2, the brake of a vehicle shall be capable of making 20 consecutive stops from 30 mph at an average deceleration rate of 12 ft/s/s, at equal intervals of 1 minute measured from the start of each brake application. The service line air pressure needed to attain a rate of 12 ft/s/s shall be not more than 85 lb/in^2 and not less than 20 lb/in^2, for a brake not subject to the control of an antilock system, or 12 lb/in^2 for a brake subject to the control of an antilock system.

S5.4.3(a) Notwithstanding S5.4.3, neither front axle brake of a truck-tractor is subject to the requirements set forth in S5.5.3.

S5.4.3(b) Notwithstanding S5.4.3, neither front axle brake of a bus or a truck other than a truck-tractor is subject to the requirement set forth in S5.4.3 prohibiting the service line air pressure from being less than 20 lb/in^2 for a brake not subject to the control of an antilock system.

§ 571.121, S6.1.8.1 [Amended]

4. In § 571.121, S6.1.8.1 would be revised to read as follows:

S6.1.8.1 Vehicles manufactured before September 1, 1993 may be burnished according to the procedures set forth in S6.1.8.1(a) or S6.1.8.1(b) of this section, at the manufacturer's option. vehicles manufactured on or after September 1, 1993 shall be burnished according to the procedures set forth in S6.1.8.1(b) of this section.

(a) With the transmission in the highest gear appropriate for the series given in Table IV, make 500 brake applications at a deceleration rate of 10 fsps, or at the vehicle's maximum deceleration rate if less than 10 fsps, in the sequence specified. Except where an adjustment is specified, after each brake application, accelerate to the next speed specified and maintain that speed until making the next brake application at a point 1 mile from the initial point of the previous brake application. If a vehicle cannot attain any speed specified in 1 mile, continue to accelerate until the specified speed is reached or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever occurs first. If during any of the brake applications specified in Table IV, the hottest brake reaches 550 °F, make the remainder of the 500 brake applications from that snub condition, except that a higher or lower snub condition shall be used as necessary to maintain an after-stop temperature of 500 °F ± 50 F. However, if at a snub condition of 40 to 20 mph, the temperature of the hottest brake exceeds 550 °F, make the remainder of the 500 brake applications from that snub condition, without regard to brake temperature. The brakes may be adjusted up to three times during the burnish procedure, at intervals specified by the vehicle manufacturer, and may be adjusted at the conclusion of the burnishing, in accordance with the manufacturer's recommendation. Any automatic pressure limiting valve is in use to limit pressure as designed, except that any automatic front axle pressure limiting valve is bypassed if the temperature of the hottest brake on a rear axle exceeds the temperature of the hottest brake on a front axle by more than 125 °F. A bypassed valve is reconnected if the temperature of the hottest brake on a front axle exceeds

the temperature of the hottest brake on a rear axle by 100 °F or more.

TABLE IV

Series	Snubs	Snub conditions (Highest speed indicated, miles per hour)
1	175	40–20.
2	25	45–20.
3	25	50–20.
4	25	55–20.
5	250	60–20.

(b) With the transmission in the highest gear appropriate for a speed of 40 mph, make 500 snubs between 40 mph and 20 mph at a deceleration rate of fsps, or at the vehicle's maximum deceleration rate if less than 10 fsps. Except where an adjustment is specified, after each brake application accelerate to 40 mph and maintain that speed until making the next brake application at a point 1 mile from the initial point of the previous brake application. If the vehicle cannot attain a speed of 40 mph in 1 mph, continue to accelerate until the vehicle reaches 40 mph or until the vehicle has traveled 1.5 miles from the initial point of the previous brake application, whichever occurs first. An automatic pressure limiting valve is in use to limit pressure as designed. The brakes may be adjusted up to three times during the burnish procedure, at intervals specified by the vehicle manufacturer, and may be adjusted at the conclusion of the burnishing, in accordance with the manufacturer's recommendation.

§§ 571.121, S6.2.6 [Amended]

5. In § 571.121, S6.2.6 would be revised to read as follows:

S6.2.6 Brakes are burnished before testing as follows: Place the brake assembly on an inertia dynamometer and adjust the brake as recommended by the brake manufacturer. Make 200 stops from 40 mph at a deceleration of 10 fsps, with an initial brake temperature on each stop of not less than 315 °F and not more than 385 °F. Make 200 additional stops from 40 mph at a deceleration of 10 fsps with an initial brake temperature on each stop of not less than 450 °F and not more than 550 °F. The brakes may be adjusted up to three times during the burnish procedure, at intervals specified by the vehicle manufacturer, and may be adjusted at the conclusion of the burnishing, in accordance with the manufacturer's recommendation.

Issued on: December 16, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91–30493 Filed 12–20–91; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB73

Endangered and Threatened Wildlife and Plants; Proposed Rule for Five Plants and Morro Shoulderband Snail from Western San Luis Obispo County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes endangered status pursuant to the Endangered Species Act of 1973, as amended, (Act), for five plants and one land snail: *Arctostaphylos morroensis* (Morro manzanita), *Cirsium fontinale* var. *obispoense* (Chorro Creek bog thistle), *Clarkia speciosa* ssp. *immaculata* (Pismo clarkia), *Eriodictyon altissimum* (Indian Knob mountainbalm), *Suaeda californica* (California sea-blite), and Morro shoulderband snail (*Helminthoglypta walkeriana*). Morro manzanita and Indian Knob mountainbalm inhabit the maritime chaparral community primarily between the cities of Morro Bay and Arroyo Grande in San Luis Obispo County, California. Chorro Creek bog thistle is restricted to seep areas in serpentine soils primarily around San Luis Obispo. Pismo clarkia is found on pockets of dry sandy soils between San Luis Obispo and Arroyo Grande. California sea-blite is restricted to the upper intertidal marsh zone around Morro Bay. The five plant taxa are threatened by one or more of the following: Residential development, road maintenance activities, competition from alien plants, recreational activities, grazing, water diversions, dredging, and perhaps stochastic (i.e., random) extinction by virtue of the small, isolated nature of the remaining populations. Morro shoulderband is limited to pre-Flandrian sand dunes at the southern end of Morro Bay and is threatened by destruction of habitat, competition with the common garden snail, and perhaps stochastic extinction. The proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for the plants and the snail. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by February 21, 1992. Public hearing requests must be received by February 6, 1992.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Office Supervisor, U.S. Fish and Wildlife Service, Ventura Office, 2140 Eastman Avenue, suite 100, Ventura, California, 93003. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Steven Chambers, Office Supervisor, at the above address or at 805–644–1766 (commercial) or 983–6040 (FTS).

SUPPLEMENTARY INFORMATION:

Background

Morro manzanita, Chorro Creek bog thistle, Pismo clarkia, Indian Knob mountainbalm, California sea-blite, and Morro shoulderband are endemic to the western portion of San Luis Obispo County, California. Morro manzanita and Indian Knob mountainbalm occur as components of several coastal plant communities, referred to as central coastal scrub, central maritime chaparral, and coast live oak woodland by Holland (1986). Chorro Creek bog thistle is found primarily on more inland sites, near seeps associated with serpentine soils. Pismo clarkia is a component of grasslands that form a mosaic with chaparral and oak woodlands. California sea-blite is found in association with the northern coastal salt marsh community (Holland 1986) around Morro Bay. Morro shoulderband is found within the central coastal dune scrub community (Holland 1986) on the south end of Morro Bay. These communities have also been described by Holland and Keil (1990) and by MacDonald, Griffin, Hanes, Barbour and Johnson, and Mooney in Barbour and Major (1988).

The natural communities of western San Luis Obispo County have undergone a number of changes resulting from both human-caused activities and natural occurrences. The rapid urbanization of urban communities around Morro Bay, the San Luis Obispo area, and the Pismo Beach area has already eliminated the proposed plants and the snail in portions of their ranges. Starting in the 1940's, the configuration of Morro Bay itself was altered by construction of a breakwater that resulted in the connection of Morro Rock to the mainland north of the Bay, construction

of a marina, the deposition of sediments from two watersheds (Los Osos Creek and Chorro Creek), and the dredging of waterways within the Bay (Gerdes *et al.* 1974). Since 1935, the spit that envelops the southern portion of the Morro Bay has also been displaced 90 feet landward as a result of windblown sand into the interior of the Bay (Josselyn *et al.* 1989). Further urban development and other anthropogenic activities such as recreation, grazing, and utility construction threaten the remaining occurrences of these plants and the snail.

Discussion of the Six Species Proposed for Listing

Morro manzanita (*Arctostaphylos morroensis*) was first described by Albert E. Wieslander and Beryl O. Schreiber in 1939 (Wieslander and Schreiber 1939) based on a specimen collected in Hazard Canyon, south of Morro Bay, which is now within the boundaries of Montana de Oro State Park. This name has been conserved by McMinn (1939), Abrams (1951), Munz (1968), and Hoover (1970).

This handsome shrub of the heath family (Ericaceae) reaches 1.5 to 4 meters (m) (5 to 13 feet (ft)) high. Morro manzanita has oblong to ovate leaves that are grey-green to olive-green and 2.5 to 4 centimeters (cm) (1 to 1.5 inches (in)) long, with petioles 2 to 6 millimeters (mm) (0.08 to 0.20 in) long. The white to pinkish flowers are 5 to 8 mm (0.2 to 0.3 in) long and form orange-brown fruits 8 to 13 mm (0.3 to 0.5 in) in diameter. Morro manzanita is distinguished from other manzanitas in the area by the following characters: The bark of the trunk is a shaggy grey to brown and the leaf blades are cuneate to rounded or truncate at the base, with the lower surface paler and usually somewhat tomentose (bearing short, wooly hairs). Occasional specimens of Morro manzanita have exhibited an auriculate (ear-shaped appendage) leaf base and a leaf petiole short to lacking—characters more representative of the rare Arroyo de la Cruz manzanita (*Arctostaphylos cruzensis*). Recent work by Holland *et al.* (1990) has clarified the distinctness of the taxon and its relation to Arroyo de la Cruz manzanita.

The distribution of Morro manzanita has been tied to the presence of soils derived from ancient sand dunes, referred to as Baywood fine sands, which were deposited during the Pleistocene epoch when sea levels 300 feet lower than current levels allowed large volumes of sand to blow inland into the Los Osos Valley. Over half of the area covered by Baywood fine stands have been subject to urban development, primarily by the communities of Los Osos, Baywood Park, and Cuesta-by-the-Sea on the south and east sides of Morro Bay. The total number of individuals of Morro manzanita was recently estimated to be 2,000 (McLeod 1991).

Chorro Creek bog thistle (*Cirsium fontinale* var. *obispoense*) is one of two rare subspecies of *Cirsium fontinale*, which was first described by Edward L. Greene in 1886 as *Cnicus fontinalis*. Six years later, he transferred the plant to the genus *Carduus*, and in 1901 Jepson transferred the plant to the genus *Cirsium*. In 1938, J.T. Howell described the var. *obisopense* based on plants collected at Chorro Creek 2 years earlier (Abrams and Ferris 1960).

Chorro Creek bog thistle is a rugged short-lived perennial herb of the aster family (Asteracease). First year plants form a rosette that reaches up to a meter (3.3 ft) in diameter; in the second or third year, the plant produces a branching stalk up to 2 m (6.6 ft) in height and bearing numerous heads of whitish to pinkish-lavender tinged flowers. It is separated from other thistles that occur in the area on the basis of its nodding flower heads and glandular hairs on the leaves.

Chorro Creek bog thistle is restricted to open seep areas on serpentine soil outcrops. It is known from only eight locations; seven are to the south and west of San Luis Obispo, and one is 30 miles to the northwest near San Simeon. The type locality was surveyed for Chorro Creek bog thistle in 1985; the thistle was not located and is assumed to be extirpated, probably by cattle grazing (Rocco 1981). Extant populations are threatened by grazing and proposed water diversions, and may also be declining due to several years of drought conditions. At the time of the last surveys in 1986, the total number of individuals numbered less than 3,000 (Friedman 1987).

Indian Knob mountainbalm (*Eriodictyon altissimum*) was first collected on Indian Knob by Philip V. Wells in 1960, and was described by him 2 years later (Wells 1962). This diffusely branched evergreen shrub of the waterleaf family (Hydrophyllaceae) reaches a height of 2 to 4 m (6.6 to 13 ft). The sticky leaves are long (6 to 9 cm (2.4 to 3.5 in)) and narrow (2 to 4 mm (0.08 to 0.20 in)); the lavender flowers (1.1 to 1.5 cm (0.4 to 0.6 in) long) are arranged in coiled clusters, and produce numerous tiny (0.4 mm (0.02 in) long) seeds. As with other fire-adapted chaparral plants, Indian Knob mountainbalm produces new growth primarily from rhizomatous suckers. Only one other narrow-leaved *Eriodictyon* occurs in southern California; *E. angustifolium* occurs in the New York Mountains in the eastern Mojave Desert.

Indian Knob mountainbalm occurs within coastal maritime chaparral and oak woodlands and co-occurs with Morro manzanita in several locations. Vanderwier (1987) did a detailed study of the chaparral and woodland communities at the type locality for Indian Knob mountainbalm. Only six stands are known, which range from the south end of Morro Bay to Indian Knob, between San Luis Obispo and Arroyo Grande. Because the rugged character of the terrain in the Irish Hills (between Morro Bay and Indian Knob) has precluded extensive botanical surveying, there is the possibility that other strands of Indian Knob mountainbalm may occur in this area. With the discovery of an extension of the stand at Indian Knob 2 years ago, the largest known stand comprises 350 individuals (Lynn Dee Oyler, Botanical Consultant, pers. comm., 1991). Currently, the total number of individuals of Indian Knob mountainbalm is less than 600 (Bittman 1985; Oyler, pers. comm., 1991).

Pismo clarkia (*Clarkia speciosa* ssp. *immaculata*), a member of the four o'clock family (Onagraceae), was first collected in Carpenter Canyon by Frank Lewis and Margaret Ensign Lewis in 1947. They published a monograph on the genus *Clarkia* in 1955 (Lewis and Lewis 1955) in which they described the plant for the first time. The plant is an erect or decumbent herb, with branched stems up to 5 decimeters (dm) long; the petals are white or cream-colored at the base, streaking into pinkish or reddish-lavender in the upper part and 1.5 to 2.5 cm (0.6 to 1.0 in) long. It is distinguished from the subspecies *speciosa* by its larger flowers and the pattern of petal color. In his flora of San Luis Obispo County, Hoover (1970) notes the geographical separation between Pismo clarkia and the subspecies, the latter which occurs north of San Luis Obispo from the Santa Lucia range to the Salinas River drainage.

Pismo clarkia is found on pockets of dry sandy soils, possibly ancient sand dunes, within grassy openings in chaparral and oak woodlands. The 4 extant populations are located between San Luis Obispo and Arroyo Grande and together support less than 3,000 individuals of Pismo clarkia (Myers 1987). At least one historical population has been extirpated by residential development, and extant populations are threatened by continuing

development, road maintenance activities, and possibly grazing.

California sea-blite (*Suaeda californica* is a succulent-leaved perennial plant of the goosefoot family (Chenopodiaceae). It was first described by Sereno Watson in 1874 based on a collection made in the salt marshes of San Francisco Bay. Amos Heller published the name *Dondia californica* in 1898, recognizing the genus name that had been used by Michel Adanson in 1763; however, the name *Suaeda* has been conserved by the International Rules of Nomenclature (Abrams 1944). Philip Munz (1959) recognized several previously recognized taxa as subspecies of *Suaeda californica*. With this treatment, he described the range of California sea-blite as extending from San Francisco Bay south to Lower (Baja) California. Ferren and Whitmore (1983) noted that much of what had been identified as *Suaeda californica* in southern California and Baja California, Mexico, is a distinct taxon, which they named *Suaeda esteroa*. While both species occur in the upper intertidal zone, *Suaeda californica* is a shrub with radially symmetrical flowers belonging to the section *Limbogermen*, and *Suaeda esteroa* is an herbaceous perennial with bilaterally symmetrical flowers belonging to the section *Heterosperma*. Further study revealed that the only extant populations of *Suaeda* that resemble the type specimen of *Suaeda californica* are those that occur in the vicinity of Morro Bay. In his pending revision of the genus, Ferren will restore full species status to the taxon to *Suaeda californica*.

California sea-blite is currently known to occur at three locations, all within Morro Bay, where it is restricted to the upper intertidal zone within coastal marsh habitat. The shrubs are discontinuously distributed in a narrow band around the Bay adjacent to other marsh plants including pickleweed (*Salicornia* sp.), saltgrass (*Distichlis* sp.), rush (*Juncus acutus*), Jaumea (*Jaumea carnosa*), and the federally endangered salt marsh birds-beak (*Cordylanthus maritimus* ssp. *maritimus*). Field surveys are planned for the spring of 1992 and will include the marsh at Elkhorn Slough in Monterey Bay, the only other location considered to be potential habitat for California sea-blite left on the coast of California (Dirk Walters, Botanical Consultant, pers. comm., 1991). Currently, the known extent of California sea-blite comprises less than 500 individuals.

The Morro shoulderband (*Helminthoglypta walkeriana*) is a member of the land snail family (Helminthoglyptidae). The Morro shoulderband was first described in 1911 as *Helix walkeriana* by Henry Hemphill (Hemphill 1911) based on collections he made "Near Morro, California"; he also described a subspecies of *Helix walkeriana*, *Helix* var. *morroensis*, from "near San Luis Obispo City" based on sculptural features in the shell (Roth 1985). Field (1930) transferred the taxon to the genus *Helminthoglypta*.

The Morro shoulderband appears to be most closely related to the surf shoulderband (*Helminthoglypta fieldi* Pilsbry, 1930), which occurs in coastal dune habitats south of the San Luis Range to Point Arguello and therefore is disjunct from the morro shoulderband. Shell features used to separate the two species include papillation over most of the body whorl, a more domed spire, and half or more of the umbilicus being covered by the apertural lip in the Morro shoulderband (Roth 1985).

The Morro shoulderband co-occurs with another helminthoglyptid snail, the Big Sur shoulderband (*Helminthoglypta umbilicata* Pilsbry, 1897). Its more globose shape and incised spiral grooves distinguish the Morro shoulderband from this species (Roth 1985). The brown garden snail (*Helix aspersa*) also occurs with the Morro shoulderband, but has a marbled pattern on its shell that distinguishes it from the Morro shoulderband, which has a single, narrow band.

Morro shoulderband is restricted to sandy soils of coastal dune and coastal sage scrub communities near Morro Bay. Surveys by Roth in 1985 resulted in the discovery of only six live Morro shoulderbands, while empty shells were much more numerous. While cautioning that not enough data were available to make a more accurate estimate, Roth speculated that at that time, there may have been as few as several hundred individuals in the remaining population of Morro shoulderband.

Previous Federal Action

Federal government actions on three of the five plants began as a result of section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975, and included *Arctostaphylos morroensis* as threatened, *Eriodictyon altissimum* as endangered, and *Clarkia speciosa* ssp. *immaculata* as endangered. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3) of the Act) and its intention thereby to review the status of the plant taxa named therein. The above 3 taxa were included in the July 1, 1975 notice. On June 16, 1976, the Service published a proposal in the **Federal Register** (42 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. *Eriodictyon altissimum* was included in the June 16, 1976, **Federal Register** document.

General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of the June 6, 1976, proposal, along with four other proposals that had expired.

The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480). This notice included *Arctostaphylos morroensis*, *Clarkia speciosa* ssp. *immaculata*, and *Eriodictyon altissimum* as category 1 species, and *Cirsium fontinale* var. *obispoense* as a category 2 species. Category 1 species are those for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals, while category 2 species are those for which data in the Service's possession indicate listing is possibly appropriate, but for which substantial data on biological vulnerability and threats are not currently known or on file to support proposed rules. On November 28, 1983, the Service published in the **Federal Register** a supplement to the Notice of Review (48 FR 53640); the plant notice was again revised September 27, 1985 (50 FR 39526). *Arctostaphylos morroensis* and *Eriodictyon altissimum* were included in both of these revisions as category 1 species; *Clarkia speciosa* ssp. *immaculata* and *Cirsium fontinale* var. *obispoense* were included as category 2 species. On February 21, 1990, (55 FR 6184) the plant notice was again revised, and *Arctostaphylos morroensis*, *Clarkia speciosa* ssp. *immaculata*, and *Eriodictyon*

altissimum were all included as category 1 species, and *Cirsium fontinale* var. *obispoense* was included as a category 2 species.

Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Eriodictyon altissimum, Arctostaphylos morroensis,* and *Clarkia speciosa* ssp. *immaculata,* because the 1975 Smithsonian report had been accepted as a petition. In October of 1983, 1984, 1985, 1986, 1987, 1988, 1989, and 1990, the Service found that the petitioned listing of the above 3 taxa was warranted but precluded by other higher priority listing actions. Publication of this proposal constitutes the final finding for the petitioned action.

The portion of this proposal to list *Suaeda californica* (California sea-blite) is largely based on scientific and commercial information on the species, unpublished reports by Ferren, unpublished reports from the California Department of Fish and Game (CDFG) (1991), and information gathered from several botanists, including Mr. Dirk Walters and Mr. Malcolm McLeod.

A reevaluation of the existing data on the status of *Circium fontinale var. obispoense* (Chorro Creek bog thistle) and threats to its continued existence provides sufficient information to support proposing this species for listing as endangered.

The Service entered into a contract with the Sierra Club Foundation, San Francisco, California, to investigate the status of California land snails. A final report dated August 25, 1975, contained data indicating that several of the snails studied were imperiled species in need of protection. On April 28, 1976, the Service proposed endangered or threatened status for 32 land snails in the **Federal Register** (41 FR 17742); this proposal included the Morro shoulderband (under the common name "banded dune snail") as endangered. The proposed rulemaking that included proposed endangered status for the Morro shoulderband was withdrawn for procedural reasons on December 10, 1979 (44 FR 70796). This withdrawal was the result of the 1978 amendments to Act which substantially modified procedures for listing endangered and threatened species.

The Service undertook a status review of the mollusc in 1984, which resulted in the report by Roth (1985). Based on the new information contained in the status report, Morro shoulderband appeared as a category 1 species in the May 22, 1984, **Federal Register** Animal Notice of Review (40 FR 675), and the January 6, 1989, **Federal Register** Animal Notice of Review (54 FR 573).

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Arctostaphylos morroensis* Wies. & Schreib. (Morro manzanita), *Cirsium fontinale* var. *obispoense* J. T. Howell (Chorro Creek bog thistle), *Clarkia speciosa* Lewis & Lewis ssp. *immaculata* Lewis & Lewis (Pismo clarkia), *Eriodictyon altissimum* Wells (Indian Knob mountainbalm), *Suaeda californica* Wats. (California sea-blite), and Morro shoulderband (*Helminthoglypta walkeriana*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Morro manzanita is scattered within coastal maritime chaparral and oak woodland communities, ranging from the northeast side of Morro Bay to the south end of Montana de Oro State Park, a distance of less than 10 miles. The distribution of Morro manzanita around Morro Bay has been tied to the distribution of Baywood fine sands (ancient wind-blown beach sands) that are also habitat for the endangered Morro Bay kangaroo rat. Approximately half the habitat for Morro manzanita is owned and managed by the State of California (Montana de Oro State Park) but is still subject to alteration. Groves of non-native *Eucalyptus* trees that were planted in the early 1900's are encroaching on nearby stands of Morro manzanita (Holland *et al.* 1990). Park management plans call for removal of at least portions of the Eucalyptus groves (California Department of Parks and Recreation 1988), but to date these plans have not been initiated. A current proposal to install a trans-Pacific telephone cable will likely extirpate Morro manzanita within Hazard Canyon (Army Corps of Engineers (ACOE) 1991). The remaining habitat for Morro manzanita is in private ownership on lands that surround the communities of Morro Bay, Baywood Park, and Los Osos. Expansion of these communities has already extirpated Morro manzanita habitat, and much of the remaining habitat is slated for residential development (LSA Associates 1990, Keil 1990, Holland 1990, San Luis Obispo County 1991) and sewage treatment ponds (Morro Group 1989).

Indian Knob mountainbalm, like Morro manzanita, is scattered within coastal maritime chaparral and oak woodland communities, primarily near Morro Bay. Five of six extant stands occur within a few square miles of each other, from the south side of the community of Los Osos to the north end of Montana de Oro State Park. Each of these stands comprises less than 50 plants. A sixth stand is found 15 miles to the southeast on Indian Knob, between San Luis Obispo and Arroyo Grande; at 350 individuals, it comprises the largest stand. Two of the Morro Bay stands are on lands owned and managed by Montana de Oro State Park, and co-occur with Morro manzanita in Hazard Canyon. Portions of these two stands may be extirpated by the installation of a trans-Pacific telephone cable (ACOE 1991). Other stands in the Morro Bay area occur on private land and are threatened by residential development. One stand occurs on a parcel that is used by the community of Los Osos to evaporate sewage sludge and apparently is being closely monitored by local botanists (Bittman 1985). Surface mining of tar sands was proposed for the Indian Knob area several years ago (Vanderwier 1987). While the proposal is currently not being pursued, there may be economic inventive to do so in the future. Currently, the parcel is being grazed by livestock. As with other members of this genus, Indian Knob mountainbalm is thought to be adapted to surface disturbance, specifically to periodic fire within the chaparral community. Field botanists have noted that most stands of Indian Knob mountainbalm are mature to senescent in age, and that appropriate management, including prescribed burns, may be needed to revitalize the stands (Bittman 1985).

Chorro Creek bog thistle is restricted to open seep areas in serpentine soil outcrops. Owing to its narrow habitat requirements, it probably has never been abundant. Most of Chorro Creek bog thistle is distributed between Morro Bay and San Luis Obispo. One of the two largest populations is found on Pennington Creek, a tributary of Chorro Creek, on lands managed as a biological reserve by California Polytechnic University, San Luis Obispo. Despite the

University's objective to maintain the reserve in its natural state, illegal grazing from an adjacent cattle allotment apparently has occurred (V.L. Holland, Biological Sciences Department Chair, California Polytechnic University, San Luis Obispo, pers. comm., 1991). The type locality for Chorro Creek bog thistle was surveyed for the plant in 1986; no plants were found, and the population is presumed to be extirpated (Friedman 1987). The other large population is found near Laguna Lake in the upper Los Osos Valley watershed on lands partially owned by the City of San Luis Obispo. This population has been subjected to cattle grazing, and nearby urbanization has resulted in increased recreational use and an increase in alien plant species. Just recently, the city fenced off a small portion of the habitat to remove grazing pressures from the thistle (Tina Hall, The Nature Conservancy, pers. comm., 1991). Four other small populations occur within 5 miles of Laguna Lake. Two of these are remote enough that few human-induced threats currently exist, but the other two are on lands that are slated for development (Friedman 1987, Morro Group 1988). One small isolated population occurs along San Simeon Creek, approximately 30 miles northwest of the Pennington Creek population. This population occurs on private lands that are currently being grazed. Developments being proposed for adjacent parcels may remove water from the San Simeon Creek watershed (San Luis Obispo County 1991). Since Chorro Creek bog thistle depends on moisture from seeps, it would be threatened by any proposal to divert water from the watershed above the seeps.

Pismo clarkia is restricted to pockets of dry sandy soils within chaparral and oak woodlands south of San Luis Obispo, between the town of Edna and Arroyo Grande. All four extant populations are located on private lands. The most recent surveys revealed that the two largest populations, each supporting about 2,000 individuals, were subject to cattle grazing and to road grading where it occurs along roadsides (CDFG 1991). A third small population from the type locality consists of less than 100 individuals and is subject to the effects of roadside traffic, road grading, and herbicide spraying. A fourth population was partially extirpated by residential development and has been reduced to about 100 individuals. Of four other historical locations, two were extirpated by residential development, and two were extirpated by undetermined causes—most likely mowing and other secondary impacts associated with urban development (Myers 1987).

California sea-blite is discontinuously distributed around the upper intertidal zone of Morror Bay where it is concentrated in three stands. One stand is located on tidal flats within Morro Bay State Beach. A second stand, consisting of only six plants, is located within Sweet Springs Marsh. The third population is located within Montana de Oro State Park. All three stands are threatened by recreational activity on the tidal flats and erosion owing to changing hydrologic conditions in the intertidal zone. Sedimentation of the Bay from the Los Osos Creek and Chorro Creek watersheds has altered the abundance and distribution of marsh habitat on the east side of the bay. Dredging of the bay may also alter subsurface currents and affect shoreline stability. California sea-blite was collected from a fourth location just north of Morro Bay, but has not been seen there since 1929 (Ferren, pers. comm., 1991). The type locality, on Alameda Island in the San Francisco Bay, has long since been altered by urbanization as has much of coastal marsh habitat along the central California coast.

The following discussion of habitat and range of the Morro shoulderband is summarized from the report by Roth (1985). The Morro shouldberband formerly occupied primarily coastal dune scrub habitat along approximately 5 miles of dunes extending into Morro spit, at Baywood Park, San Luis Obispo, sites between Morro Bay and Cayucos, and probably along Morro Bay in the vicinity of Cuesta-by-the Sea. The snail and its habitat have been eliminated by residential and other development from Baywood Park, Cuesta-by-the-Sea, San Luis Obispo, and the sites between Cayucos and Morro Bay. Recent evidence of living Morro shoulderbands have been found only at a few sites within 2 miles of one another in coastal dune scrub habitat. This habitat has been degraded by off-road vehicle activity and maturation of the dune vegetation.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization is not currently known to be a factor for the five plants, but unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could result from increased publicity as a result of this proposal. The Morror shoulderband's extremely limited range and numbers and its taxonomic distinctness make it highly vulnerable to recreational or scientific collectors.

C. Disease or Predation

In efforts to control alien species of thistle, the San Luis Obispo County Agriculture Department introduced the seed-head weevil (*Rhinocyllus conicus*) to several sites in San Luis Obispo County in the early 1980's. Initial reports from field botanists indicated that the seed-headed weevils were foraging upon Chorro Creek bog thistle. However, more recent observations indicate that since the length of the flowering season of the thistle far exceeds the egg-laying period of the weevil, predation probably accounts for only a small reduction in seed availability (Charles Turner, Research Botanist, Agricultural Research Services, U.S. Department of Agriculture, pers. comm., 1991). No data exist on the effects of disease on the other plant taxa.

Grazing by livestock is believed to have caused the extirpation of Chorro Creek bog thistle at the type locality on Chorro Creek (Rocco 1981). Of eight extant sites, half are on private lands that are being grazed. Pismo clarkia has been subject to livestock grazing at two of the four extant locations. Unlike Chorro Creek bog thistle, however, observations of field botanists indicate that Pismo clarkia may be able to sustain a certain amount of grazing by livestock (Dunn in litt. 1987).

During his survey for Morro shoulderband, Hill (1974) noted that many of the empty large subadult shells contained vacant sarcophagid fly puparia, which suggested to Roth (1985) that "mortality from parasitoid infestation often occurs before *Helminthoglypta walkeriana* reaches breeding condition" (Roth 1985). Roth also documented one freshly dead snail that had been killed by a rodent.

D. The Inadequacy of Existing Regulatory Mechanisms

Under the Native Plant Protection Act (chapter 1.5 section 1900 *et seq.* of the Fish and Game Code) and California Endangered Species Act (chapter 1.5 section 2050 *et seq.*), the California Fish and Game commission has listed Pismo clarkia and Indian Knob mountainbalm as endangered; Morro manzanita and Chorro Creek bog thistle will be considered for State listing in the near future (Sandra Morey, botanist, Endangered Plant Program, California Department of Fish and Game, pers. comm). Though both statutes prohibit the "take" of State-listed plants (chapter 1.5 section 1908 and section 2080), State

law appears to exempt the taking of such plants via habitat modification or land use change by the landowner. After the California Department of Fish and Game notifies a landowner that a State-listed plant grows on his or her property, State law evidently requires only that the landowner notify the agency "at least 10 days in advance of changing the land use to allow salvage of such plant" (chapter 1.5 section 1913).

Morrow shoulderband is not specifically protected under State or local law and is thus not specifically included in State Park management plans. Collection of this species is prohibited, however, on State Park land except by permit. This protection applies only to individuals and does not prevent the effects of indirect human disturbance, such as recreational activities, from harming this species and its habitat.

E. Other Natural or Manmade Factors Affecting its Continued Existence

The introduction and invasion by alien plants of coastal sage scrub and maritime chaparral communities has adversely affected native flora and fauna, including the Morro manzanita and the Morro shoulderband. Williams and Williams (1984) tracked changes in abundance and frequency of 16 taxa in a coastal dune scrub community over a 10-year period on the sand spit of Morro Bay. They observed that differences in successional patterns in wind, lee, and ridge habitats were correlated with wind conditions, stabilization of dunes over time, and seed dispersal strategies of certain taxa. At the same time, they noted that seafig (*Mesembryanthemum chilense*) had increased in both wind and lee positions on the spit and suggested that over time seafig would supplant native species throughout the dune system.

Stands of Morro manzanita within Montana de Oro State Park are being overtopped by spreading *Eucalyptus* plantations that were planted in the early 1900's. Morro manzanita is not able to survive such encroachment, owing to reduction in available soil moisture, increased shading, and the effects of growth-inhibiting terpenes that are released from the *Eucalyptus* (Holland *et al.* 1990). The General Plan for Montana de Oro State Park (California Department of Parks and Recreation 1988) calls for the removal of exotic species, including *Eucalyptus*; however, a removal program has not yet been initiated.

As briefly mentioned above under Factor A, Chorro Creek bog thistle occurs in several areas grazed by livestock. Grazing and trampling by livestock, coupled with mesic to hydric conditions around seeps, favors growth of alien plants, once they have become established. Unlike alien thistle taxa, it is unlikely that the Chorro Creek bog thistle is able to compete with other alien plants.

The Morro shoulderband may be experiencing competition from the brown garden snail (*Helix aspersa*). The brown garden snail, presumed to be an escapee from an adjacent golf course and housing development, has established feral populations on the spit of Morro Bay. Roth (1985) discussed several factors that may be the basis for such competition. While estivation sites and food preferences for the two snails differ, competition for shelter sites may limit the numbers of Morro shoulderband. Apparently, the coastal dune scrub community within the survey area is mature to the point that lower limbs of the large older shrubs may be too far off the ground to offer good shelter. Roth found both snails occasionally using alien seafig as well as pieces of particleboard for shelter sites and suggested that more preferred shelter sites were unavailable. Increasing development surrounding the State Parks will increase threats from this and other exotic animals and plants that disperse from developed areas.

At least several Morro shoulderband individuals have been killed as a result of controlled burning of coastal scrub that was carried out to improve habitat for the endangered Morro Bay kangaroo rat within Montana de Oro State Park. Park staff are aware of the presence of the snails and have conducted pre-burn searches for them, but have not detected any in the areas that have been burned since Roth's first reported fire-caused mortalities (Vince Cicero, Park Ecologist, pers. comm., 1991). Drought and/or heat may have contributed to egg mortality in the Morro shoulderband (Roth 1985). Other snail taxa that occur within California's areas of Mediterranean climate copulate, oviposit, and undergo an active growth phase during the rainy season. Roth found intact but desiccated *Helminthoglypta* eggs "scattered in considerable numbers" within the survey area, though the species could not be determined. Roth suggested that this represented several years' accumulation of egg deposits whose viability may have been lowered by drought and/or heat conditions (Roth 1985).

Several of the plants and the Morro shoulderband are also threatened with stochastic (i.e., random) extinction due to the small size and isolation of the remaining populations. The limited gene pool may depress reproductive vigor, or a single human-caused or natural environmental disturbance could destroy a significant percentage of the individuals of these species. Depressed seed viability has recently been documented by Holland in some stands of Morro manzanita (Holland *et al.* 1990). Annual plants, such as Pismo clarkia, and short-lived perennial plants, such as Chorro Creek bog thistle, are subject to wide fluctuations in population numbers from year to year. Such taxa may have difficulty in maintaining a viable population size after a series of poor seed production years. While California sea-blite is a perennial plant, the low number of individuals and restricted range of the plant within the widely fluctuating hyrdrologic conditions in Morro Bay also subject it to stochastic extinction.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to propose this rule. These six taxa are vulnerable to one or more of the following threats: Habitat destruction, residential development, road maintenance activities, competition from alien plants or the common garden snail, recreational activities, grazing, water diversions, dredging, and perhaps stochastic extinction. Based on the Service's evaluation of the status and threats facing these species, the preferred action is to propose endangered status for Morro manzanita, Chorro Creek bog thistle, Pismo clarkia, Indian Knob mountainbalm, California sea-blite, and Morro shoulderband.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for these species. Because the five plants face numerous anthropogenic threats (see Factor A in "Summary of Factors Affecting the Species") and the five plants occur at least in part on private land, the publication of precise maps and descriptions of critical habitat in the **Federal Register** would make these plants more vulnerable to incidents of take or vandalism and, therefore, could contribute to the decline of these species and increase enforcement problems. The proper agencies have been notified of the locations and management needs of these plants. Landowners will be

notified of the location and importance of protecting habitat of these species.

As discussed under "Summary of Factors Affecting the Species," Morro shoulderband is vulnerable to several activities, some of which could be carried out by an individual or few people (e.g., the removal of specimens for scientific or personal collections). This activity can be difficult to regulate and control because it can be done in a fairly discreet manner. Its extremely restricted range, small population size, and lack of escape mechanisms make the Morro shoulderband extremely vulnerable to extinction as a result of even a limited collection effort. The precise pinpointing of localities that would result from publication of critical habitat descriptions and maps in the **Federal Register** would increase enforcement problems because this species would be more vulnerable to collection as well as vandalism to its habitat. The California Department of Parks and Recreation is already aware of the snail's presence.

Protection of these species' habitats will be addressed through the recovery process and through the section 7 consultation process. Therefore, the Service finds that designation of critical habitat for the five plants and the Morro shoulderband is not prudent at this time, because such designation likely would increase the degree of threat from vandalism, collecting, or other human activities.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered species set forth a series of general prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale in interstate or foreign commerce; remove and reduce to possession the species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage, or destroy any such endangered plant species on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. With respect to Morro shoulderband, these prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any such conduct), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed wildlife species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.22 and 17.23 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits for endangered wildlife are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, for incidental take in connection with otherwise lawful activities, and economic hardship under certain circumstances.

Requests for copies of the regulations on listed plants and wildlife and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203–3507 (703/358–2104 or FTS 921–2104).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to Morro manzanita, Pismo clarkia, Indian Knob mountainbalm, California sea-blite, Chorro Creek bog thistle, and Morro shoulderband;

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of these species; and

(4) Current or planned activities in the subject area and their possible impacts on these species.

Any final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received

within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Office Supervisor of the Ventura Office (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary authors of this proposed rule are Constance Rutherford (plants) and Steven M. Chambers (snail), Ventura Office, U.S. Fish and Wildlife Service, 2140 Eastman Avenue, suite 100, Ventura, California 93003 (805/644–1766 or FTS 983–6040.)

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulations Promulgation.

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order, under "Snails", to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
SNAILS							
*	*	*	*	*	*	*	
Snail, Morro shoulderband	*Helminthoglypta walkeriana*	U.S.A. (CA)	NA	E		NA	NA
*	*	*	*	*	*	*	

3. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the plant families indicated, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	
Asteraceae—Aster family:						
*	*	*	*	*	*	
Cirsium fontinale var. *obispoense*	Chorro Creek bog thistle	U.S.A. (CA)	E		NA	NA
*	*	*	*	*	*	
Chenopodiaceae—Goosefoot family:						
*	*	*	*	*	*	
Suaeda californica	California sea-blite	U.S.A. (CA)	E		NA	NA
*	*	*	*	*	*	
Ericaceae—Heath family:						
*	*	*	*	*	*	
Arctostaphylos morroensis	Morro manzanita	U.S.A. (CA)	E		NA	NA
*	*	*	*	*	*	
Hydrophyllaceae—Waterleaf family:						
*	*	*	*	*	*	
Eriodictyon altissimum	Indian Knob mountainbalm	U.S.A. (CA)	E		NA	NA
*	*	*	*	*	*	
Onagraceae—Evening-primrose family:						
*	*	*	*	*	*	
Clarkia speciosa ssp. *immaculata*	Pismo clarkia	U.S.A. (CA)	E		NA	NA
*	*	*	*	*	*	

Dated: November 19, 1991.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 91-30498 Filed 12-20-91; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 56, No. 246
Monday, December 23, 1991

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.

ACTION

Information Collection Submitted to the Office of Management and Budget for Review

AGENCY: ACTION.

ACTION: Information collection submitted to the Office of Management and Budget for review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the Federal domestic volunteer agency. Under the Paperwork Reduction ACT (44 U.S.C., chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose record keeping requirements. ACTION has submitted two copies of the attached information collection proposal to OMB. OMB and ACTION will consider comments on the proposed collection of information and record keeping requirements. ACTION is requesting an expedited review by OMB with final action by January 15, 1992 so that the approved forms will be ready for data collection beginning January 15, 1992.

DATES: OMB and ACTION will accept comments received on or before January 22, 1992.

ADDRESSES: Send comments to both.

Janet A. Smith, Clearance Officer, ACTION, 1100 Vermont Ave, NW., Washington, DC 20525, Tel: 202/606–5245.

And

Daniel Chenok, Desk Officer for ACTION, Office of Management and Budget, 3002 New Executive Office Bldg., Washington, DC 20503, Tel: 202/395–7316.

SUPPLEMENTARY INFORMATION:

Office of Action Issuing Proposals: Program Analysis and Evaluation Division.

Title of Forms: Evaluation of VISTA Recruitment Campaign.

Need and Use: ACTION seeks to evaluate the success of its Congressionally mandated campaign to increase the number of recent college graduates applying the VISTA.

Type of Request: New.

Respondent's Obligation to Reply. Voluntary.

Frequency of Collection: The "Volunteering after College" Survey will be conducted twice, once in January, 1992 and again in April–June, 1992. The "Survey of Recent Applicants" will be sent to every recent college graduate (or graduate-to-be) who applies to VISTA between November 1, 1991 and August 1, 1992.

Estimated Number of Annual Responses: 3,950.

Average Burden Hours per Response: .25 hours.

Estimated Annual Reporting or Disclosure Burden: 987.5 hours.

Janet Smith,

Clearance Officer, ACTION.

Signed in Washington, DC, December 13, 1991.

Jane A. Kenny,

Director, ACTION.

BILLING CODE 6050-28-M

SURVEY 1
COLLEGE JUNIORS AND SENIORS

SURVEY SERIAL #: ___ ___ ___ (1 2 3) INTERVIEWER #: ___ ___ ___ (4 5 6)

TELEPHONE # CALLED: ___ - ___ - _____ DATE: __/__/__ (MM DD YY)

IMPORTANT NOTE: ONLY TEXT IN lowercase LETTERS ARE TO BE READ TO RESPONDENTS. PROBES ARE IN PARENTHESES. MATERIAL NEVER READ TO RESPONDENTS IS IN UPPER CASE.

INTRODUCTION

Hello. My name is _____ and I am calling from ACTION, the Federal Domestic Volunteer Agency. We are a small agency in the U. S. Government that supports volunteer activities. We are conducting a national survey of college students to find out how much students know about full-time volunteer service opportunities that are open to college graduates. Let me assure you that I am not trying to recruit you, ask for donations, or try to sell you anything. We are only interested in getting information about your opinions.

SCREENING

Are you a junior or senior in college this year?

YES 1
NO 2

Is there a college junior or senior at this number?

WHEN SELECTED PERSON ANSWERS REPEAT INTRODUCTION AND CONTINUE WITH INTERVIEW

YES 1
NO. 2

TERMINATE WITH: Thank you. Sorry to have bothered you. Goodbye.

Your number was drawn in a random sample of students from the entire nation. Your answers are confidential. In addition, the information you furnish is voluntary; you do not have to answer any of my questions.

The survey will take no more than 5 to 15 minutes. I want to add that I would be happy to answer any questions you might have about the study, either now or later.

Do you have the time now to complete the survey?

YES 1
NO 2 — May we schedule a time for me to call back when it will be more convenient for you?

YES 1
NO 2 — Thank you. END THE INTERVIEW.

When may I call you back? RECORD AGREED UPON DATE, TIME, AND TERMINATE THIS SESSION.

DATE: __/__/__ (mm dd yy) TIME: _____

Thank you. I will call you back at (REPEAT TIME) on (REPEAT DATE).

Let me begin by saying thank you, in advance, for talking with me about volunteer service.

Now, let me start by asking a few general questions about what you know about opportunities for full-time volunteer service after college.

Q-1 Do you know the names of any programs that offer full-time volunteer service for recent college graduates?

YES 1
NO 2

Q-1A (IF YES) What names do you recall? CIRCLE THE NAMES IN COL. 1

(IF NO) There are several programs available. I am going to read you a list.

There are several other programs available. I will read you a list.

Q-2 Please tell me which ones you have ever seen or heard anything about? (READ LIST IN COL. 1, EXCLUDING ANY CIRCLED IN Q-1, AND CIRCLE ALL THAT APPLY IN COL. 2.)

IF RESPONDENT FAILS TO IDENTIFY ANY ON THE LIST, SKIP TO THE LAST PAGE AND COMPLETE THE BACKGROUND SECTION.

Q-3 Which ones did you see or hear something about recently, in the last 3 months? LIST THE NAMES CIRCLED IN COL. 2 AND CIRCLE ALL POSITIVE RESPONSES IN COL. 3

Q-4 Of the ones you have identified, which ones might you ask for information about opportunities for volunteers? LIST THE NAMES CIRCLED IN COLUMNS 1 AND 2 AND CIRCLE ALL POSITIVE RESPONSES IN COL. 4

CIRCLE ALL THAT APPLY IN EACH COLUMN

(1) VOLUNTEER PROGRAMS (RECALL W/O PROMPT)	(2) HEARD ABOUT	(3 IN LAST 3 MONTHS	(4) ASK FOR INFO?
1 Christian Service Corps	1	1	1
2 Coalition for the Homeless	2	2	2
3 Habitat for Humanity	3	3	3
4 Heifer Project International	4	4	4
5 Jesuit Volunteer Corps	5	5	5
6 Mennonite Voluntary Service	6	6	6
7 Operation Cross Roads Africa	7	7	7
8 Partners of the Americas	8	8	8
9 Peace Corps	9	9	9
10 Teach for America	10	10	10
11 Vista	11	11	11
12 Ymca of the USA	12	12	12
13 OTHER1:_____	13	13	13
14 OTHER2:_____	14	14	14
15 OTHER3:_____	15	15	15

IF THE RESPONDENT IDENTIFIES VISTA, CONTINUE TO NEXT PAGE

IF THE RESPONDENT DID NOT IDENTIFY VISTA, GO TO LAST PAGE AND COMPLETE BACKGROUND SECTION.

IF THEY IDENTIFIED VISTA IN Q-1 OR Q-2:

ACTION, the agency sponsoring this survey, operates the VISTA program and is currently involved in a national campaign to increase college students awareness of VISTA.

With this is mind, I would like to learn more about how you learned of the VISTA program.

Q-5 Let me ask you first, have you seen information on VISTA in any publications, newspapers, or magazines?

YES 1
NO . . . . . 2 GO TO Q-6 ON NEXT PAGE

Q-5A (IF YES) Do you remember in what publications you saw the information on VISTA?

YES 1
NO . . . . 2 GO TO Q-6 ON NEXT PAGE

Q-5B Where? CIRCLE THE RESPONSE. PROBE: Did you see information anywhere else?

A CAMPUS NEWSPAPER 1
A LOCAL NEWSPAPER. 2
NEWSWEEK 3
PEOPLE 4
TIME 5
U. 6
U.S. NEWS & WORLD RPT. 7
CAMPUS OUTREACH NEWSLETTER 8
OTHER:_____. . . .9

Q-5C IF THEY IDENTIFIED ANY SOURCE IN THE PRECEDING ITEM, ASK: Do you remember anything you liked or disliked about the VISTA information you saw? PROBE: Pictures, headlines, text?

YES 1
NO . . . . 2 GO TO Q-6 ON NEXT PAGE

Q-5D What was it? RECORD ANSWER VERBATIM IN BOX. LABEL AS LIKE OR DISLIKE.

LIKES AND/OR DISLIKES:

Q-6 Have you seen or heard anything about VISTA on radio or television?

YES 1
NO . . . . . 2 GO TO Q-7 ON NEXT PAGE

Q-6A (IF YES) Do you remember where you might have seen or heard something about VISTA?

YES 1
NO . . . . 2 GO TO Q-7 ON NEXT PAGE

Q-6B Where? CIRCLE THE RESPONSE. PROBE: Did you see information anywhere else?

RADIO ADVERTISEMENT. 10
RADIO NEWS REPORT. 11
TELEVISION ADVERTISEMENT 12
TELEVISION NEWS REPORT 13
VIDEO TAPE 14
OTHER:_____. . . 15

Q-6C IF THEY IDENTIFIED ANY SOURCE IN THE PRECEDING ITEM, ASK: Do you remember anything you liked or disliked about the VISTA information you saw? PROBE: Pictures, sound, music, text?

YES 1
NO . . . . 2 GO TO Q-7 ON NEXT PAGE

Q-6D What was it? RECORD ANSWER VERBATIM IN BOX. LABEL AS LIKE OR DISLIKE.

LIKES AND/OR DISLIKES:

Q-7 Have you seen any posters advertising VISTA?

YES 1
NO . . . . . 2 GO TO Q-8 ON NEXT PAGE

Q-7A (IF YES) Do you remember where you saw the VISTA poster?

YES 1
NO . . . . 2 GO TO Q-8 ON NEXT PAGE

Q-7B Where? CIRCLE THE RESPONSE. PROBE: Did you see VISTA posters anywhere else?

IN A STUDENT UNION 16
IN A DORM AREA 17
IN A CLASSROOM AREA. 18
ON A BULLETIN BOARD ON CAMPUS. 19
IN A RECRUITMENT OFFICE. 20
IN A PLACEMENT OFFICE. 21
IN A VOLUNTEER OFFICE. 22
IN A CAMPUS MINISTRY 23
IN A FINANCIAL AID OFFICE. 24
AT AN AGENCY WHERE YOU PLAN TO VOLUNTEER . 25
AT AN ACTION OFFICE. 26
OTHER: _____ 27

Q-7C IF THEY IDENTIFIED ANY SOURCE IN THE PRECEDING ITEM, ASK: Do you remember anything you liked or disliked about the VISTA poster you saw? PROBE: Colors, message, theme, layout?

YES 1
NO . . . . 2 GO TO Q-8 ON NEXT PAGE

Q-7D What was it? RECORD ANSWER VERBATIM IN BOX. LABEL AS LIKE OR DISLIKE.

LIKES AND/OR DISLIKES:

Q-8 Have you obtained any brochures about the VISTA program?

YES 1
NO . . . . . 2 GO TO Q-9 ON NEXT PAGE

Q-8A (IF YES) Do you remember where you got the brochure?

YES 1
NO . . . . 2 GO TO Q-9 ON NEXT PAGE

Q-8B Where? CIRCLE THE RESPONSE. PROBE: Did you get a VISTA brochure anywhere else?

IN A STUDENT UNION. 38
IN A DORM AREA. 39
IN A CLASS AREA 40
ON A BULLETIN BOARD ON CAMPUS 41
IN A RECRUITMENT OFFICE 42
IN A PLACEMENT OFFICE 43
IN A VOLUNTEER OFFICE 44
IN A FINANCIAL AID OFFICE 45
IN A CAMPUS MINISTRY. 46
AT AN AGENCY WHERE YOU PLAN TO VOLUNTEER. . . . 47
AT AN ACTION OFFICE 48
OTHER:_____ 49

Q-8C IF THEY IDENTIFIED ANY SOURCE IN THE PRECEDING ITEM, ASK: Do you remember anything you liked or disliked about the VISTA brochure you saw? PROBE: Colors, message, theme, layout?

YES 1
NO . . . . 2 GO TO Q-9 ON NEXT PAGE

Q-8D What was it? RECORD ANSWER VERBATIM IN BOX. LABEL AS LIKE OR DISLIKE.

LIKES AND/OR DISLIKES:

Q-9 Have you talked with anyone, either in person or by telephone, about the VISTA program?

YES 1
NO . . . . . 2 GO TO Q-10 ON NEXT PAGE

Q-9A (IF YES) Do you remember who you have talked with about VISTA?

YES 1
NO . . . . 2 GO TO Q-10 ON NEXT PAGE

Q-9B Who? CIRCLE THE RESPONSE. PROBE: Did you talk with anyone else?

A VISTA RECRUITER. 28
AN AGENCY WHERE YOU PLAN TO VOLUNTEER . . . 29
A FRIEND 30
A FAMILY MEMBER. 31
A PLACEMENT OFFICER. 32
A CAMPUS MINISTER. 33
A FINANCIAL AID OFFICER. 34
A FACULTY ADVISOR. 35
ANOTHER FACULTY MEMBER, NOT ADVISOR. 36
OTHER:_____ . . . 37

Q-9C IF THEY IDENTIFIED ANY SOURCE IN THE PRECEDING ITEM, ASK: Do you remember anything you liked or disliked about this experience? PROBE: Was their information accurate? Were they able to answer your questions?

YES 1
NO . . . . 2 GO TO Q-10 ON NEXT PAGE

Q-9D What was it? RECORD ANSWER VERBATIM IN BOX. LABEL AS LIKE OR DISLIKE.

LIKES AND/OR DISLIKES:

Q-10 We have now established how you learned about VISTA. I would like to ask you next about the information or messages, or any part of the messages, you have received about VISTA. By a message I mean a slogan, a catch phrase, an idea, or concept, something that you might identify with VISTA. Do you remember the content of the message, or any part of the message, you first saw or heard about VISTA?

YES 1
NO. . . . . .2 GO TO Q-14 AT BOTTOM OF PAGE

Q-11 What do you remember? WRITE IN THE SPACE BELOW A VERBATIM RECORD. USE PROBES, E.G.:Is there anything else you recall?

CONTENT OF THE MESSAGE:

Q-12 I would like to know how you responded to this message. Your feelings might have ranged from very positive to very negative. How did you feel about this message? Were your feelings

a) very positive, inspiring you to learn more about the program 1
b) positive, but not wanting more information 2
c) neutral, not positive or negative. 3
d) negative, but only mildly so 4
e) negative, causing feelings of revulsion or distaste 5

Q-12A Why? PROBE: What was it about the message that caused you to feel this way? RECORD ANSWER VERBATIM

REASON FOR REACTION:

Q-13 When did you first see or hear this message about VISTA? IF THEY CANNOT RECALL EXACTLY, PROBE: Was it before September, 1991 or since then?

BEFORE SEPTEMBER, 1991 1
BETWEEN SEPTEMBER, 1991 AND NOW. 2

DOESN'T REMEMBER WHEN 3

Q-14 Did you learn about VISTA in time to include it as an option for after your graduation from college?

YES. 1
NO 2

Q-15 Do you know what VISTA Volunteers do? PROBE FOR A RESPONSE BY, E.G.: This is not a true-false quiz. You may use whatever words you choose.

NO. . . . . 1 SKIP TO TOP OF NEXT PAGE
YES 2

RECORD VERBATIM RESPONSE

WHAT VISTA VOLUNTEERS DO:

Q-16 How likely are you to consider becoming a VISTA volunteer after graduation from college? Would you say you are

Very likely. 1
Somewhat likely. 2
Neither likely nor unlikely. 3
Somewhat unlikely. 4
Very unlikely. 5

I am going to read to you six statements about VISTA Volunteer service. For each please indicate whether you strongly agree, agree, disagree, or strongly disagree with the statement.

	STRONGLY DISAGREE	DISAGREE	NEUTRAL	AGREE	STRONGLY AGREE
Q-17 Becoming a VISTA volunteer would help me make contacts that would be important in my professional career					
Q-18 Becoming a VISTA volunteer would help me decide what career I want to pursue.					
Q-19 Becoming a VISTA volunteer would help me gain self-confidence					
Q-20 Becoming a VISTA volunteer would allow me to make an important contribution to my community					
Q-21 Becoming a VISTA volunteer would allow me to make an important contribution to my country					
Q-22 Becoming a VISTA volunteer is for someone else, not me.					

I am now going to read six facts about VISTA. After each one, please tell us if you already knew that about the VISTA program.

Q-23 Did you know that volunteers receive a stipend of about $7,000 per year?

YES 1
NO 2

Q-24 Did you know that volunteers only need to make a one year commitment to VISTA?

YES 1
NO 2

Q-25 Did you know that volunteer opportunities are with local sponsors, not national ones?

YES 1
NO 2

Q-26 Did you know that volunteer opportunities exist throughout the country? (Circle your answer)

YES 1
NO 2

Q-27 Did you know that VISTA means you can defer payment on some student loans? (Circle your answer)

YES 1
NO 2

Q-28 Did you know that volunteers receive training for their assignment? (Circle your answer)

YES 1
NO 2

Q-29 We would like to know if there are any other aspects of VISTA Volunteer service that hold meaning for you. Is there anything else about VISTA that is important to you?

YES 1
NO. . . . . 2 GO TO NEXT PAGE

Q-29A Tell me about it. PROBE: Is there anything you particularly like or dislike about (this/these)? RECORD ANSWER VERBATIM.

OTHER IMPORTANT FEATURES OF VISTA:

BACKGROUND INFORMATION

To insure that a variety of students are among our respondents, we ask you to respond to the following demographic questions.

Q-30 What is your race? Are you?

American Indian or Alaskan Native. 1
Asian or Pacific Islander. 2
Black. 3
White. 4

Q-31 Are you of Hispanic origin?

YES 1
NO. 2

Q-32 (IF NOT APPARENT) What is your sex?

FEMALE. 1
MALE. 2

Q-33 What is your class? Junior or Senior?

JUNIOR. 1
SENIOR. 2

Q-34 How old are you?

_____ YEARS

Q-35 What college or university do you attend?

_____NAME OF INSTITUTION

Q-36 What is your major?

_____MAJOR

Q-37 In an average week during the current school year, how many hours do you spend volunteering for a non-profit organization? This could be either on your own, through a campus organization or through a national program.

_____NUMBER OF HOURS PER WEEK

Do you have any comments or questions about this survey? RECORD ANSWER VERBATIM.

That ends our interviews. Thanks. If you would like more information about VISTA, you may call our 800 number, 1-800-424-8867.

VISTA RECRUITMENT: A SURVEY OF RECENT APPLICANTS

This survey is part of a large research effort to help ACTION, the Federal domestic volunteer agency, better understand factors affecting VISTA recruitment. Please answer all the questions. Your answers are strictly confidential. All reporting will deal with summary data and contain no information that could identify you.

The information you furnish is voluntary. None of the information you provide will be used to evaluate your application for VISTA service.

You will note that a number appears in the bottom, right-hand corner on the back of the questionnaire. This number will be used to match your completed survey with your name on the sample roster. We are following this procedure for one reason only, to identify non-respondents, to whom follow-up letters will be sent.

If you wish to comment on any questions or qualify your answers , please use the space in the margins. We will read your comments and take them into account.

Thank you for applying to VISTA and for your help in completing our research.

[VISTA logo here]

Office of Policy Research and Evaluation
ACTION
Washington, DC 20525

Q-1 How have you acquainted yourself with the VISTA program? Read through the following list and circle the number in front of every item that identifies a way you have learned about VISTA. (Circle all that apply)

NEWSPAPERS AND MAGAZINES: In which publication(s) have you seen information on VISTA?

1 CAMPUS NEWSPAPER
2 LOCAL NEWSPAPER
3 NEWSWEEK
4 PEOPLE
5 TIME
6 U
7 U.S. NEWS & WORLD REPORT
8 CAMPUS OUTREACH NEWSLETTER
9 OTHER:_____

ELECTRONIC MEDIA: What have you seen or heard about VISTA?

10 RADIO ADVERTISEMENT
11 RADIO NEWS REPORT
12 TELEVISION ADVERTISEMENT
13 TELEVISION NEWS REPORT
14 VIDEO TAPE
15 OTHER:_____

VISTA POSTERS: Where have you seen posters located?

16 STUDENT UNION
17 DORM AREA
18 CLASS AREA
19 BULLETIN BOARD ON CAMPUS
20 RECRUITMENT OFFICE
21 PLACEMENT OFFICE
22 VOLUNTEER OFFICE
23 CAMPUS MINISTRY
24 FINANCIAL AID OFFICE
25 AGENCY WHERE YOU PLAN TO VOLUNTEER
26 ACTION OFFICE
27 OTHER:_____

PERSON-TO-PERSON: Who has talked with you about VISTA?

28 VISTA RECRUITER
29 AGENCY WHERE YOU PLAN TO VOLUNTEER
30 FRIEND
31 FAMILY MEMBER
32 PLACEMENT OFFICER
33 CAMPUS MINISTER
34 FINANCIAL AID OFFICER
35 FACULTY ADVISOR
36 OTHER FACULTY, NOT ADVISOR
37 FORMER VISTA VOLUNTEER
38 CURRENT VISTA VOLUNTEER
39 OTHER:_____

BROCHURES ABOUT VISTA: Where have you obtained brochures?

40 STUDENT UNION
41 DORM AREA
42 CLASS AREA
43 BULLETIN BOARD ON CAMPUS
44 RECRUITMENT OFFICE
45 PLACEMENT OFFICE
46 VOLUNTEER OFFICE
47 FINANCIAL AID OFFICE
48 CAMPUS MINISTRY
49 AGENCY WHERE YOU PLAN TO VOLUNTEER
50 ACTION OFFICE
51 OTHER:_____

Q-2 Can you remember how you first learned about VISTA? (Circle one answer)

1 NO
2 YES

Q-2A Identify from the above list how you first learned about VISTA and write its number in this box

CODE NUMBER FOR FIRST SOURCE OF INFORMATION ABOUT VISTA [ ]

Q-3 We want to know which sources had the most influence on your decision to apply to VISTA. Who or what was most, second, and third influential in your decision to apply to VISTA? (Put the appropriate number from the above list in each box)

[ ] MOST INFLUENTIAL SOURCE OF INFORMATION ABOUT VISTA

[ ] SECOND MOST INFLUENTIAL SOURCE OF INFORMATION

[ ] THIRD MOST INFLUENTIAL SOURCE OF INFORMATION

Q-4 When did you first learn about VISTA? (Circle one)

1 BEFORE SEPTEMBER, 1991
2 BETWEEN SEPTEMBER 1991 AND NOW
3 DON'T REMEMBER WHEN

Q-4A When did you apply to VISTA? __/__ MONTH AND YEAR
mm yy

Q-5 Do you remember the message, or any part of the message, you first saw or heard about VISTA? (Circle one)

1 NO
2 YES

Q-5A When you first learned about VISTA, what was the primary message you read or heard? (Write in the space below a word-for-word or paraphrased recollection of what you heard)

MESSAGE FIRST SEEN OR HEARD ABOUT VISTA:

Q-5B Do you remember anything you particularly liked or disliked about the information you first received about VISTA? Its clarity, message, theme, layout?

1 YES
2 NO GO TO Q-6 BELOW

Q-5C What was it? (Record your answer in the space below)

LIKES AND/OR DISLIKES:

Q-6 After first learning about VISTA, did you ask for any additional, written information on the VISTA program? (Circle one)

1 NO GO TO Q-7 ON NEXT PAGE
2 YES, I ASKED FOR MORE INFO ON VISTA

Q-6A (If yes) How did you make your request for more information? (Circle all that apply)

1 BY CALLING A TOLL-FREE VISTA NUMBER
2 BY CALLING AN ACTION STATE OFFICE
3 BY MAILING AN AD COUPON, TEAR CARD, OR POST CARD TO VISTA
4 BY MAILING A PERSONAL LETTER
5 BY DIRECT, IN-PERSON REQUEST
6 OTHER:_____

Q6B Who did you ask for more information and did they provide the information?

(Circle all that apply in each column)

Who did you ask?	Who Sent the Info?	
1	1	AGENCY WHERE I PLAN TO VOLUNTEER
2	2	ACTION/VISTA STATE OFFICE
3	3	ACTION/VISTA IN WASHINGTON, DC
4	4	VISTA RECRUITER
5	5	OTHER:_____
6	6	DON'T KNOW

Q-6C Did you read the VISTA literature? (Circle one)

1 NO

2 YES

Q-6D (If yes) Did the information in the literature answer your questions about VISTA? (Circle one)

1 NO, ANSWERED NONE OF MY QUESTIONS

2 YES, ANSWERED SOME OF MY QUESTIONS

3 YES, ANSWERED MOST OF MY QUESTIONS

4 YES, ANSWERED ALL OF MY QUESTIONS

Q-6E Do you remember anything you particularly liked or disliked about the information you received from VISTA? Its clarity, message, theme, layout?

1 YES

2 NO GO TO Q-7 BELOW

Q-6F What was it? (Record your answer in the space below)

LIKES AND/OR DISLIKES:

Q-7 What reasons or information convinced you to apply to VISTA? (Circle all that apply)

1 THE SPECIFIC VOLUNTEER ASSIGNMENT OFFERED TO ME

2 THE FINANCIAL BENEFITS

3 THE HELP VISTA WOULD GIVE MY CAREER

4 THE OPPORTUNITY TO HELP OTHERS

5 MY INTEREST IN VOLUNTEERING

6 PERSONAL, PRIVATE REASONS

7 HEALTH BENEFITS

8 OTHER:_____

We are now going to list some facts about VISTA. After each one, please tell us whether or not you already knew that about VISTA.

Q-8 Did you know that volunteers receive a stipend of about $7,000 per year? (Circle your answer)

1 YES
2 NO

Q-9 Did you know that volunteers only need to make a one-year commitment to VISTA? (Circle your answer)

1 YES
2 NO

Q-10 Did you know that volunteer opportunities are with local sponsors, not national ones? (Circle your answer)

1 YES
2 NO

Q-11 Did you know that volunteer opportunities exist throughout the country? (Circle your answer)

1 YES
2 NO

Q-12 Did you know that serving as a VISTA Volunteer would allow you to defer payment on some student loans? (Circle your answer)

1 YES
2 NO

Q-13 Did you know that volunteers receive training for their assignment? (Circle your answer)

1 YES
2 NO

We now would like to learn about your direct experiences with VISTA.

Q-14 Did a VISTA recruiter visit your campus in the last six months? (Circle one)

1 DON'T KNOW
2 NO
3 YES

Q-14A (If yes) Did you talk with the VISTA recruiter? (Circle one)

1 NO
2 YES

Q-15 Have you been notified by VISTA that they have approved your application to become a VISTA Volunteer?

1 NO
2 YES

Q-15A (If yes) Are you currently serving as a VISTA Volunteer?

1 NO
2 YES

Q-16 Did you apply to any other organizations offering full-time, volunteer or community service opportunities? (Circle one)

1 NO

2 YES

Q-16A (If yes) Which organizations did you apply to? (Circle all that apply)

1 CHRISTIAN SERVICE CORPS
2 COALITION FOR THE HOMELESS
3 HABITAT FOR HUMANITY
4 HEIFER PROJECT INTERNATIONAL
5 JESUIT VOLUNTEER CORPS
6 MENNONITE VOLUNTARY SERVICE
7 OPERATION CROSS ROADS AFRICA
8 PARTNERS OF THE AMERICAS
9 PEACE CORPS
10 TEACH FOR AMERICA
11 YMCA OF THE USA
12 OTHER:_____

BACKGROUND

We would like to know a little more about those applicants to VISTA responding to our survey. Your answers to the following questions will help us better recruit a variety of persons to VISTA.

Q-17 What is your race? (Circle one)

1 AMERICAN INDIAN OR ALASKAN NATIVE
2 ASIAN OR PACIFIC ISLANDER
3 BLACK
4 WHITE

Q-18 Are you of Hispanic origin? (Circle one)

1 YES
2 NO

Q-19 What is your sex? (Circle one)

1 FEMALE
2 MALE

Q-20 How old are you?

_____ YEARS

Q-21 What college or university do you (or did you most recently) attend?

_____NAME OF INSTITUTION

Q-22 What is (or was) your major?

_____MAJOR

Q-21 Were you a college graduate at the time you submitted your application to VISTA?

1 YES

2 NO

Q-23A What was your class status at the time you applied to VISTA? (Circle one)

1 JUNIOR

2 SENIOR

Q-24 In what year did (or will) you graduate from college?

_____ YEAR OF GRADUATION

Q-25 In an average week during the past school year, how many hours did you spend volunteering for a non-profit organization? This could have been either on your own, through a campus organization or through a national program?

_____NUMBER OF HOURS PER WEEK

Is there anything else you would like to tell us about the factors that influenced your decision to apply to VISTA? If so, please use this space for that purpose.

Also, we would appreciate any comments you wish to make that you think may help us in future efforts to recruit recent college graduates to VISTA. You write them here or in a separate letter.

Thank you for completing this questionnaire. Please return the completed questionnaire in the stamped, addressed envelope provided for this purpose.

[FR Doc. 91-30350 Filed 12-20-91; 8:45 am]

BILLING CODE 6050-28-C

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Correction of the List of Applicants for Designation in the Quincy (IL) Area, and Extension of the Comment Period

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice Correction and Extension of Comment Period.

SUMMARY: The notice published in the December 2, 1991, **Federal Register** inadvertently omitted the name of one designation applicant for the geographic area presently assigned to Anthony L. Marquardt dba Quincy Grain Inspection & Weighing Service (Quincy). FGIS is correcting that notice by adding John H. Oliver, Inc., dba Keokuk Grain Inspection Service (Keokuk) to the list of applicants. FGIS also is extending the comment period to January 28, 1992, to provide interested persons sufficient time to submit comments on the two applicants.

DATES: Comments must be postmarked on or before January 28, 1992.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454. SprintMail users may respond to [A:ATTMAIL,O:USDA,ID:A36HDUNN]. ATTMAIL and FTS2000MAIL users may respond to !A36HDUNN. Telecopier users may send responses to the automatic telecopier machine at 202-720-1015, attention: Homer E. Dunn. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-720-8525.

SUPPLEMENTARY INFORMATION:

In the December 2, 1991, **Federal Register** (56 FR 61223), FGIS named and asked interested persons to submit comments on the applicant for designation in the Quincy area. Comments were to be postmarked on or before January 16, 1992. The December **Federal Register** listed Quincy as the only applicant. The name of the second applicant, Keokuk was inadvertently omitted. Keokuk applied for designation to service the entire Quincy area.

FGIS is publishing this notice to correct the omission and extend the comment period to provide interested persons the opportunity to present comments concerning both applicants for designation. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address.

Comments and other available information will be considered in making a final decision. FGIS will publish notice of the final decision in the **Federal Register**, and FGIS will send the applicants written notification of the decision.

FGIS is extending the comment period to January 28, 1992, to provide interested persons sufficient time to submit comments on the two applicants.

CORRECTION: In FR Doc. 91-28414, beginning on page 61223 (56 FR 61223) in the issue of Monday, December 2, 1991, make the following corrections:

1. On page 61223, in the second column, under "SUPPLEMENTARY INFORMATION," in the second paragraph, insert the following as the new third sentence. "Anthony L. Marquardt dba Quincy Grain Inspection & Weighing Service (Quincy), and John H. Oliver, Inc., dba Keokuk Grain Inspection Service (Keokuk), the only applicants, each applied for the entire available area."

2. On page 61223, in the second column, under "SUPPLEMENTARY INFORMATION:," in the third paragraph, in the first and second sentences, the word "applicant" should read "applicants"; and

3. On page 61223, in the second column, under "SUPPLEMENTARY INFORMATION:," in the third paragraph, in the second sentence, the word "this" should read "these."

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: December 12, 1991

J. T. Abshier,

Director, Compliance Division

[FR Doc. 91-30446 Filed 12-20-91; 8:45 am]

BILLING CODE 3410-EN-F

Forest Service

Shamrock Timber Sale Analysis; Stikine Area, Tongass National Forest, Petersburg Ranger District, Petersburg, AK; Intent To Prepare an Environmental Impact Statement

The United States Department of Agriculture, Forest Service will contract to prepare an Environmental Impact Statement (EIS) to evaluate a proposal to make available approximately 10 million board feet (MMBF) to 40 MMBF of National Forest timber to contribute towards meeting market demands for timber products in Southeast Alaska. The proposed action is road construction and timber harvest in Value Comparison Units (VCU's) 436, 438 and 429 of Management Areas S11 and S13, on Kupreanof Island in southeast Alaska. This area, encompassing approximately 108,000 acres, has been allocated by the Tongass Land Management Plan to Land Use Designation (LUD) IV, in which management emphasis is primarily on commodity or market resources.

Providing for a continuous flow of natural resources is the mission of the Forest Service. In addition to providing a sustained supply of wilderness, recreation, forage, wildlife, water and fish, providing wood products to local industry is a responsibility of the USDA Forest Service. To meet this, as well as additional commitments, in a timely and efficient manner, the Shamrock Implementation Analysis will be a contracted effort.

A reasonable range of alternatives will be developed by the contractor, including a No Action alternative. The Forest Service will select the preferred alternative. No road building or timber harvest would occur under the No Action alternative. Since the demand for timber is currently high in southeast Alaska, it is likely that these activities would occur in other locations on the Stikine Area if a No Action alternative were selected for this location.

The nature of the decision to be made is whether and how to make available timber to meet market demands in southeast Alaska, while also providing a combination of recreation, water, wildlife and fish for the needs of society, now and into the future. The Stikine Area Forest Supervisor will decide: (a) How much volume to make available; (b) the location and design of timber harvest units; (c) the location and design of associated mainline and local road corridors, and; (d) mitigation measures and enhancement opportunities for resources other than timber.

This Notice of Intent constitutes the beginning of the scoping process. Upon award of the contract, the contractor will become responsible for the scoping process, and will subsequently arrange meetings and issue scoping letters, etc. to provide opportunities for review and input throughout the National Environmental Policy Act process. At the time of contract award, the prime contractor's name and address will be published as part of a revision to this

NOI to act as the contact for public input from that time forward.

A Draft EIS is projected for issuance approximately 14 months after award of the EIS contract. Award is expected to occur in February of 1992. Issuance of the Final EIS for the project area is projected to occur approximately 19 months after award of the contract.

The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency's Notice of Availability appears in the **Federal Register**. It is very important that those interested in this proposed action participate at that time. To be the most helpful, comments on the Draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality regulations for implementing the procedural provisions of the National Environment Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of Draft EIS' must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 533 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the Final EIS. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service and the contractor at a time when they can meaningfully consider the comments and respond to them in the Final EIS.

The responsible official for the decision is the Stikine Area Forest Supervisor, Tongass National Forest, Alaska Region, Petersburg, Alaska.

Questions and written comments and suggestions concerning the analysis at this time should be sent to Carol Jensen, Team Leader, USDA Forest Service, P.O. Box 1328, Petersburg, AK 99833 (phone 907/772-3871).

Dated: December 10, 1991.

Laura Nelson,

Acting Forest Supervisor.

[FR Doc. 91-30558 Filed 12-20-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket Nos. 0115-01 and 0115-02]

Correction of Action Affecting Export Privileges: Daniel Iturri, Individually and Doing Business as Sumisystem

Notice of Correction and Order

In the Matter of: Daniel Iturri, individually as doing business as Sumisystem, Respondent.

On September 4, 1991, I affirmed an August 8, 1991, recommended Decision and Order on Default of the Administrative Law Judge in the above-referenced cases of Daniel Iturri, individually and doing business as Sumisystem. That Action was published at 56 FR 46407 on September 12, 1991. Upon a review of the reprinted Decision and Order, Mr. Iturri's and Sumisystem's addresses in the caption entitled "Appearances for the Respondent" should read: Cullen 5375 (1431) Capital Federal, Republica Argentina, and Rodriquez Pena 453, P.B. "B" (1020), Capital Federal, Republica Argentina. These correct addresses did appear in the "Order" section of the Administrative Law Judge's Decision and Order on Default, which was published at 56 FR 46410.

The address which was inadvertently published in the "Appearances for the Respondent" caption, Centenera 886, 1424 Buenos Aires, Argentina, is the address of an Argentine company named Decware. The Agency dismissed all charges against Decware after determining that it was not involved in this matter. Decware is not, in any way, subject to the Agency's Final Order disposing of the above-referenced cases.

This correction shall be published in the **Federal Register.**

Dated: December 17, 1991.

Joan M. McEntee,

Acting Under Secretary for Export Administration.

[FR Doc. 91-30535 Filed 12-20-91; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings and suspension agreements with November anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: December 23, 1991.

FOR FURTHER INFORMATION CONTACT: Roland L. MacDonald, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 377-2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with § 353.22(a)(1) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements, with November anniversary dates.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews not later than November 30, 1992.

Antidumping duty proceedings and firms	Periods to be reviewed
Germany:	
Drycleaning Machinery A428-037: Bowe Reinigungs-ung, Wascheritechnik GmbH	11/1/90-10/31/91
Japan:	
Light Scattering Instrument A-588-813: Otsuka Electronics	7/10/90-10/31/91
Titanium Sponge A-588-020: Toho Titanium, Showa Denko K.K., Osaka Titanium Company, Ltd	11/1/90-10/31/91
Bicycle Speedometers A588-038: Tsuyama Mfg. Co	11/1/90-10/31/91
People's Republic of China:	
Barium Chloride A-570-007: China National Chemical Import and Export Corporation Corporation (Sinochem)	10/1/90-9/30/91
Countervailing Duty Proceedings	
Peru:	
Deformed Steel Concrete, Reinforcing Bar C-333-502:	1/1/90-12/31/90

Antidumping duty proceedings and firms	Periods to be reviewed
Suspended Investigations	
Republic of Singapore:	
Refrigeration Compressors	
C-559-001:	4/1/90-3/31/91

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) and 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) and 355.22(c) (1989).

Dated: December 9, 1991.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 91-30537 Filed 12-20-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-802]

Amendment to Final Results and Termination in Part of Antidumping Duty Administrative Review: 3.5" Microdisks and Coated Media Thereof From Japan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

EFFECTIVE DATE: December 23, 1991.

FOR FURTHER INFORMATION CONTACT: Brian C. Smith, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1766.

AMENDED FINAL RESULTS OF REVIEW: On November 15, 1991, the Department of Commerce published in the **Federal Register** (56 FR 58040) the final results of its administrative review of the antidumping finding (54 FR 13406) of 3.5 inch microdisks and coated media thereof from Japan. After publication of our final results, one respondent, Sony, alleged that the Department had made clerical errors when calculating the margin for its exporter sales price (ESP) transactions. Sony alleged that clerical errors had been made regarding the inclusion of a duplicative subtraction command in the home market price string, the changing of clipping levels for certain merchandise, and the omission of an execution command for inputing sales-specific data. Except for changing the clipping levels, we agree with Sony and have corrected the ministerial errors (see, Memorandum to Francis J. Sailer, Deputy Assistant Secretary for Investigations, dated December 2, 1991).

As a result of our correction of the clerical errors, we have determined that a weighted-average margin of 5.86 percent (not 6.68 percent as originally published) exists for Sony for the period September 29, 1988, through March 31, 1990.

The Department will instruct the Customers Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

A cash deposit requirement of 5.86 percent is effective for all shipments by Sony of the covered merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This notice is published in accordance with 705(e) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.28(c).

Dated: December 16, 1991.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 91-30539 Filed 12-20-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-508-602]

Preliminary Results of Antidumping Duty Administrative Reviews: Oil Country Tubular Goods From Israel

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

EFFECTIVE DATE: December 23, 1991.

FOR FURTHER INFORMATION CONTACT: Vincent P. Kane or Carole A. Showers, Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2815 or (202) 377-3217, respectively.

PRELIMINARY RESULTS:

Background

On March 6, 1987, the Department published in the *Federal Register* (52 FR 7000) an antidumping duty order on oil country tubular goods from Israel. On March 28, 1990, and March 8, 1991, the sole respondent, Middle East Tube Company (METCO), requested that the Department conduct administrative reviews for the periods March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, in accordance with 19 CFR 353.22(a). We published notices of initiation of these antidumping duty administrative reviews on April 27, 1990 (55 FR 17792) and April 18, 1991 (56 FR 15856). The Department is conducting these administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act"). We are publishing the preliminary results of both of these administrative reviews concurrently in this notice. If these reviews proceed as expected, we will issue final results on or before March 3, 1992.

On July 3, 1990, we issued a questionnaire to METCO. On August 23, 1990, METCO requests an extension to submit its response. The Department granted an extension until October 15, 1990. Meanwhile, on September 27, 1990, METCO requested another extension to submit its response. The Department granted another extension until November 13, 1990, at which time, METCO submitted its response. The Department issued a supplemental questionnaire to METCO on April 24, 1991. On June 5, 1991, METCO submitted its supplemental response.

Scope of Review

The products covered by this review are oil country tubular goods (OCTG) which are hollow steel products of circular cross section intended for use in the drilling for oil or gas. These products include oil well casing and tubing of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API (such as proprietary) specifications.

OCTGs are included under Harmonized Tariff Schedule of the United States (HTS) subheadings 7304.20.20, 7304.20.40, 7304.20.50, 7304.20.60, 7304.20.70, 7304.20.80, 7304.39.00, 7304.59.60, 7304.59.80, 7305.31.40, 7306.20.20, 7306.20.30, 7306.20.60, 7306.20.80, and 7306.30.50. Since many of the HTSUS statistical reporting numbers applicable to OCTG changed during the two review period, we are also including, in addition to the subheadings, all of the statistical reporting numbers that applied to OCTG at any time during these review periods. During the review periods of March 1, 1989, to February 28, 1990, and March 1, 1990, to February 28, 1991, OCTG were included under HTS statistical reporting numbers 7304.20.2000, 7304.20.4000, 7304.20.5010, 7304.20.5050, 7304.20.6010, 7304.20.6050, 7304.20.7000, 7304.20.8000, 7304.39.0025, 7304.39.0040, 7304.39.0050, 7304.39.0060, 7304.39.0070, 7304.39.0075,

7304.39.0090, 7304.59.6000, 7304.59.8000, 7305.31.4000, 7306.20.2000, 7306.20.3060, 7306.20.6010, 7306.20.6050, 7306.20.8010, 7306.20.8050, 7306.30.5040, 7306.30.5050, 7306.30.5055, 7306.30.5060, 7306.30.5065, 7306.30.5070, 7306.30.5075, 7306.30.5080, 7306.30.5085, and 7306.30.5090. Although the HTS subheadings and statistical reporting numbers are provided for convenience and Customs purposes, our written description remains dispositive.

Products referred to as "drill pipe" are not included within the scope of these reviews. (See Oil Country Tubular Goods from Israel; Initiation of Antidumping Duty Investigation (51 FR 11963, April 8, 1986); Final Determination of Sales at Less than Fair Value; Oil Country Tubular Goods from Israel (52 FR 1511, January 17, 1987); and Amended Antidumping Duty Order; Oil Country Tubular Goods from Israel (53 FR 29370, April 8, 1988)). Drill pipe are lengths of heavy, seamless, round tubing with special threaded connectors called tool joints, conforming to API specification 5D for drill pipe. Individual pipe lengths are normally 30 feet or more in length.

Period of Reviews

These preliminary results cover the review periods March 1, 1989, to February 28, 1990, and March 1, 1990, to February 28, 1991. For the period March 1, 1989, to February 28, 1990, METCO made no shipments of the subject merchandise to the United States.

United States Price

For the review period March 1, 1990, to February 28, 1991, we based United States price on purchase price, in accordance with section 772(b) of the Act, because all sales made by METCO were made to an unrelated purchaser prior to importation into the United States and because exporter's sales price sales were not indicated by other circumstances. We used the date of the sales agreement between METCO and its purchasers as the date of sale for purposes of these reviews.

We calculated the purchase price based on the C&F, packed price. We made deductions, where appropriate, for foreign inland freight, ocean freight, and loading charges. We increased METCO's purchase price by the amount of any countervailing duties imposed on the merchandise pursuant to section 701 of the Act to offset export subsidies.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on constructed value, since there were no sales of OCTG either in the home market or for export to third countries. We used the constructed value data submitted by METCO and made the following adjustments to reflect METCO's actual cost of production for OCTG: (1) We did not use METCO's financial expenses because these expenses were incurred on borrowings from the parent firm; instead, we allocated a proportional amount of the parent's net financial expenses (offset by financial income related to the general operations of the parent); (2) we disallowed a claim for a reduction in raw material costs based on credit terms extended by the supplier of the raw material; and (3) we used the actual raw material yield in producing the subject merchandise rather than the average yield for the production line used to produce the merchandise.

The constructed value includes the material and fabrication expenses incurred to produce the product sold for export to the United States. Since the selling, general, and administrative ("SG&A") expenses were greater than the statutory minimum of ten percent, we used actual SG&A expenses of the company. Because actual profit was less than eight percent, the statutory minimum profit of eight percent was added.

We made a circumstances of sale adjustment for credit expenses incurred on the sale for export to the United States by adding the per ton amount of these credit expenses to the constructed value and by deducting from constructed value the per ton amount of short-term interest expenses included in METCO's parent company's financial expenses. Short-term interest expenses were used as an estimate of the customer carrying costs included in the financial expenses.

Currency Conversion

We made currency conversions from new Israeli shekels to U.S. dollars in accordance with 19 CFR 353.60(a), using the end of quarter exchange rate from the International Monetary Fund's Statistical Yearbook, as certified rates from the Federal Reserve Bank of New York were not available.

Preliminary Results of the Reviews

We preliminarily determine that the following margins exist:

Manufacturer/ Exporter	Time period	Margin (percent)
METCO	3/1/89—2/28/90	[1] 11.96
All others	3/1/89—2/28/90	[1] 11.96
METCO	3/1/90—2/28/91	21.40
All others	3/1/90—2/28/91	21.40

[1] No shipments during the period of review; margin taken from the less than fair value investigation.

The Department will issue appraisement instructions concerning METCO directly to the U.S. Customs Service upon completion of this administrative review.

Furthermore, the following deposit requirements will be effective upon publication of the final results of these administrative reviews for all shipments of OCTG from Israel entered, or withdrawn from warehouse, for consumption on or after that publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for METCO will be that established in the final results of the 1990/91 administrative review; (2) If the exporter is not a firm covered by these reviews or the original investigation, but the manufacturer is covered by these reviews or the original investigation, the cash deposit rate will be that established for the manufacturer in the final results of the 1990/91 review; and (3) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in these reviews and who are unrelated to the reviewed firm will be the "All Others" rate established in the final results of the 1990/91 administrative review. This rate represents the rate for METCO determined in the 1990/91 administrative review. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Public Comment

In accordance with 19 CFR 353.38, we will hold a public hearing, if requested, at 10 a.m. on January 30, 1992, at the U.S. Department of Commerce, Room 3708, to afford interested parties an opportunity to comment on these preliminary results. Interested parties who wish to request a hearing must submit a written request within ten days of the date of publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed.

In addition, ten copies of the business proprietary version and five copies of

the nonproprietary version of case briefs must be submitted to the Assistant Secretary no later than January 16, 1992. Ten copies of the business proprietary version and five copies of the nonproprietary version and five copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than January 23, 1992. At the hearing, an interested party may make a presentation only on arguments included in that party's briefs.

In no hearing is requested, interested parties still may comment on these preliminary results in the form of case and rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 353.38 and will be considered if submitted within the time limits specified in this notice.

This administrative review and notice are in accordance with section 751(a)(1) of the Act and 19 CFR 353.22(c)(5).

Dated: December 16, 1991.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-30597 Filed 12-20-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-533-804]

Preliminary Affirmative Countervailing Duty Determination: Bulk Ibuprofen From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 23, 1991.

FOR FURTHER INFORMATION CONTACT: Paulo F. Mendes or Stephanie L. Hager, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-5050 or 377-5055 respectively.

PRELIMINARY DETERMINATION:

Case History

On August 26, 1991, the Department published its notice of initiation of the countervailing duty investigation on bulk ibuprofen (ibuprofen) from India (56 FR 42028). Since initiation of this investigation the following events have occurred. On August 30, 1991, we presented a questionnaire to the Government of India (GOI) and the Indian exporter of ibuprofen. On September 16, 1991, the United States International Trade Commission issued its preliminary determination that imports of ibuprofen from India materially injure or threaten material injury to, a U.S. industry. On October 7, 1991, and November 15, 1991, we received questionnaire responses from the GOI and Cheminor Drugs Limited (Cheminor), the only Indian exporter of ibuprofen to the United States.

Scope of the Investigation

The product covered by this investigation is bulk ibuprofen from India. Ibuprofen, a white powder, is a non-steroidal anti-inflammatory agent which also has analgesic and antipyretic activity. It is used in the symptomatic treatment of acute and chronic rheumatoid arthritis, osteoarthritis, primary dysmenorrhea and for the relief of mild to moderate pain. The chemical description of ibuprofen is 2-(4-isobutylphenyl) propionic acid, $C_{13}H_{18}O_2$. The product covered by this investigation does not include ibuprofen sold in tablet, capsule or similar forms for direct human consumption. Ibuprofen is provided for in the Harmonized Tariff Schedule (HTS) subheading 2916.39.15. Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Analysis of the Programs

For purposes of this preliminary determination, the period for which we are measuring subsidies (the period of investigation) is April 1, 1990 through March 31, 1991, which corresponds to Cheminor's fiscal year.

A. Programs Preliminarily Determined to be Countervailable

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in India of ibuprofen under the following programs:

1. Preferential Export Financing Through Packing Credits

The Reserve Bank of India, through commercial banks, provides "packing" credits or pre-shipment loans to exporters. With these pre-shipment loans, exporters may purchase raw materials to produce goods for export based on the presentation of a confirmed purchase order. In general, the pre-shipment loans are granted for a period of up to 180 days. Because only exporters are eligible for these pre-shipment loans, we determine that they are countervailable to the extent that they are provided at preferential rates.

During the period of investigation, the interest rate on pre-shipment export loans was 7.5 percent per annum. According to the respondents, the average short-term interest rate in India during the period of investigation was 16.5 percent. We compared this benchmark to the interest rate charged on pre-shipment loans under the program and found that the interest rate charged was lower than the benchmark. Therefore, we determine that loans provided under this program are countervailable.

To calculate the benefit bestowed by these loans, we followed the short-term loan methodology which has been applied consistently in our past determinations and is described in more detail in the Subsidies Appendix attached to the notice of Cold-Rolled Carbon Steel Flat-Rolled Products From Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order (49 FR 18006, April 26, 1984); see also, *Alhambra Foundry* v. *United States*, 626 F. Supp. 402 (CIT 1985).

We compared the amount of interest actually paid during the period of investigation to the amount that would have been paid at the benchmark rate. The difference between these amounts is the benefit, which we allocated to Cheminor's total exports. On this basis, we calculated an estimated net subsidy of 2.17 percent *ad valorem*.

2. Preferential Post-Shipment Financing

The Reserve Bank of India, through commercial banks, provides post-shipment financing loans to exporters. The purpose of post-shipment financing is to enable exporters to extend favorable payment terms such as deferred payment, to the foreign purchaser. Post-shipment financing loans may not exceed a period of 180 days. Because only exporters are eligible for the post-shipment loans, we determine that they are countervailable to the extent that they are provided at preferential interest rates.

The rate of interest for post-shipment financing was 8.65 percent per annum during the period of investigation. For the reasons stated in the section on pre-shipment loans, we are using 16.5 percent as our short-term interest rate benchmark. We compared this benchmark to the interest rate charged on post-shipment export loans and found that the interest rate charged under this program was lower than the benchmark. Therefore, we determine that loans provided under this program are countervailable.

To calculate the benefit, we followed the same short-term methodology discussed above. We divided the benefit by Cheminor's exports to the United States. On this basis, we calculated an

estimated net subsidy of 1.69 percent *ad valorem*.

3. Import Tax Deduction for Exporters (Section 80HHC)

For tax returns filed during the period of investigation, the GOI allowed exporters to claim a tax deduction related to their export sales. This tax deduction was calculated by dividing export sales by total sales and then multiplying the resulting figure by the exporter's profit as shown in the tax return. This amount is then deducted from taxable profits.

Because this program is only available to exporters, we preliminarily determine it to be countervailable. To calculate the benefit, we multiplied the income tax deduction of Cheminor by its actual income tax rate and divided the result by its total exports. On this basis, we calculated an estimated net subsidy of 6.13 percent *ad valorem*

4. Cash Compensatory Support (CCS)

The GOI established the CCS program as a mechanism to rebate indirect taxes on exported merchandise. The rebate for "drug and drug intermediates," covering ibuprofen, was set at a maximum of 15 percent for the period of investigation, and was paid as a percentage of the FOB invoice price. This rate was based on the audited results of a 1989 survey of the members of the basic Chemicals, Pharmaceuticals & Cosmetics Export Promotion Council of India (CHEMEXCIL), administered by the Ministry of Commerce and the CHEMEXCIL. This survey is intended to be updated every three years. Although ibuprofen exporters were not specifically covered by the survey, CHEMEXCIL's members account for approximate 80 percent of total exports of "drug and drug intermediates."

To determine whether an indirect tax rebate system confers a subsidy, we apply for following analysis. (See, Preliminary Affirmative Countervailing Duty Determination: Textile Mill Products and Apparel From Indonesia, 49 FR 49672, December 21, 1984.) First, we examine whether the system is intended to operate as a rebate of both indirect taxes and import duties. Next, we analyze whether the government properly ascertained the level of the rebate. Finally, we review whether the rebate schedules are revised periodically in order to determine if the rebate amount reflects the amount of duty and indirect taxes paid.

Based on the Department's previous examination of the CCS program (See, e.g., Certain Iron Metal Castings From India: Final Results of Countervailing Duty Administrative Review, 55 FR 1976, January 18, 1991.), we preliminarily determine that the CCS confers a countervailable benefit only to the extent that it rebates duties and/or indirect taxes on non-physically incorporated items.

Upon examination of the inputs into ibuprofen, we preliminarily determine that only certain inputs are physically incorporated. Therefore, to determine the extent of the over-rebate to Cheminor, we first calculated a unit export price. Next, we calculated the indirect tax on physically incorporated inputs as a percentage of the unit export price to determine the allowable CCS rebate rate. Comparing the allowable rate to Cheminor's actual CCS rebate rate, we calculated an estimated net subsidy of 6.04 percent *ad valorem*.

On July 3, 1991, the Ministry of Commerce suspended the CCS program. Consistent with our policy of taking into account measurable program-wide changes that occur before the preliminary determination, we are taking into account the suspension of the CCS program. Therefore, for purposes of the preliminary determination, the cash deposit rate for this program is equal to zero.

5. Import Duty Exemptions Available Through Advance Licenses

Advance licenses are available to exporters, to enable them to import raw material inputs used in the production of exports duty-free. Recipients of advance licenses are obligated under the terms of the license to export the products produced with the duty-free imports. The amount of imports allowed under an advance license is closely linked to the amount of exports to be produced.

We consider the use of the advance licenses to be equivalent to a duty drawback program insofar as customs duties are not paid on physically incorporated, imported products used in the production of exports. However, where imported inputs are not physically incorporated into the exported product, we consider the duty savings afforded by the advance license to be a countervailable export subsidy.

Cheminor claims that certain imported chemicals, including catalysts and solvents, are used in the production process and are needed to produce ibuprofen. Therefore, Cheminor contends that the Department should not apply its physical incorporation test rigidly, and should find non-countervailable the duty-free treatment of these inputs.

The Department has previously addressed the issue of catalysts and solvents and found them not to be physically incorporated into the exported product (See, e.g., Oleoresins of Paprika From Spain: Preliminary Results of Administrative Review of Countervailing Duty Order, 46 FR 61684, December 18, 1981; Ferroalloys From Spain: Final Results of Administrative Review of Countervailing Duty Order, 48 FR 34493, July 29, 1983).

Consistent with these earlier cases, we preliminarily determine that catalysts and solvents are not physically incorporated in ibuprofen and duty-free treatment of these inputs confers a countervailable subsidy. To calculate the benefit attributable to the duty savings on imported inputs not physically incorporated into ibuprofen, we used the data from an advance license provided in Cheminor's response. First, we calculated the duty savings related to inputs not physically incorporated into ibuprofen. Next, we divided the duty savings by the volume of ibuprofen committed to be exported under the advance license, and multiplied this result by the total volume of ibuprofen exports. Finally, we divided this duty savings amount by the value of total exports of ibuprofen to all markets. On this basis, we calculated an estimated net subsidy of 33.72 percent *ad valorem*.

B. Programs Preliminarily Determined Not To Be Used

1. Import Replenishment License
2. Excessive Drawback of Import Duties
3. Grants Under the Market Development Assistance (MDA) Program
4. Diesel Oil Subsidies
5. Sales of Additional Licenses
6. Grants Under the Central Investment Subsidy Scheme (CISS)
7. Transportation Subsidies
8. Extension of Free Trade Zones
9. Import Duty Exemptions Available to 100 Percent Export Oriented Units
10. Preferential Waste Disposal Rates

Verification

In accordance with section 776(b) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of bulk ibuprofen from India which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for all entries of this merchandise equal to 43.71 percent *ad valorem* for bulk ibuprofen produced and exported by

Cheminor and all other manufacturers, producers and exporters in India of bulk ibuprofen. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Our final determination is scheduled for February 26, 1992. If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department's final determination.

Public Comment

In accordance with 19 CFR 355.38, we will hold a public hearing, if requested, on February 20, 1992, at 2:15 p.m. in room 3708, to afford interested parties the opportunity to comment on this preliminary determination. Interested parties who wish to request or to participate in the hearing must submit a request within ten days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of issues to be discussed. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

In addition, ten copies of the business proprietary version and five copies of the non-proprietary version of case briefs must be submitted to the Assistant Secretary no later than February 10, 1992. Ten copies of the business proprietary version and five copies of the non-proprietary version of rebuttal briefs must be submitted to the Assistant Secretary no later than February 18, 1992. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal brief. If no hearing is requested, interested parties still may comment on these preliminary results in the form of case and rebuttal briefs. Written arguments should be submitted in accordance with section 355.38 of the Commerce Department's regulations and will be considered if received within the time limits specified above.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)) and 19 CFR 355.15.

Dated: December 13, 1991.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 91-30598 Filed 12-20-91; 8:45 am]

BILLING CODE 3510-05-M

[C-223-601]

Certain Cut Flowers From Costa Rica; Final results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On October 25, 1991, the Department of Commerce published the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on certain cut flowers from Costa Rica. We have now completed that review and have determined that the signatories have complied with the terms of the suspension agreement during the period January 1, 1990 through December 31, 1990.

EFFECTIVE DATE: December 23, 1991.

FOR FURTHER INFORMATION CONTACT: Millie Mack or Jeff Laxague, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC; telephone (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On October 25, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 55285) the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation regarding certain cut flowers from Costa Rica (52 FR 1356; January 13, 1987). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of Costa Rican miniature (spray) carnations, standard carnations and pompon chrysanthemums. This merchandise is currently classifiable under the Harmonized Tariff Schedule items 0603.10.30 and 0603.10.70. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers 37 producers and exporters of the subject merchandise. These 37 producers and exporters, along with the Government of Costa Rica (GOCR) and the Association of Costa Rican Flower Growers (ACOFLOR), are the signatories to the suspension agreement (see appendix A of this notice for a listing of the 37 signatory producers and exporters).

The review covers the period January 1, 1990 through December 31, 1990, and six programs: (1) Tax Credit Certificates (CAT); (2) Certificates for Increasing Exports (CIEX); (3) Income Tax Exemptions for Export Earnings; (4) Exporter Credit for Sales Tax and Consumption Tax on Certain Domestic Purchases; (5) Exporter Exemptions for Taxes and Duties on Imports; and (6) Accelerated Depreciation.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

As a result of our review, we determine that the signatories have complied with the terms of the suspension agreement for the period January 1, 1990 through December 31, 1990.

The agreement can remain in force only as long as shipments from the signatories account for at least 85 percent of imports of the subject cut flowers into the United States. Our information indicates that the 37 signatory companies accounted for substantially all of the imports into the United States of this merchandise during the review period.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Alan M. Dunn,

Assistant Secretary for Import Administration.

Appendix A—List of Signatory Producers and Exporters

1. American Flower Corporation, S.A.
2. Flores del Cerro
3. Agroflor de Paraiso, S.A.
4. Hermelink y Garces, S.A.
5. Tico Flor, S.A.
6. Cooexflo R.L.
7. Compania Agricola Flex, S.A.
8. Flor Bella, S.A.

9. Exporflor de Cartago, S.A.
10. Lianpa, S.A.
11. Floricultura de Costa Rica, S.A.
12. Vivero El Zamorano, S.A.
13. Flores de Iztaru, S.A.
14. Inversiones Costa Flor, S.A.
15. Coopeflor
16. Euroflores, S.A.
17. Flores y Follajes del Tirol, S.A.
18. Flores del Volcan CRP, S.A.
19. Goreza, S.A.
20. Llano Claro, S.A.
21. Ornamentales Cargil, S.A.
22. Floricultura La Colina, S.A.
23. Flores Intercontinentales, S.A.
24. Fincas Nabori, S.A.
25. Flores de Coris, S.A.
26. Florex, S.A.
27. C.R.B. Internacional, S.A.
28. Flores del Caribe, S.A.
29. Zurqui Flor de Costa Rica, S.A.
30. Rio Tapezco Ltda.
31. Jardin Botanico LDL de Costa Rica, S.A.
32. Tropiflor de la Montana, S.A.
33. Floricultura Santa Rosa, S.A.
34. Corporacion Rica Flor, S.A.
35. Intertec, S.A.
36. Accoreo, S.A.
37. Floricultura Cartaginesa

[FR Doc. 91–30536 Filed 12–20–91; 8:45 am]
BILLING CODE 3510–DS–M

[C–570–816]

Postponement of Preliminary Countervailing Duty Determination: Oscillating Fans and Ceiling Fans From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: December 23, 1991.

FOR FURTHER INFORMATION CONTACT: Ross L. Cotjanle or Carole Showers, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at (202) 377–3534 or 377–3217, respectively.

Postponement

On December 9, 1991, Lasko Metal Products, Inc., petitioner in this investigation, requested that the Department postpone the preliminary determination in accordance with section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act). Accordingly, we are postponing the date of the preliminary determination until not later than March 16, 1992.

This notice is published pursuant to section 703(c)(2) of the Act and 19 CFR 355.15(c).

Dated: December 16, 1991.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91–30538 Filed 12–20–91; 8:45 am]
BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Application for Scientific Research Permit (P263B).

Notice is hereby given that Ms. Janice M. Straley, P.O. Box 273, Sitka, Alaska 99835, has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the regulations governing endangered fish and wildlife permits (50 CFR parts 217–222).

Species and Type of Take: The applicant requests a Permit to harass annually, over a five year period, up to 500 humpback whales (*Megaptera novaeangliae*), some of which may be harassed more than one time, during observational/photo-identification studies, and feeding behavior/prey distribution studies using a remotely-operated vehicle (ROV); and up to 200 killer whales (*Orcinus orca*) and 20 minke whales (*Balaenoptera acutorostrata*) during opportunistic observation/photo-identification studies. The applicant also requests authorization to import and export, on an opportunistic basis, specimen material from dead, stranded or beached humpback, killer, and/or minke whales for biological, chemical, and/or genetic analysis. The purpose of the proposed research is to document individual humpback whales and associated feeding behaviors and prey distribution in Alaska waters, and to enhance the body of knowledge with respect to killer and minke whales.

Location of Activity: The proposed activities will be conducted year-round in southeastern Alaska waters.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application, should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

By appointment: Office of Protected Resources, Marine Fisheries Service, 1335 East-West Hwy., suite 7324, Silver Spring, Maryland 20910 (301/713–2289).

Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802.

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115.

Dated: December 17, 1991.

Nancy Foster,

Director, Office of protected Resources.

[FR Doc. 91–30495 Filed 12–20–91; 8:45 am]
BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China; Correction

December 18, 1991.

A notice published in the **Federal Register** on November 29, 1991 (56 FR 60977, line 2) stated that overshipment charges of 64,121 kilograms would be applied to the 1992 limit for Category 369–S. This amount should be corrected to 80,871 kilograms.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–30541 Filed 12–20–91; 8:45 am]
BILLING CODE 3510–DR–F

Establishment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Indonesia

December 18, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: December 27, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535–9480. For information on embargoes and quota re-openings, call (202) 377–3715. For information on categories on which consultations have been requested, call (202) 377-3740.

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).

Inasmuch as no agreement has been reached on a mutually satisfactory solution on Category 443, the United States Government has decided to control imports in this category for the prorated period beginning on December 27, 1991 and extending through June 30, 1992.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Indonesia, further notice will be published in the **Federal Register.**

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990; and 56 FR 60101, published on November 27, 1991). Also see 56 FR 56198, published on November 1, 1991.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 18, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated September 25 and October 3, 1985, as amended, between the Governments of the United States and Indonesia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 27, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 443, produced or manufactured in Indonesia and exported during the period beginning on December 27, 1991 and extending through June 30, 1992, in excess of 25,631 numbers.

Textile products in Category 443 which have been exported to the United States on and after July 1, 1991 shall remain subject to the Group II limit, and its subgroup, established for the period July 1, 1991 through June 30, 1992.

Imports charged to this category limit for the ninety-day period beginning on September 28, 1991 and extending through December 26, 1991, shall be charged against that level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

For the import period September 28, 1991 through November 3, 1991, there are zero charges to be made to Category 443.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–30540 Filed 12–20–91; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF EDUCATION

[CFDA No. 84.023]

Research in Education of Individuals With Disabilities Program; Applications for New Awards for Fiscal Year 1992

Purpose of Program: To advance and improve the knowledge base and improve the practice of professionals, parents, and others providing early intervention, special education, and related services, including professionals in regular education environments, to provide children with disabilities effective instruction and enable them to successfully learn.

Eligible Applicants: State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

Deadline for Transmittal of Applications: March 6, 1992.

Applications Available: December 31, 1991.

Available Funds: $750,000

Estimated Number of Awards: 10

Estmated Size of Awards: Up to $75,000

NOTE: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86: and (b) The regulations for this program in 34 CFR part 324, as amended on October 22, 1991 at 56 FR 54697–54698.

Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 324.10 the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this program only applications that meet this absolute priority:

Absolute Priority: Advancing and Improving the Research Knowledge Base (CFDA 84.023A)

This priority supports a wide range of research and related activities that support innovation, development, exchange, and use of advancements in knowledge and practice designed to contribute to the improvement of instruction and learning of infants, toddlers, children, and youth with disabilities.

Invitational Priorities: Within this Absolute Priority, the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Pilot studies, projects that employ new methodologies, descriptive studies, projects to advance assessment, projects that synthesize state-of-the-art research and practice, projects for research dissemination and utilization, and projects that analyze extant data bases. The Secretary further encourages studies that use these approaches to address the needs of infants, toddlers,

children and youth with disabilities from racial or ethnic minority groups.

This program complements AMERICA 2000, the President's strategy for helping the nation achieve the six National Education Goals, by improving our understanding of how to enable children with disabilities to reach the highest levels of educational performance envisioned by the goals.

FOR APPLICATIONS OR INFORMATION CONTACT: Linda Glidewell, U.S. Department of Education, 400 Maryland Avenue, SW., room 3524 Switzer Building, Washington, DC 20202–2641. Telephone: (202) 732–1099. Deaf and hearing impaired individuals may call (202) 732–6153.

Program Authority: 20 U.S.C. 1441–1443.

Dated: December 17, 1991.

Robert R. Davila,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 91–30506 Filed 12–20–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM92–9–20–000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 17, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on December 13, 1991, tendered for filing proposed changes in its FERC Gas Tariff, as set forth in the revised tariff sheets:

Proposed to be Effective January 1, 1992

Volume No. 1
Substitute Third Revised Sheet No. 64
Volume No. 2
Sub 1 Rev Sheet No. 334

Algonquin states that these revised tariff sheets are being submitted to incorporate the Gas Research Institute Adjustment ("GRI Adjustment") for the calendar year 1992 into Rate Schedules FTP and X–35. The GRI Adjustment was approved by the Commission in Opinion No. 365 in Docket No. RP92–170–000, issued October 1, 1991 (57 FERC ¶ 61,010). The instant filing is being made pursuant to Section 28 of the General Terms and Conditions of Algonquin's FERC Gas Tariff, Third Revised Volume No. 1.

Algonquin also states that on November 13, 1991 in Docket No. CP88–185–011, as supplemented on November 20, 1991, Algonquin filed an application to amend a certificate of public convenience and necessity granted to Algonquin by Commission Letter Order issued on July 2, 1990 (52 FERC ¶ 61,001) for Rate Schedule FTP. Tariff sheets reflecting the amendment were accepted by Commission Letter Order dated November 27, 1991 (57 FERC ¶ 62,164). Also on November 27 in Docket No. TM92–8–20–000 ("Initial GRI filing"), Algonquin filed to incorporate the GRI Adjustment for the calendar year 1992 into all of its then-effective rate schedules. As Algonquin did not receive notice of the Commission's approval in Docket No. CP88–185–011 until after the GRI filing was made, Sheet No. 64 is being revised herein to incorporate the 1992 GRI adjustment.

Algonquin further states that also included herein is a revised tariff sheet No. 334 for Rate Schedule X–35 that incorporates the 1992 GRI Adjustment and technical modifications to the format of the rate sheet. These modifications were agreed upon during discussions with FERC Staff and had not been finalized at the time of the initial GRI filing.

Algonquin states that the proposed effective date of these tariff sheets is January 1, 1992.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 24, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–30511 Filed 12–20–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–160–003]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

December 17, 1991.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf) on November 27, 1991 tendered for filing revised changes in its FERC Gas Tariff, First Revised Volume No. 1 to become effective December 1, 1991.

Columbia Gulf states that it is filing the referenced tariff sheets in order to place into effect the rates and tariff provisions suspended by Commission Order issued June 28, 1991 in this proceeding.

The tariff sheets encompass Columbia Gulf's rate filing herein of May 31, 1991, with adjustments to its cost of service to (1) reflect only the costs of facilities which are projected to be in service by November 30, 1991; and (2) reflect the level of purchased gas costs in the most recent Purchased Gas Cost Adjustment filing of Columbia Gas Transmission Corporation (Columbia Transmission), filed in Docket No. TQ92–1–21–001 on October 25, 1991.

Columbia Gulf states that copies of the filing were served on Columbia Gulf's jurisdictional customers and interested state commissions and to each of the parties set forth on the official service list in the above-referenced proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before December 23, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary

[FR Doc. 91–30512 Filed 12–20–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP90–111–000 and RP91–204–000]

East Tennessee Natural Gas Co.; Informal Settlement Conference

December 17, 1991.

Take notice that an informal settlement conference will be convened in this proceeding on January 9, 1992, at 10:30 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC for the purpose of exploring the possible settlement of the above-referenced dockets. The conference will continue on January 10, 1992, if necessary.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations, (18 CFR 385.214).

For additional information, contact Donald A. Heydt at (202) 208–0740 or Irene Szopo at (202) 208–1602.

Lois D. Cashell,

Secretary.

[FR Doc. 91–30513 Filed 12–20–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM92–7–4–000]

Granite State Gas Transmission, Inc.; Proposed Changes In Rates

December 17, 1991.

Take notice that on December 10, 1991, Granite State Gas Transmission, Inc. (Granite State) 300 Friberg Parkway, Westborough, Massachusetts 01581 tendered for filing Ninth Revised Sheet No. 25 in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in rates for effectiveness on January 1, 1992.

According to Granite State, it provides a storage service for Bay State Gas Company under its Rate Schedule GSS with storage capacity provided in a facility operated by CNG Transmission Corporation (CNG). It is further stated that Granite State's Rate Schedule GSS tracks changes made by CNG under its Rate Schedule GSS pursuant to which Granite State obtains storage capacity from CNG.

Granite State further states that on November 27, 1991, in Docket No. TM92–22–000, CNG filed Tenth Revised Sheet No. 34 in its FERC Gas Tariff, First Revised Volume No. 1, revising the Injection Charge in its Rate Schedule GSS, effective November 1, 1991. According to Granite State, its filing tracks in its Rate Schedule GSS the change made by CNG in its rates for Rate Schedule GSS service.

Granite State states that copies of its filing were served on Bay State Gas Company and the regulatory commissions of the states of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 285.211 and 385.214). All such motions or protests should be filed on or before December 23, 1991. Protests will be considered by the Commission in determining the appropriate action to the 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. 91–30514 Filed 12–20–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP92–241–000]

Kern River Gas Transmission Co.; Application

December 16, 1991.

Take notice that on December 16, 1991, Kern River Gas Transmission Company (Applicant), P.O. Box 2511, Houston, Texas, 77252–2511, pursuant to section 7 of the Natural Gas Act, as amended, and part 157 of the Regulations of the Federal Energy Regulatory Commission (Commission), filed in Docket No. CP92–241–000, an application for a temporary certificate of public convenience and necessity authorizing the installation of, and a permanent certificate of public convenience and necessity authorizing the construction and operation of, certain tap and meter facilities on Kern River's interstate pipeline system as more fully described in the application which is on file at the Commission and available for public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 23, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken on the request for a permanent certificate but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Pursuant to section 7(c) of the Natural Gas Act, the Commission may act on the application for a temporary certificate without awaiting or considering any protests or intervention.

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 requested 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 Applicant to appear or be represented.

Lois D. Cashell,

Secretary.

[FR Doc. 91–30509 Filed 12–20–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM92–3–25–000]

Mississippi River Transmission Corp., Rate Change Filing

December 17, 1991

Take notice that on December 13, 1991 Mississippi River Transmission Corporation (MRT) tendered for filing Thirteenth Revised Sheet No. 4A.2 to be effective January 13, 1992 to its FERC Gas Tariff, First Revised Volume No. 1.

MRT states that the purpose of the instant filing is to reflect the flowthrough of take-or-pay cost reductions from Trunkline Gas Company (Trunkline) in their Docket No. RP91–54–000 *et al.* MRT states that the reductions have been allocated to MRT's customers in accordance with MRT's June 26, 1991 Stipulation and Agreement on the Allocation and Recovery of Transition Costs from Upstream Pipelines (Settlement) approved by Commission Order dated July 25, 1991. MRT states that Thirteenth Revised Sheet No. 4A.2 reflects a reconciliation of take-or-pay amounts paid to Trunkline by MRT compared to take-or-pay amounts collected by MRT from its jurisdictional customers.

MRT states that a copy of this filing has been mailed to each of MRT's jurisdictional customers and to 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, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR § 385.214. All such protests should be filed on or before December 24, 1991. Protests will be considered by the Commission in determining the appropriation action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–30515 Filed 12–20–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ92–4–25–001]

Mississippi River Transmission Corp.; Rate Change Filing

December 17, 1991.

Take notice that on November 21, 1991 Mississippi River Transmission Corporation (MRT) tendered for filing First Revised Sixty-Seventh Revised Sheet No. 4, and First Revised Twenty-Sixth Revised Sheet No. 4.1 to its FERC Gas Tariff, Second Revised Volume No. 1 to be effective November 13, 1991.

On November 12, 1991 MRT filed an out-of-cycle Purchased Gas Adjustment (PGA) proposed to be effective November 13, 1991 in Docket No. TQ92–4–25–000. MRT recently discovered that the November 12 filing contained an error in tariff sheet pagination and also a rounding error in the commodity cost of gas in rates reflected on the bottom of Sheet Nos. 4 and 4.1.

MRT states that the purpose of this filing is to resubmit its out-of-cycle tariff sheets to be effective November 13, 1991 with the correct tariff sheet pagination and to correct the commodity cost of gas in rates reflected at the bottom of the tariff sheets. MRT also states that the instant filing is identical in all other respects to the previous out-of-cycle PGA filing submitted in Docket No. TQ92–4–25–000. MRT requests that the Commission close the related Docket No. TQ92–4–25–000 and accept the tariff sheets proposed herein.

MRT also states that a copy of this filing has been served on all of MRT's jurisdictional sales customers and the State Commissions of Arkansas, Missouri, and Illinois.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before December 23, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–30516 Filed 12–20–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP92–240–000]

Mojave Pipeline Co.; Application

December 18, 1991.

Take notice that on December 13, 1991, Mojave Pipeline Company (Mojave), P.O. Box 1188, Houston, Texas, 77001, filed in Docket No. CP92–240–000 pursuant to section 7(c) of the Natural Gas Act and subpart A of part 157 of the Commission's regulations, an application for a certificate of public convenience and necessity authorizing the construction and operation of certain tap and metering facilities on Mojave's interstate pipeline system, as more fully described in the application which is on file at the Commission and available for public inspection. As part of this filing, Mojave also has filed an application for a temporary certificate authorizing the construction of such facilities.

Mojave currently holds an optional expedited certificate that authorizes Mojave to construct and operate a pipeline system extending from Arizona to near Bakersfield in Kern County, California. Mojave also holds blanket certificates authorizing Mojave to construct and operate certain appurtenant facilities and to provide open access natural gas transportation services. See Mojave Pipeline Company., 47 FERC ¶ 61,200 (1989); *Mojave Pipeline Company.*, 50 FERC ¶ 61,069 *reh'g denied*, 51 FERC ¶ 61,195 (1990) (the "Certificate Orders").

Under the Certificate Orders, Mojave and Kern River Gas Transmission Company ("Kern River") were authorized to construct, operate, and obtain an undivided joint ownership interest in certain pipeline facilities (the "Common Facilities") to be located in Kern County, California.[1] Mojave owns a 4/11 interest in the Common Facilities and Kern River owns 7/11.

Of the 21 delivery points currently contemplated to be located on the Common Facilities, 11 will be constructed and operated either by solely by Mojave or jointly by Mojave and Kern River. These are the delivery points for which Mojave requests certificate authority. As projected on page 3 of Exhibit K to Mojave's Application to Amend Certificate of Public Convenience and Necessity, filed on August 30, 1991, in Docket No. CP89–1, the cost of these facilities will be approximately $5 million. The delivery points and the status of their construction are listed below.

Delivery point	Status of construction
1. Coolwater	Not commenced.
2. Boron	Not commenced.
3. Kern River	Partially complete.
4. Sycamore/KRCC	Partially complete.
5. Kern Front	Not commenced.
6. SoCal	Partially complete.
7. S. Midway	Partially complete.
8. Miday-Midset	Partially complete.
9. Midway	Partially complete.
10. N. Midway	Partially complete.
11. 17–Z	Partially complete.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 23, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken on the request for a permanent certificate but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Pursuant to section 7 of the Natural Gas Act, the Commission may act on Mojave's request for temporary authorization

[1] Under the Construction, Operations and Maintenance Agreement dated August 29, 1989, among Mojave, Kern River and MPOC (the "CO&M Agreement"), the Common Facilities are being constructed and operated by MPOC as agent for Mojave and Kern River. The CO&M Agreement was submitted to the Commission as part of Exhibit M to its amended certificate application filed September 1, 1989, in Docket No. CP89–1.

without awaiting or considering any intervention or protest.

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 requested 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.

Lois D. Cashell,

Secretary.

[FR Doc. 91-30510 Filed 12-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EL91-28-000 and EL91-54-000]

North Carolina Electric Membership Corporation and Brunswick Electric Membership Corp. v. Carolina Power & Light Co.; Initiation of Proceeding and Refund Effective Date

December 17, 1991.

Take notice that on December 6, 1991, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL91-54-000 under section 206 of the Federal Power Act, as amended by the Regulatory Fairness Act of 1988.

The refund effective date in Docket No. EL91-54-000 will be 60 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Secretary.

[FR Doc. 91-30517 Filed 12-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-4-59-001]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 17, 1991.

Take notice that Northern Natural Gas Company (Northern), on December 12, 1991, tendered for filing changes in its FERC Gas Tariff, Third Revised Volume No. 1 (Volume No. 1 Tariff).

The calculation of the November 1991 Index Price shown on 1 Revised Twentieth Revised Sheet No. 4H of Northern's Volume No. 1 Tariff incorporated an incorrect price; as such, the November 1991 Index Price should be $1.6430 rather than $1.6470 as previously filed by Northern. Therefore, Tariff Sheet Sub. 1 Rev. Twentieth Revised Sheet No. 4H. filed by Northern on December 11, 1991, reflects such change to be effective December 1, 1991.

Northern states that copies of the filing were served on Northern's jurisdictional sales customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before December 23, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-30518 Filed 12-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-103-011]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

December 17, 1991.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on December 11, 1991 tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Fourth Revised Sheet No. 32-AK
Second Revised Sheet No. 32-AL
Second Revised Sheet No. 32-BO
First Revised Sheet No. 32-BP

The subject tariff sheets bear a proposed effective date of December 11, 1991.

Panhandle states that on March 22, 1990 it submitted a Stipulation and Agreement in connection with the above-referenced proceedings. The Commission issued an order on November 26, 1991 which approved the Stipulation and Agreement. Pursuant to Ordering Paragraph (B) of the November 26, 1991 Order, Panhandle is submitting the revised tariff sheets referenced above to remove § 6.8(c) from Rate Schedules PT-Interruptible and PT-Firm.

Panhandle states that a copy of this filing has been sent to all affected sales and transportation customers, affected State Commissions and all parties on the service lists in the referenced proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before December 23, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-30519 Filed 12-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-203-000]

Tennessee Gas Pipeline Co.; Informal Settlement Conference

December 17, 1991.

Take notice that an informal settlement conference will be convened in this proceeding on January 6, 1992, at 1 p.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC, for the purpose of exploring a possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Donald Williams at (202) 208-0743 or Dennis H. Melvin at (202) 208-0042.

Lois D. Cashell,

Secretary.

[FR Doc. 91-30520 Filed 12-20-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-11-006]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

December 17, 1991.

Take Notice that on December 11, 1991, United Gas Pipe Line Company (United) tendered for filing the following corrected tariff sheet to be effective October 1, 1989:

First Revised Volume No. 1

First Substitute Ninetieth Revised Sheet No. 4

United states that the above referenced tariff sheet is being filed to correct an error in the preparation of Substitute Revised Tariff Sheet No. 4 as filed September 18, 1991 in Docket No. TA90–1–11–004.

United states that the substitute tariff sheet is being mailed to its jurisdictional sales customers and to interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before December 23, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–30521 Filed 12–20–91; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2357–003—Wisconsin/Michigan]

Wisconsin Electric Power Co.; Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

December 17, 1991.

The license for the White Rapid Hydro Project No. 2357, located on the Menominee River in Marinette County, Wisconsin and Menominee County, Michigan, expires December 31, 1993. The statutory deadline for filing an application for new license was December 31, 1991. An application for new license has been filed as follows:

Project No.	Applicant	Contact
2357–003..	Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201.	Richard G. Fuller, Wisconsin Electric Power Company, 1401 South Carpenter Ave., Iron Mountain, MI 49801.

The following is an approximate schedule and procedures that will be followed in processing the application:

Date	Action
January 10, 1992	Commission notifies applicant that its application has been accepted and specifies the need for additional information and due date.
January 25, 1992	Commission issues public notice of the accepted application establishing dates for filing motions to intervene and protests.
April 15, 1992	Commission's deadline for applicant for filing a final amendment, if any, to its application.

Upon receipt of all additional information and the information filed in response to the public notice of the acceptance of the application, the Commission will evaluate the application in accordance with applicable statutory requirements and take appropriate action on the application.

Any questions concerning this notice should be directed to Robert Bell at (202) 219–2806.

Lois D. Cashell,

Secretary.

[FR Doc. 91–30522 Filed 12–20–91; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Cases Filed During the Week of November 22 Through November 29, 1991

During the week of November 22 through November 29, 1991, the appeals and applications for other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt of an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: December 17, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of November 22 through November 29, 1991]

Date	Name and location of applicant	Case No.	Type of Submission
11/21/91	Gulf/Lutherville Gulf Sparks, Maryland	RR300–115	Request for Modification/Rescission in the Gulf Refund Proceeding. If Granted: The October 25, 1991 Dismissal Letter (Case No. RF300–11528) issued to Lutherville Gulf would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
11/25/91	Foundation for Fair Contracting Sacramento, California	LFA–0166	Appeal of an Information Request Denial. If Granted: The November 5, 1991 Freedom of Information Request Denial issued by the Western Area Power Administration would be rescinded, and the Foundation for Fair Contracting would receive access to deleted names, home addresses and social security numbers contained in the certified payroll record.
Do	Harry S. Hardin, III New Orleans, Louisiana	LFA–0167	Appeal of an Information Request Denial. If Granted: The October 22, 1991 Freedom of Information Request Denial issued by the Strategic Petroleum Reserve Project Management Office would be rescinded, and Harry S. Hardin, III would receive access to DOE information.
Do	Leslie Vallie Golden, Colorado	LFA–0168	Appeal of an Information Request Denial. If Granted: The November 7, 1991 Freedom of Information Request Denial issued by the Western Area Power Administration would be rescinded, and Leslie Vallie would receive access to DOE information.
11/26/91	Gulf/Grammer's Gulf Atlantic Beach, Florida	RR300–116	Request for Modification/Rescission in the Gulf Refund Proceeding. If Granted: The November 6, 1990 Dismissal Letter (Case No. RF300–12170) issued to Grammer's Gulf would be modified regarding the firm's application for refund submitted in the Gulf refund processing.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of November 22 through November 29, 1991]

Date	Name and location of applicant	Case No.	Type of Submission
Do	Gulf/Greive Oil Company Washington, DC	RR300-119	Request for Modification/Rescission in the Gulf Refund Proceeding. If Granted: The October 29, 1989 Decision and Order (Case No. RF300-6039) issued to Greive Oil company would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
Do	Gulf/Huron Oil company, Inc. Washington, DC	RR300-118	Request for Modification/Rescission in the Gulf Refund Proceeding. If Granted: The January 25, 1991 Decision and Order (Case No. RF300-9303) issued to Huron Oil company, Inc. would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
Do	Gulf/Vlach's Gulf Woodbridge, Virginia	RR300-117	Request for Modification/Rescission in the Gulf Refund Proceeding. If Granted: The October 25, 1991 Dismissal Letter (Case No. RF300-11794) issued to Vlach's Gulf would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding.
Do	Texaco/Albemarle Road Texaco Charlotte, North Carolina.	RR321-91	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The September 5, 1991 Dismissal Letter (Case No. RF321-4133) issued to Albemarle Road Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Do	Texaco/Bob's Texaco Lincoln, Nebraska	RR321-90	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The September 24, 1991 Dismissal Letter (Case No. RF321-3561) issued to Bob's Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Do	Texaco/Christie's Texaco Austin, Texas	RR321-94	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The July 25, 1991 Dismissal Letter (Case No. RF321-5253) issued to Christie's Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Do	Texaco/Dow Chemical Company Washington, DC	RR321-96	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The October 22, 1991 Decision and Order (Case No. RF321-10745) issued to Dow Chemical Company would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Do	Texaco Kautz Texaco Pittsburgh, Pennsylvania	RR321-89	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The July 25, 1991 Dismissal Letter (Case No. RF321-3300) issued to Kautz Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
11/28/91	Texaco/Port Malabar Texaco Palm Bay, Florida	RR321-87	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The September 6, 1991 Decision and Order (Case No. RF321-4500) issued to Port Malabar Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
11/26/91	Texaco/Simpson's Texaco Charlotte, North Carolina	RR321-92	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The Dismissal Letter September 5, 1991 (Case No. RF321-4180) issued to Simpson's Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Do	Texaco/University Texaco Memphis, Tennessee	RR321-86	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The October 31, 1991 Decision and Order (Case No. RF321-11592 & RF321-17162) issued to University Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Do	Texaco/William Turner's Texaco Tulsa, Oklahoma	RR321-93	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The July 25, 1991 Dismissal Letter (Case No. RF321-3375) issued to William Turner's Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Do	Texaco/Ysleta Texaco El Paso, Texas	RR321-95	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The July 25, 1991 Dismissal Letter (Case No. RF321-5246) issued to Ysleta Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
11/27/91	TexacoStark & Doolin Texaco Memphis, Tennessee	RR321-97	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The July 25, 1991 Dismissal Letter (Case No. RF321-3992) issued to Stark & Doolin Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Do	ARCO/Wilbanks Oil company Washington, DC	RR304-20	Request for Modification/Rescission in the ARCO Refund Proceeding. If Granted: The August 30, 1991 Decision and Order (Case No. RF304-6236) issued to Wilbanks Oil company would be modified regarding the firm's application for refund submitted in the ARCO refund proceeding.
11/29/91	Texaco/Emmett's Texaco San Antonio, Texas	RR321-98	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The June 17, 1991 Dismissal Letter (Case No. RF321-202) issued to Emmett's Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of November 22 through November 29, 1991]

Date	Name and location of applicant	Case No.	Type of Submission
Do	Texaco/Portel Service Center Ormond Beach, Florida	RR321-100	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The April 24, 1990 Dismissal Letter (Case No. RF321-1204) issued to Portel Service Center would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Do	Texaco/Trusty's Texaco Memphis, Tennessee	RR321-99	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The April 20, 1991 Dismissal Letter (Case No. RF321-1862) issued to Trusty's Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Do	Texaco/Yeagy's Texaco Idaville, Pennsylvania	RR321-88	Request for Modification/Rescission in the Texaco Refund Proceeding. If Granted: The August 2, 1991 Dismissal Letter (Case No. RF321-3587) issued to Yeagy's Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of November 22 to November 29, 1991]

Date received	Name of refund proceeding/Name of refund application	Case No.
11/25/91	Vickers/Kansas	RQ1-577
11/25/91	Rutherford William Stockman.	RF342-51
11/25/91	Victor A. Tucci Service.	RF342-52
11/25/91	Darrell Wertz's Clark Service.	RF342-53
11/25/91	J & D Propane Service.	RF340-33
11/25/91	Genes Exxon	RF307-10199
11/26/91	William D. Tarrant, Jr.	RF342-54
11/26/91	Jerry's Clark	RF342-55
11/27/91	Chuck's Clark	RF342-56
11/27/91	Monsauto Co	RF332-10
11/29/91	Steve's Clark Service.	RF342-57
11/29/91	Marty's Clark Service.	RF342-58
11/29/91	Joe's Clark	RF342-59
11/29/91	Texas Utilities Fuel Company.	RF332-11
11/29/91	Dom's Arco	RF304-12626
11/25/91	Terhune L.P. Gas Co.	RF139-209
11/25/91	Wilder & Son, Inc	RF139-210
11/25/91	Mayfair Servicenter.	RF304-12622
11/25/91	Chuck's Arco Station.	RF304-12623
11/25/91	Gus Budin	RF304-12624
11/22/91 thru 11/29/91.	Texaco Refund Applications Received.	RF321-18059 thru RF321-18075
11/22/91 thru 11/29/91.	Crude Oil Refund Applications Received.	RF272-90782 thru RF272-90819
11/22/91 thru 11/29/91.	Gulf Oil Refund Applications Received.	RF300-18679 thru RF300-18704

[FR Doc. 91-30595 Filed 12-20-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4086]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paper work Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before January 22, 1992.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: National Emission Standard for Hazardous Air Pollutants (NESHAP) for Beryllium (Subpart C)—Information Requirements (EPA No. 0193.04, OMB No. 2060-0092).

Abstract: This ICR is for an extension of an existing information collection in support of NESHAP requirements as established by the Clean Air Act. Specifically, under 40 CFR 61.07-61.10 and 40 CFR 61.30-61.34, owners or operators of sources subject to the NESHAP for beryllium must demonstrate compliance through either an initial test of stack emissions, or ambient air monitoring (unless a waiver of emission testing is obtained under 40 CFR 61.13). The information collected will be used by the EPA for monitoring, inspection, and enforcement efforts directed at ensuring source compliance with the NESHAP.

Prior to commencement of operations, owners or operators of new sources subject to this NESHAP must submit an application for approval of construction that includes: (1) The name and address of the applicant, (2) the location or proposed location of the source, and (3) technical information describing the source. Once approved, the owners or operators must notify EPA of the anticipated and actual start-up dates at the source.

While owners or operators of new sources must conduct an initial emission test, owners or operators of existing sources may, as an alternative, seek approval from the EPA to conduct continuous compliance monitoring. Owners and operators of new and existing sources conducting an initial emission test must: (1) Notify EPA at least 30 days prior to the date of the test, and (2) record and report the test results to EPA. Calculations estimating new emission levels must be reported whenever a change in plant operations might elevate emissions.

Owners or operators of existing sources seeking EPA approval to perform continuous ambient air monitoring must submit a report that includes: (1) A description of the locations and physical characteristics of the sampling area, (2) the design, methods, and techniques used in sampling and estimating emissions, (3) a description of the process used to design the air sampling network, and (4) three years of air quality monitoring data. If the request is granted, the owner or operator must submit a monthly report on beryllium concentrations measured at all sampling sites.

Presently, only about 24 sources, out of an estimated 236 subject to this NESHAP, conduct continuous compliance monitoring. The EPA does

not anticipate any expansion in the regulated community over the next three years. Owners and operators of subject sources must maintain records related to compliance for a two year period.

Burden Statement: Public reporting burden for this collection of information is estimated to average 8 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the collection of information. Public recordkeeping burden is estimated to average 62.5 hours, annually.

Respondents: Businesses or other for-profit organizations.

Estimated Number of Respondents: 24.

Estimated Number of Responses Per Respondent: 12.

Estimated Total Annual Burden on Respondents: 3,741 hours.

Frequency of Collection: Monthly for ambient monitoring, on occasion for initial emission testing.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: December 17, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–30585 Filed 12–20–91; 8:45 am]

BILLING CODE 6560–50–M

[AMS–FRL–4086–4]

Regulation of Fuels and Fuel Additives: Standards for Reformulated Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of application for extension of the reformulated gasoline program to Connecticut, New Hampshire and Virginia.

SUMMARY: This notice published the application of the Governors of the States of Connecticut, New Hampshire, and Virginia to have the prohibition set forth in section 211(k)(5) of the Clean Air Act (the Act) applied in their respective states. Under section 211(k)(6) the Administrator of EPA shall apply the prohibition against the sale of gasoline which has not been reformulated to be less polluting in an ozone nonattainment area upon the application of the governor of the state in which the nonattainment area is located.

DATES: The effective date of the prohibition described herein is January 1, 1995 (see the Supplementary Information section of today's notice for a discussion of the possible delay of this date).

ADDRESSES: Materials relevant to this notice are contained in Public Docket No. A–91–02. This docket is located in room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC. 20460. The docket may be inspected from 8:30 a.m. until 12 noon and from 1:30 p.m. until 3 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT:

Joanne I. Goldhand, U.S. EPA (SDSB–12), Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4504.

SUPPLEMENTARY INFORMATION:

I. Background

As part of the Clean Air Act Amendments of 1990, Congress added a new subsection (k) to section 211 of the Clean Air Act. Subsection (k) prohibits the sale of gasoline that EPA has not certified as reformulated ("conventional gasoline") in the nine worst ozone nonattainment areas beginning January 1, 1995. To be certified as reformulated a gasoline must comply with the following formula requirements: Oxygen content of at least 2.0 percent by weight benzene content of no more than 1.0 percent by volume; no heavy metals (with a possible waiver for metals other than lead); and the inclusion of deposit preventing additives. The gasoline must also achieve toxic and volatile organic compound emissions reductions equal to or exceeding the more stringent of a specified formula fuel or a performance standard.

Section 211(k)(10)(D) defines the areas covered by the reformulated gasoline program as the nine ozone nonattainment areas having a 1980 population in excess of 250,000 and having the highest ozone design values during the period 1987 through 1989. Applying those criteria, EPA has determined the nine covered areas to be the metropolitan areas including Los Angeles, Houston, New York City, Baltimore, Chicago, San Diego, Philadelphia, Hartford and Milwaukee. Under section 211(k)(10)(D) any area reclassified as a severe ozone nonattainment area under section 181(b) is also to be included in the reformulated gasoline program.

Any other ozone nonattainment area may be included in the program at the request of the governor of the state in which the area is located. Section 211(k)(6)(A) provides that upon the application of a governor, EPA shall apply the prohibition against selling conventional gasoline in any area in the governor's state which has been classified under subpart 2 of part D of title I of the Act as a Marginal, Moderate, Serious or Severe ozone nonattainment area.[1] Subparagraph 211(k)(6)(A) further provides that EPA is to apply the prohibition as of the date the "deems appropriate, not later than January 1, 1995, or 1 year after such application is received, whichever is later." In some cases the effective date may be extended for such an area as provided in section 211(k)(6)(B) based on a determination by EPA that there is "insufficient domestic capacity to produce" reformulated gasoline. Finally, EPA is to publish a governor's application in the **Federal Register**.

EPA has used the regulatory negotiation process on the requirements for reformulated gasoline. A notice of proposed rulemaking was published July 9, 1991 (56 FR 31176). Since that time the regulatory negotiation advisory committee reached consensus on an outline for the reformulated gasoline program. A supplemental notice of proposed rulemaking will be published shortly which describes the consensus of the advisory committee. This supplemental notice will also describe the certification program for reformulated gasoline, the credits program for exceeding certain requirements and the enforcement program, among other elements.

II. The Governors' Requests

EPA received an application from the Hon. Lowell P. Weicker, Jr., Governor of Connecticut, for that state to be included in the reformulated gasoline program. His application is set out in full below.

[State of Connecticut Letterhead]

October 28, 1991.

The Honorable William Reilly,
Administrator,
U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

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[1] EPA recently promulgated such designations pursuant to section 107(d)(4) of the Act (56 FR 56694; November 6, 1991).

Dear Mr. Reilly: I am writing at this time to request that, in accordance with section 211(k)(6) of the Clean Air Act, you extend the reformulated gasoline requirements of section 211(k)(5) to the entire State of Connecticut.

All of Connecticut is nonattainment with respect to ozone. Statewide use of reformulated gasoline will contribute greatly to our ability to meet both our obligations under the Act for emission reductions by 1996 and our longer term attainment objectives.

In addition to supporting the use of this cleaner fuel throughout Connecticut, I believe that its widespread use across all of the Ozone Transport Region should be considered.

The responsibility for fulfilling any state role in the implementation of this and other air quality related fuel programs resides in our Bureau of Air Management. Your office should feel free to get in contact with Carl S. Pavetto, Chief, Bureau of Air Management at (203) 566–2506.

I look forward to working with you as we undertake the challenging task of achieving clean air and thank you in advance for your assistance on the important step represented by this request.

Sincerely,

s/Lowell P. Weicker, Jr.,

Governor.

EPA also received an application from the Hon. Judd Gregg, Governor of New Hampshire, for the nonattainment areas in that state to be included in the reformulated gasoline program. His application is set out in full below.

[State of New Hampshire Letterhead]

October 22, 1991.

William K. Reilly, Administrator,
U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Dear Administrator Reilly: Pursuant to the provisions of section 211(k) of the Clean Air Act as amended, I am informing you that those areas of New Hampshire classified as Ozone Nonattainment Areas intend to participate in the reformulated gasoline program. In New Hampshire, these areas include the New Hampshire portion of the Boston-Lawrence-Salem MA/NH[2] CMSA, the New Hampshire potion of the Portsmouth-Dover-Rochester NH/ME MSA, and the Manchester, New Hampshire MSA plus the remainder of Hillsborough, Merrimack, and Rockingham Counties not included in the Boston or Portsmouth metropolitan areas. Presently New Hampshire portions of the Boston CMSA and the Portsmouth MSA are classified serious and the Manchester MSA plus the remainder of the three Counties are classified marginal.

Of the steps available to the State of New Hampshire to comply with the Clean Air Act, the reformulated gasoline option will enable our state to achieve the emission reductions mandated by the Clean Air Act while having the least negative impact on our industry, small businesses and consumers.

If you have any questions or would like to discuss these issues further, please call or have your staff contact Commissioner Robert W. Varney at (603) 271–3503.

Sincerely,

s/Judd Gregg

Governor.

EPA also received an application from the Hon. Lawrence Douglas Wilder, Governor of Virginia, for the nonattainment areas in that state to be included in the reformulated gasoline program. His application is set out in full below.

[Commonwealth of Virginia Letterhead]

Mr. William K. Reilly, Administrator,
U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Dear Mr. Reilly: As you know, the Clean Air Act Amendments of 1990 impose significant air pollution control requirements on the states. After analyzing the benefits of various control measures and options, I am requesting that the U.S. Environmental Protection Agency require the sale of reformulated gasoline in Virginia's nonattainment areas as provided for under Section 211 (k) of the new Clean Air Act.

We have concluded that the benefits of the associated emissions reduction demonstrate this to be a cost effective control measure that will both improve air quality and provide a basis for maintaining air quality with future economic growth.

The reformulated gasoline program should be required in those ozone nonattainment areas which are located in the Metropolitan Statistical Areas, the Northern Virginia Nonattainment Area (serious), the Richmond Nonattainment Area (moderate), and the Hampton Roads Nonattainment Area (marginal)[3]

Wish best wishes, I am

Very truly yours,

s/Lawrence Douglas Wilder.

cc: The Honorable Elizabeth H. Haskell, Mr. Wallace N. Davis, Mr. Richard Rykowski, Mr. Edwin B. Erickson.

III. Action

Pursuant to the governors' letters and the provisions of section 211(k)(6), the prohibitions of subsection 211(k)(5) will be applied to the entire state of Connecticut and the nonattainment areas in New Hampshire and Virginia classified Marginal or worse (except Smyth County, Virginia) beginning January 1, 1995 (except as provided above). The application of the prohibitions to these areas cannot take effect any earlier than January 1, 1995 under section 211(k)(5) and cannot take effect any later than January 1, 1995, under section 211(k)(6)(A), unless the Administrator extends the effective date by rule under section 211(k)(6)(B).

Dated: December 13, 1991.

William K. Reilly,

Administrator.

[FR Doc. 91–30563 Filed 12–20–91; 8:45 am]

BILLING CODE 6560–50–M

[2] This area is referred to as the Boston-Lawrence-Worcester nonattainment area in the Federal Register notice describing the areas (56 FR 56694). (Footnote added)

[3] These areas are designated in the November 6, 1991 notice the "Washington Area," the "Richmond-Petersburg Area" and the "Norfolk-Virginia Beach-Newport News Area," respectively (56 FR 56843–4). Therefore, the only nonattainment area in Virginia to which this request does not apply is Smyth County. (footnote added)

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Proposal To Conduct a Pilot Survey of Americans With Disabilities in Private Industry

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of proposal to conduct a sample survey of establishments in private industry to determine the disability status of their employees.

SUMMARY: As part of its new responsibility in administering title I of the Americans with Disabilities Act of 1990 (ADA), the Commission plans to conduct a pilot survey of the disability status of all employees working at a number of private establishments, randomly selected from the files of the Employer Information Report (EEO–1) survey. In the stage prior to enactment of ADA, it was noted that there were no precise or accurate data that the Commission could rely on to cite statistics on Americans with disabilities, and to estimate and project the number of those individuals with disabilities who were employed part-time or full-time. Better data were therefore needed and it was decided that a pilot survey would be a reliable and cost-effective way in which to establish a mechanism to collect such data. This pilot survey was thus designed to assess the extent to which individuals with disabilities are employed in private industry, the kinds of jobs they hold, and whether or not they work full-time or part-time. Such information will assist in policy evaluations and assessments with regard to employees with disabilities, not only for the Commission but for other agencies that have program responsibilities under ADA. The survey will also serve as the basis for future decisions about data collection under ADA and as a pilot test of the questionnaire, data collection procedures, and the validity and adequacy of the data collected.

DATES: Written comments must be submitted on or before February 21, 1992. A public hearing concerning these proposed changes will be held on a date

and at a time and place to be announced.

ADDRESSES: Comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street, NW., Washington, DC 20507. Copies of comments submitted by the public will be available for review at the Commission's library, room 6502, 1801 L Street, NW., Washington, DC between the hours of 9:30 a.m. and 5 p.m. Any comments should additionally be filed with the Office of Management and Budget (See "Paperwork Reduction Act" below).

As a convenience to commenters, the Executive Secretariat will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 663–4114. (This is not a toll-free number.) Only public comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary to assure access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat Staff at (202) 663–4078. (This is not a toll-free number.)

Persons wishing to present their views orally should notify the Commission of their desire to do so, in writing, no later than January 22, 1992 with a request to Frances Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 1801 L Street, NW., Washington, DC 20507. The request should include a written summary of the remarks to be offered.

FOR FURTHER INFORMATION CONTACT: Joachim Neckere, Director, Program Research and Surveys Division at (202) 663–4958 (voice) or (202) 708–9300 (TDD).

SUPPLEMENTARY INFORMATION: The authority for data collection is by reference in ADA to the authority contained in 709(c) of Title VII of the Civil Rights act of 1964, as amended. The pilot survey that is proposed does not initiate any recordkeeping or reporting requirements but is part of the pre-rule making process.

The questionnaire used in the survey is a one-page form, designed to collect data on limitations of common activities, use of aids, and medical history. Data will also be reported by job category and by full-time and part-time employment status. Employees rather than employers will complete the questionnaire and all responses will be voluntary and anonymous. Employers will be requested to distribute the questionnaires to their employees, Provide a drop-off location for receipt of completed questionnaires and return the completed questionnaires to the Commission.

Mailout for this survey is planned for August 1992 with a filing deadline on or about September 30, 1992. It is expected that approximately 1,500 establishments will be included in the probability sample and that these establishments will cover about 420,000 employees, to whom a questionnaire would be made available.

Paperwork Reduction Act

This proposed pilot survey contains information collection subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act. It is estimated that nationwide a one-time reporting burden would equal approximately 42,000 hours. The one-time processing cost to the government is estimated to equal $200,000. As required by the Paperwork Reduction Act, the Equal Employment Opportunity Commission is submitting a request to the Office of Management and Budget (OMB) that it approve this information collection. Organizations or individuals desiring to submit comments for consideration by OMB on this information collection should address them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Joseph Lackey.

The Commission also certifies under 5 U.S.C. 605(b) enacted by the Regulatory Flexibility Act (Pub. L. No. 96–354), that this pilot survey will not result in significant impact on a substantial number of small employers, and that a regulatory flexibility analysis therefore is not required. Small employers are not affected because the EEO–1 is limited to employer with 100 or more employees and government contractors with 50 or more employees and contract amount of at least $50,000.00.

The Commission hereby publishes this proposal for public comment.

Signed at Washington, DC this 18th day of December, 1991.

For the Commission.

Evan J. Kemp, Jr.,

Chairman.

[FR Doc. 91–30602 Filed 12–20–91; 8:45 am]

BILLING CODE 6750–06–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Port of Portland, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200465–001.

Title: Port of Portland/Star Shipping Terminal Agreement.

Parties:

Port of Portland
Star Shipping, Inc.

Synopsis: This Agreement, filed December 13, 1991, provides for an extension through February 29, 1992, of the current terminal use agreement between the parties.

Agreement No.: 212–010386–021.

Title: Argentina/U.S. Atlantic Coast Ports Pool Agreement.

Parties:

American Transport Lines, Inc.
A. Bottacchi S.A. de Navegacion C.F.I.I.
Empresa Lineas Maritimas Argentinas S.A.
Columbus Line
Companhia de Navegacao Lloyd Brasileiro.

Synopsis: The proposed amendment (1) deletes A. Bottacchi S.A. de Navegacion C.F.I.I. as a party to the Agreement; (2) adds Companhia Maritima Nacional and Empresa de Navegacao Alianca S.A. as parties to the Agreement; (3) changes the name of the Agreement to Argentina/U.S. Atlantic & Gulf Ports Pool Agreement; (4) provides for share ceilings; (5) provides for two six month pool periods in 1992; and (6) makes other technical changes. The parties have requested a shortened review period.

Agreement No.: 212–010388–016.

Title: U.S. Atlantic Coast/Argentina Agreement

Parties:

Empresa Linesas Maritimas

Argentinas S.A.
A. Bottacchi S.A. de Navegacion C.F.I.I.
American Transport Lines, Inc.

Synopsis: The proposed amendment deletes A. Bottacchi S.A. de Navegacion C.F.I.I. as a party to the Agreement; (2) adds Columbus Line, Empresa de Navegacao Alianca S.A., Companhia de Navegacao Lloyd Brasileiro and Companhia Maritima Nacional as parties to the Agreement; (3) changes the name of the Agreement to U.S. Atlantic and Gulf Ports/Argentina Pool Agreement; provides for share ceilings; (5) provides for two six month pool periods in 1992; and (6) makes other technical changes. The parties have requested a shortened review period.

Dated: December 17, 1991.
By Order of the Federal Maritime Commission.
Joseph C. Polking,
Secretary
[FR Doc. 91-30501 Filed 12-20-91; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

December 16, 1991.

Background

Notice is hereby given of the final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public)

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

OMB Desk Officer—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503 (202-395-7340)

Final Approval Under OMB Delegated Authority of the Extension, With Revisions, of the Following Report(s)

Report Title: Report of Condition for Foreign Subsidiaries of U.S. Banking Organizations.

Agency form number: FR 2314a, b and c.

OMB Docket Number: 7100-0073.

Frequency: Quarterly and Annually.

Reporters: Foreign Subsidiaries of U.S. Banks, Bank Holding Companies, and Edge and Agreement Corporations.

Annual reporting hours: 4098.

Estimated average hours per response: 1.00 to 4.00.

Number of respondents: 1192. Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 324, 602, 625 and 1844(c)) and is given confidential treatment (5 U.S.C. 552(b)(8)).

The reports collect information on the assets, liabilities, off-balance sheet items, and earnings from all direct or indirect foreign subsidiaries of U.S. banking organizations. The data are used to monitor the growth and activities of the subsidiaries and to supervise the overall operation of the parent organization. The proposed revisions are designed to make the reports more consistent with the parent organizations' reports of condition and income and to improve the System's surveillance of overseas banking operations.

Board of Governors of the Federal Reserve System, December 16, 1991.
William W. Wiles,
Secretary of the Board.
[FR Doc. 91-30550 Filed 12-20-91; 8:45 am]
BILLING CODE 6210-01-M

Chemical Banking Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 13, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Chemical Banking Corporation, New York, New York; to engage *de novo* through its subsidiary, CBC Interim Federal Savings Bank 2, New York, New York, in operating a savings institution pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. First Bancshares of Natchitoches, Inc., Natchitoches, Louisiana; to engage *de novo* in originating loans for itself or for others of the type made by a mortgage company pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in Natchitoches, Bienville, DeSoto, Grant, Rapides, Red River, Sabine, Vernon, Winn, and Jackson Parish, Louisiana.

Board of Governors of the Federal Reserve System, December 17, 1991.
Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 91-30545 Filed 12-20-91; 8:45 am]
BILLING CODE 6210-01-F

First Central Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 13, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. First Central Bancshares, Inc., Lenoir City, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of First Central Bank, Lenoir City, Tennessee.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Firstar Corporation, Milwaukee, Wisconsin, and Firstar Corporation of Illinois, Milwaukee, Wisconsin; to merge with First Geneva Banqueshares, Inc., Geneva, Illinois, and thereby indirectly acquire First National Bank of Geneva, Geneva, Illinois.

2. Old State Bank Corporation, Fremont, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of The Old State Bank of Fremont, Fremont, Michigan.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Galatia Bancorp, Inc., Galatia, Illinois; to acquire 100 percent of the voting shares of The First National Bank of Metropolis, Metropolis, Illinois.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Citizens Bank Group, Inc., Minneapolis, Minnesota; to become a bank holding company by acquiring 97.2 percent of the voting shares of Citizens State Bank of St. James, St. James, Minnesota.

Board of Governors of the Federal Reserve System, December 17, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-30546 Filed 12-20-91; 8:45 am]

BILLING CODE 6210-01-F

First Community Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 13, 1992.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198

1. First Community Bancshares, Inc., Knob Noster, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Sweet Springs Bancshares, Inc., Sweet Springs, Missouri, and thereby indirectly acquire Chemical Bank, Sweet Springs, Missouri; Bancshares of Knob Noster, Knob Noster, Missouri, and thereby indirectly acquire The Bank of Knob Noster, Knob Noster, Missouri; and Ionia Bancshares, Inc., Windsor, Missouri, and thereby indirectly acquire First Community Bank, Windsor, Missouri.

In connection with this application, Applicant also proposes to engage in the sale of general insurance in a town of less than 5,000 in population purusant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y. This activity will be conducted in Knob Noster, Missouri.

Board of Governors of the Federal Reserve System, December 13, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-30547 Filed 12-20-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1992:

Name: National Advisory Committee on Rural Health.

Date and Time: February 10-12, 1992; 8:30 a.m.

Place: The Doubletree Hotel, 101 North Main Street, McAllen, Texas 78501.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary with respect to the delivery, financing, research, development and administration of health care services in rural areas.

Agenda: During this meeting, the Committee intends to address the theme, "Rural and Migrant Health Issues Along the Texas-United States/Mexican

Border." The Committee will also be touring rural clinics and medical facilities in Starr County, Texas and will visit several colonias along the border in the Rio Grande Valley. Finally, the Committee will continue shaping its agenda for and developing recommendations to be included in the Fifth Report to the Secretary.

The meeting is open to the public, however, no transportation will be provided to the site visits.

Anyone requiring information regarding the subject Council should contact Mr. Jeffrey Human, Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, room 14–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0835.

Persons interested in attending any portion of the meeting should contact Ms. Arlene Granderson, Director of Operations, Office of Rural Health Policy, Health Resources and Services Administration, Telephone (301) 443–0835.

Agenda Items are subject to change as priorities dictate.

Dated: December 17, 1991.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA

[FR Doc. 91–30603 Filed 12–20–91; 8:45 am]

BILLING CODE 4160–15–M

Advisory Council; Meeting; Correction

In Federal Register Document 91–29580 appearing at page 64638 in the issue for Wednesday, December 11, 1991, the January 13–14, 1992, meeting of the "HRSA AIDS Advisory Committee" has been rescheduled. The meeting will be on March 5–6, 1992, in Conference Room 6. All other information is correct as appears.

Dated: December 17, 1991.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 91–30604 Filed 12–20–91; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting of Blood Diseases and Resources Advisory Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, February 27–28, 1992, Building 31C, Conference Room 10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20814.

The entire meeting will be open to the public on February 27, from 9 a.m. to 5 p.m. and on February 28, from 9 a.m. to adjournment, to discuss the status of the Blood Diseases and Resources program needs and opportunities. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Fann Harding, Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Federal Building, room 5A08, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–1817, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 13, 1991.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 91–30523 Filed 12–20–91; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of the Cardiology Advisory Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, January 9–10, 1992, Building 31C, Conference Room 8, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public on January 9 from 9 a.m. to 5 p.m. and on January 10 from 8:30 a.m. to adjournment. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area and consideration of future needs and opportunities.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, room 4A21, Building 31, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the committee members.

Michael J. Horan, M.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases; National Heart, Lung, and Blood Institute; room 320, Federal Building, Bethesda, Maryland 20892, (301) 496–5421, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 93.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: December 13, 1991.

Sue Feldman,

NIH Committee Management Officer.

[FR Doc. 91–30524 Filed 12–20–91; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 56 FR 61258–9, December 2, 1991) is amended to reflect the following changes in the Office of the Director, National Institutes of Health (NIH): (1) In the Office of Research Services (ORS) (HNAA): (a) establish the Office of Administrative Management (OAM) (HNAA3) and the Office of the Director, OAM, (HNAA31); (b) retitle the Division of Space Management (DSM) (HNAA5) to the Division of Space and Facility Management (DSFM) (HNAA5) and establish the Office of the Director, DSFM (HNAA51); and (c) retitle the Division of Technical Services (DTS) (HNAA6) to the Division of Support Services (DSS) (HNAA8) and establish the Office of the Director, DSS (HNAA81). The creation of an organizational focal point for internal ORS administrative responsibilities and the alignment of facility management activities within one division will enable the Associate Director for Research Services to manage the ORS more effectively and efficiently and to fulfill his responsibility in providing services to the NIH.

Section HN–B, Organization and Functions, is amended as follows: (1) Under the heading *Office of Research Services (HNAA),* insert the following:

Office of Administrative Management (HNAA3). (1) Directs, coordinates, and conducts administrative management activities of the ORS by providing

assistance in areas of financial management, personnel/human resource management, equal employment opportunity, procurement, information technology and evaluation, and planning and program analysis; (2) advises the Associate Director for Research Services and ORS Division Directors on developments in management and their implications and effects on program management; (3) develops policies on administrative management and prepares and issues procedures and guidelines for implementation of administrative policies and requirements; (4) directs a program of travel consultation and service including overseeing the NIH travel contract, domestic travel services, teleticketing services, government bills of lading and civilian permanent change of station; and (5) serves as the ORS focal point for the coordination, preparation, and analysis of a wide variety of management and administrative reports and other documents associated with NIH, PHS, and DHHS.

Office of the Director, Office of Administrative Management (HNAA31). Plans and directs the activities of the Office of Administrative Management in the areas of personnel, budget, systems analysis, human resource management, travel, equal employment opportunity, procurement, administrative policies and procedures, management and program analysis, and overall administration.

(2) Under the heading *Division of Space Management (HNAA5)*, delete the title and functional statement in their entirety and substitute the following:

Division of Space and Facility Management (HNAA5). (1) Advises the Associate Director for Research Services, the Director, NIH, and OD and ICD staff on matters related to the comprehensive nationwide space management program that provides policy oversight of laboratory, clinical, office, and storage space; (2) oversees ad hoc facilities such as the NIH Credit Union, banks, child care facilities, and the Recreation and Welfare Association; and (3) provides telecommunications, sanitation, and conference services to the NIH.

Office of the Director, Division of Space and Facility Management (HNAA51). Plans, coordinates, and directs the activities of the Division of Space and Facility Management in the areas of space policy and oversight, management of ad hoc facilities, telecommunications, sanitation, and conference services.

(3) Under the heading *Division of Technical Services (HNAA8)*, delete the title and functional statement in their entirety and substitute the following:

Division of Support Services (HNAA8). Serves as the organizational focal point in providing specialized services to the National Institutes of Health in the areas of printing, reproduction, and mail services.

Office of the Director, Division of Support Services (HNAA81). Plans, coordinates, and manages the activities of the Division, including printing, reproduction, and mail services.

Dated: December 5, 1991.

Bernadine Healy,

Director, NIH.

[FR Doc. 91-30586 Filed 12-20-91; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU-67182]

Utah; Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease UTU-67182 for lands in Grand County, Utah, was timely filed and required rentals and royalties accruing from August 1, 1991, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of lease UTU-67182 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective August 1, 1991, subject to the original terms and conditions and the increased rental and royalty rates cited above.

Robert Lopez,

Chief, Minerals, Adjudication Section.

[FR Doc. 91-30526 Filed 12-20-91; 8:45 am]

BILLING CODE 4310-DQ-M

Fish and Wildlife Service

Availability of a Draft Recovery Plan for Osterhous Milkvetch (Astragalus Osterhoutii) and Penland Beardtongue (Penstemon Penlandii) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for Osterhout milkvetch (*Astragalus osterhoutii*) and Penland beardtongue (*Penstemon penlandii*). These plans occur on public and private lands in Middle Park near Kremmling in Grand County, Colorado. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before February 21, 1992 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the State Supervisor's Office, Fish and Wildlife Enhancement, 730 Simms Street, room 290, Golden, Colorado 80401, telephone (303) 236-2675, or the Western Colorado Fish and Wildlife Enhancement Suboffice, 529 25½ Road, Suite B-113, Grand Junction, Colorado 81515, telephone (303) 243-2778. Written comments and materials regarding this recover plan should be sent to the State Supervisor at the Golden address given above. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the Golden address above.

FOR FURTHER INFORMATION CONTACT: Keith Rose at the Grand Junction address above (303) 243-2778.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's (Service) endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation

of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal Agencies also will take these comments into account in the course of implementing approved recovery plans.

Astragalus osterhoutii and *Penstemon penlandii*, were listed as endangered on July 13, 1989 (54 FR 29658), due to potential threats to these species in their limited habitats. These plants are endemic to Middle Park near Kremmling in Grand County, Colorado. They occur on desert badlands with fragile soils. This habitat is very vulnerable to surface disturbance. Threats include the proposed Muddy Creek Reservoir north of Kremmling, and habitat destruction from surface disturbances by oil and gas drilling and off-road vehicles. Recovery activities planned for these species will focus on protecting existing and potential habitats, conducting surveys to locate additional habitats or populations, and conducting studies on the species' ecology. Given the species limited habitat, it is unlikely that either downlisting or delisting of the species will occur in the foreseeable future.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the recover plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

(Notice of Availability of a Draft Recovery Plan for Osterhout Milkvetch (*Astragalus osterhoutii*) and Penland beardtongue (*Penstemon penladii*)).

[FR Doc. 91-30529 Filed 12-20-91; 8:45 am]

BILLING CODE 4310-55-M

Preparation of an Environmental Impact Statement on the Proposed Water Acquisition Program for Lahontan Valley Wetlands, Churchill County, NV

AGENCY: U.S. Fish and Wildlife Service (Interior).

ACTION: Notice of intent and meeting.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to acquire, convey, and manage sufficient water and water rights to maintain on a long-term average, 25,000 acres of primary wetland habitat within Lahontan Valley Wetlands located in Churchill County, Nevada. The water acquisition program would commence in 1993. The Service is mandated through a number of laws, regulations, and international treaties to preserve, protect, enhance, and manage natural ecosystems for the benefit of fish and wildlife and their habitat.

Specific direction is provided under section 206 of Public Law 101-618, title II—Truckee-Carson-Pyramid Lake Settlement Act (Act) (November 16, 1990) for the Service to acquire additional water and to expand the Stillwater National Wildlife Refuge (Refuge) to approximately 77,520 acres to be managed for the purposes of: (1) Maintaining and restoring natural biological diversity within the Refuge; (2) providing for the conservation and management of fish and wildlife and their habitats within the Refuge; (3) fulfilling the international treaty obligations of the United States with respect to fish and wildlife; and (4) providing opportunities for scientific research, environmental education, and fish and wildlife oriented recreation.

The Service (through the Department of the Interior) has also been directed (by November 16, 1993) to report to Congress on the potential social, economic, and environmental effects of the water rights purchase program authorized by the Act.

In response to this direction, the Service intends to prepare an environmental impact statement (EIS). This notice describes the proposed action and tentative lists of resource areas with potential issues or concerns, and possible alternatives. It outlines the scoping process that will be employed in preparation of the document, and identifies the Service's officials to whom questions and comments concerning the proposed action and the EIS may be directed.

DATES: Public scoping meetings will be held at the following locations on the dates and times indicated: Fallon Convention and Visitors Center, 100 Campus Way, Fallon, Nevada, January 28, 1992, from 7 to 10 p.m.; and Holiday Inn, 1000 E. 6th, Reno, Nevada, January 29, 1992, from 7 to 10 p.m.

ADDRESSES: Stillwater National Wildlife Refuge, P.O. Box 1236, Fallon, NV 89406; and U.S. Fish and Wildlife Service, Water Rights Acquisition Planning Office (WRAP), 2600 SE 98th Avenue, suite 130, Portland, OR 97266.

FOR FURTHER INFORMATION CONTACT: Ron Anglin, Refuge Manager, Stillwater National Wildlife Rufuge, at the above address regarding refuge management and implementation actions at 702-423-5128; or Jackie Campbell, WRAP, at the above address regarding information, comments, or questions related to the EIS and the National Environmental Policy Act process at 503-231-6850 or FTS 8-429-6850.

Interested persons are encouraged to attend the meetings to identify and discuss major issues, concerns, opportunities, and alternatives that should be addressed in the EIS. The facilitated public scoping meetings will begin with presentations related to the proposed water acquisition program for Lahontan Valley Wetlands under Public Law 101-618 and the proposed delivery system that would convey acquired water to the primary wetland habitat areas within Lahontan Valley. Under an open house meeting format, there will be an opportunity for interested citizens, organizations, and agencies to provide input into the EIS planning process. Written comments may also be submitted. The end of the public comment period will be February 14, 1992. Interested persons are reminded that the primary purpose of the scoping process is to identify, rather than debate, the significant issues related to the proposed action. Additional public meetings will be held, if warranted, on later dates in order to provide opportunities to comment on the draft EIS.

SUPPLEMENTARY INFORMATION: Section 206 of Public Law 101-618 (Act), states that the Secretary of the Interior (Secretary) is authorized and directed, in conjunction with the State of Nevada (State) and such other parties as may provide water and water rights for the purposes of section 206, to acquire by purchase or other means water and water rights, with or without the lands to which such rights are appurtenant, and to transfer, hold, and exercise such water and water rights and related interests to sustain, on a long-term average, approximately 25,000 acres of primary wetland habitat within Lahontan Valley Wetlands, Churchill County, Nevada, in accordance with

specified provisions of the Act. "Primary wetland habitat" is defined as wetland habitat managed under provisions of the Act with a combination of prime water delivered, upon call, from Newlands Project (Project) facilities and other available sources of quality waters. The three primary wetland habitat areas are identified as the Stillwater Wildlife Management Area (includes the Refuge), Carson Lake and Pasture, and Fallon tribal land wetlands.

The Act further authorizes the Secretary to convey to the State, Federal land in the area known as Carson Lake and Pasture for use by the State as a wildlife refuge. Prior to and as a condition of such transfer, the Secretary and the State shall execute an agreement, in consultation with affected local interests, ensuring that the Carson Lake and Pasture shall be managed in a manner consistent with applicable international agreements and designation of the area as a component of the Western Hemisphere Shorebird Reserve Network. The area shall be eligible for receipt of water through Newlands Project facilities.

Since 1900, wildlife habitat (especially wetlands), in Lahontan Valley has been reduced significantly in both quantity and quality. Water availability for wetlands has been severely reduced by upstream demands for water and the results of various court decrees affecting water delivery to and use within the Newlands Project. None of the three primary wetland habitat areas were granted water rights when they were established or identified. Wetlands have been maintained primarily by return flows from the irrigation project and occasional spills from Project dams.

As return flows from the Project decreases as a result of mandated, increased efficiency of the Newlands Project, concentrations of total dissolved solids and other contaminants in wetland waters increase. Degradation of water quality diminishes the quality and viability of wetland habitat. The Service's underlying purpose or goal is to maintain and restore natural biological diversity within the Refuge and within the other identified primary wetland habitat areas in Lahontan Valley. The objectives necessary to meet this goal include, but may not be limited to, the acquisition of sufficient water (up to 125,000 acre-feet) via acquisition of water rights, which would be available on call from Newlands Project facilities, or via other available sources of quality waters, so that wetland habitat within Lahontan Valley may be restored and preserved for the long-term protection and management of fish and wildlife resources.

The Service recognizes an underlying need to acquire and convey sufficient water to restore and maintain at least 14,000 acres of high quality, primary wetland habitat within the Refuge. Currently, the Nevada Department of Wildlife has a target of acquiring sufficient water to manage approximately 10,200 acres of wetlands within the Carson Lake area of Lahontan Valley. The Fallon Paiute-Shoshone Tribes have a target of maintaining approximately 800 acres of wetlands on tribal lands. Water rights acquired for Fallon Indian Reservation wetlands would be managed by the Service, in consultation with the Fallon Tribes. If, for any reason, the State is unable to meet their target, the Service proposes to acquire the necessary additional water to maintain 10,200 acres of wetlands in the Carson Lake area to be managed by the State.

A tentative list of alternatives that would allow the Service to meet the identified need includes the acquisition of water rights (with or without the lands to which such rights are appurtenant) through a variety of means including: (1) Purchase from willing sellers; (2) leases; (3) transfers; (4) public and private donation. Other available sources of quality water will be discussed. Alternatives for a water delivery system to convey acquired water to the identified primary wetland habitat areas will also be discussed.

The following tentative list of resource areas (with potential issues, concerns, and opportunities) that could potentially be impacted by implementation of the proposed action will be discussed in detail in the EIS: (1) Agricultural production; and (2) contaminant levels; (3) groundwater and surface water supply; (4) local economy and social values; (5) recreational use; and (6) wetland habitat and management which includes: water quality, quantity, and regimes; flora; migratory and resident wildlife; fishery resources; and threatened and endangered species. Additional issues, concerns, and alternatives identified during the public scoping process will also be addressed in the EIS.

Dated: December 16, 1991.

Marvin L. Plenert,

Regional Director.

[FR Doc. 91-30530 Filed 12-20-91; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31967]

MidSouth Corporation—Continuance in Control Exemption—MidSouth Rail Corporation, MidLouisiana Rail Corporation, Southrail Corporation and Tennrail Corporation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the continuance in control by MidSouth Corporation (MidSouth) of its newly organized subsidiary, TennRail Corporation (TRC), upon the latter's becoming a carrier. MidSouth and TRC have entered into an agreement in principle with Packaging Corporation of America (PCA) and PCA's wholly owned subsidiary, The Corinth and Counce Railroad (CCR), for the purchase by TRC of substantially all of CCR's assets.[1] The transaction is expected to be consummated on or soon after December 20, 1991. MidSouth currently owns: (1) MidSouth Rail Corporation, a class II carrier; (2) MidLouisiana Rail Corporation, a class III carrier; and (3) SouthRail Corporation, a class II carrier. The exemption is subject to employee protective conditions.

DATES: This exemption is effective on December 23, 1991. Petitions to reopen must be filed by January 13, 1992.

ADDRESSES: Send pleadings referring to Finance Docket No. 31967 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
and
(2) Petitioner's representative: Laurence R. Latourette, 1350 New York Avenue,

[1] By notice of exemption in Finance Docket No. 31966, *TennRail Corp.—Acquisition and Operation Exemption—Corinth & Counce RR. Co.*, served December 9, 1991, the Commission exempted TRC's acquisition and operation of CCR's 26-mile rail line, by purchase and acceptance of assignment of rail operating rights. The line to be purchased is located between Corinth, MS (milepost 0.0), and Counce, TN (milepost 16.0). The line to be acquired through assignment of rail operating rights is located between Sharp, MS (milepost 10.0), and Yellow Creek Port, MS (milepost 20.0). In addition, TRC will acquire from CCR: (i) 10 miles of yard track on the Corinth-to-Counce line; (ii) locomotives; (iii) rolling stock (by assignment of leases); and (iv) all track material and other equipment inventories. The transaction is scheduled to take place on or soon after December 20, 1991. After the notice becomes effective, TRC will institute operations and become a Class III railroad subject to the jurisdiction of the Commission.

NW., suite 800, Washington, DC 20005–4797.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5267 (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

Decided: December 17, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–30544 Filed 12–20–91; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31962]

Union Pacific Railroad Company and Chicago and North Western Transportation Company—Joint Relocation Project Exemption

On December 5, 1991, Union Pacific Railroad company (UP) filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate a line of railroad in Douglas County, NE. The joint project involves: (1) The relocation of UP's line between Fall City Subdivision, at milepost 0.00, and Council Bluffs Subdivision, at milepost 5.80; (2) the grant by Chicago and North Western Transportation company (CNW) of interim overhead trackage rights to UP over an approximately 4,497–foot segment of CNW line between mileposts 0.20 and 1.20; [1] and (3) the construction by UP of two connector tracks of 700 and 2,461 feet, respectively, connecting UP's line with the two termini of the line segment described in (2) above. The transaction was to have been consummated on or soon after December 12, 1991.

The line relocation will enable UP to eliminate a more circuitous routing into a congested area of Omaha to the UP rail yard at Council Bluffs, IA, and back to the junction of the UP east-west route which is parallel to the CNW east-west route.

The Commission will assume jurisdiction over the construction component of a relocation project only where the proposal involves, for example, a change in service to shippers, expansion into new territory, or a change in existing competitive situations. See, *Generally*, Denver & R.G.W.R. Co.—Jt. Proj.) Relocation over BN, 4 I.C.C2d 95 (1987). Under these standards, the joint relocation project, including the incidental construction component, qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to the use of this exemption, any employees affected by the trackage rights agreement will be protected by the conditions 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).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stray the transaction. Pleadings must be filed with the Commission and served on: Joseph D. Anthofer, 1416 Dodge Street, Omaha, NE 68179.

Dated: December 17, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–30543 Filed 12–20–91; 8:45 am]

BILLING CODE 7035–01–M

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[1] This grant of interim trackage rights anticipates the eventual acquisition of the line segment by UP as well as of certain real estate extending between the west side of 42nd Street and a point located west of Dahlman Avenue, including CNW track No. 1.

UP's verified notice indicates (and the parties agreement provides) that CNW will seek authorization from the Commission to abandon a line between milepost 0.00, at Summit, and milepost 5.8, at Dodge Street, in Omaha, including the line segment.

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514–4305. If you anticipate commenting on form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

New Collection

(1) Child Protection Restoration & Penalties Enhancement Act of 1990.

(2) None, Criminal Division.

(3) Recordkeeping.

(4) Individuals or households, small businesses or organizations. 18 U.S.C. 2257 requires the Attorney General to issue regulations to carry out this section; agents of the Attorney General may inspect the records to ascertain compliance.

(5) 180,000 annual responses at .083 hours per response.

(6) 15,000 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: December 17, 1991.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 91–30525 Filed 12–20–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to Cercla in United States v. U.T. Alexander Et Al., (Malone Settlement)

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on December 13, 1991, a proposed Consent Decree settling the

United States' case against Malone Trucking Company in *United States* v. *U.T. Alexander et al.*, Civil Action No. G–86–267 was lodged with the United States District Court for the Southern District of Texas.

The Complaint in this enforcement action was filed under Sections 106 and 107 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9606 and 9607, on July 18, 1986, against numerous generators and transporters, including Malone Trucking Company, in the Texas City, Texas area. It seeks injunctive relief and reimbursement of costs incurred by the United States in responding to the release or threat of release of a hazardous substance from the Motco (formerly Petro Processors) site in Lamarque, Texas.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *U.T. Alexander et al.*, D.J. No. 90–11–3–74.

The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Texas, 515 Rusk Avenue, Third Floor, Houston, Texas 77002 and the United States Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 1097, 601 Pennsylvania Avenue, NW., Washington, DC 20004. In requesting a copy please enclose a check in the amount of $3.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–30555 Filed 12–20–91; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Open Software Foundation, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act") Open Software Foundation, Inc. ("OSF") on October 28, 1991, filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The additional notification was filed for the purpose of extending the protections of section 4 of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On August 8, 1988, OSF and the Open Software Foundation Research Institute, Inc. (the "Institute") filed its original notification pursuant to section 6(a) of the Act. The Department of Justice (the "Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 7, 1988 (53 FR 34594). On November 4, 1988, February 2, 1989, May 3, 1989, July 28, 1989, October 26, 1989, January 22, 1990, April 19, 1990, July 24, 1990, October 22, 1990, January 28, 1991, April 25, 1991, and July 25, 1991, OSF filed additional written notifications. The Department published notices in the **Federal Register** in response to these additional notifications on November 25, 1988 (53 FR 47773), February 23, 1989 (54 FR 7893), August 25, 1989 (54 FR 3507), August 25, 1989 (54 FR 35408), November 29, 1989 (54 FR 49123), April 18, 1990 (55 FR 14493), May 21, 1990 (55 FR 20861), September 27, 1990 (55 FR 39528), December 28, 1990 (55 FR 53368), March 25, 1991 (56 FR 12387), June 13, 1991 (56 FR 27273), and August 29, 1991 (56 FR 42757), respectively.

Additionally, a correction notice to the June 13, 1991 notice was published on July 11, 1991 (56 FR 31675).

The identities of the new, non-voting members of OSF are listed below, no new voting members have been added as of this filing:

Member	Date
University of British Columbia, Vancouver, British Columbia.	7/19/91
Fallmann und Bauernfeind, Linz-Puchneau A–4040, Austria.	7/22/91
Kwangwoon University—IE Lab, Seoul, South Korea.	7/25/91
Tech University Vienna, Vienna, a1040, Austria.	7/25/91
University of Auckland, Auckland, New Zealand.	7/25/91
University of Missouri—Kansas City, Kansas City, MO.	7/25/91
Centre de Recherche Public—Centre University, Luxembourg L1511, Luxembourg.	7/31/91
Charles Schwab & Co., Inc., San Francisco, CA.	7/31/91
Communication Culture Research, Hanover 1D–3000, Germany.	8/01/91
Institute Superieur D'Info et D'Automati, Vandoeuvre Les Nancy 54506, France.	01/01/91
TRW, Inc., Carson, CA 90746	8/01/91
Seoul National University, Seoul 151–742, South Korea.	8/02/91
University of Notre Dame, Notre Dame, IN 46556.	8/02/91
Victoria University of Wellington, Wellington, New Zealand.	8/02/91
Household International, Prospect Heights, IL 60070.	8/05/91
Banyan Systems, Inc., Westboro, MA 01581.	8/07/91
Spring/United Management Company, Kansas City, MO 64105.	8/23/91
Bell Communications Research, Piscataway, NJ 08854.	8/27/91
Georgia Pacific Corp., Atlanta, GA 30303.	9/04/91
Olivetti Systems and Networks, Ivrea 10015, Italy.	9/08/91
OGAWA Laboratory, Tokyo 184, Japan	9/23/91
Veritas Software Corporation, Santa Clara, CA 95404.	10/08/91
Persetel (Pty) Ltd., Houston, TX 77042	10/09/91

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91–30557 Filed 12–20–91; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—Smart House, L.P.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Smart House, L.P. has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the identities of additional parties to the Smart House Project ("the Project") and changes in the status of certain participants in the Project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the additional parties to the Project, those which have ceased to be involved in the Project, and those whose relationship to the Project has changed, are given below.

The following parties previously were participating in the venture under initial negotiation and confidentiality agreements or joint confidentiality agreements and now have executed, and are participating under, research and licensing agreements:

Eaton Corporation (Milwaukee, WI)
Dynamac Computer Products, Inc. (Denver, CO)
Plexus Corporation (Neenah, WI)
INNCOM International, Inc. (Old Lyme, CT)
The Watt Stopper, Inc. (Santa Clara, CA)
USPower Climate Control, Inc. (Allentown, PA)
Multiplex Technology, Inc. (Brea, CA)

The following entities, which formerly were participating under research and licensing agreements, no longer are involved in the venture:

Dormont Manufacturing Company (Pittsburgh, PA)
Robertshaw Controls Company (Richmond, VA)

The following additional parties are participating in the venture under initial negotiation and confidentiality agreements or joint confidentiality agreements and are in the process of negotiating research and licensing agreements:

LiteTouch Inc. (Salt Lake City, UT)
The Siemon Company (Watertown, CT)
PDI Corporation (Annapolis, MD)
Home Automation, Inc. (Metairie, LA)
Marine Development Corporation (Richmond, VA)
Universal Electronics Inc. (Peninsula, OH)
Klockner-Moeller Corporation (Franklin, MA)

The following entities, which formerly were participating under initial negotiation and confidentiality agreements or joint confidentiality agreements, no longer are involved in the venture:

Cherokee International, Inc. (Tustin, CA)
Figaro USA, Inc. (Wilmette, (IL)
Macurco Inc. (Englewood, CO)
Regal Technologies Ltd. (Englewood, CO)
Leviton Manufacturing Company, Inc. (Little Neck, NY)
Radionics, Inc. (Salinas, CA)
Aritech Corporation (Framingham, MA)
Gilbert Engineering Company, Inc. (Phoenix, AZ)
Sonance—A Division of Dana Innovations (San Clemente, CA)
Transcience (Stamford, CT)
Teletrol Systems, Inc. (Manchester, NH)
Raychem Corporation (Menlo Park, CA)
W.H. Brady Company (Milwaukee, WI)
Telestate International (Plano, TX)
Honeywell Corporation (Minneapolis, MN)
Intelligen Inc. (San Marcos, CA)
AM Communications, Inc. (Quakertown, PA)
Challenger Electrical Corporation (Raleigh, NC)

The following additional parties are participating in the venture under affiliate agreements or similar arrangements:

Simpson Electric Company (Elgin, IL)
Ward Manufacturing, Inc. (Blossburg, PA)
Production Diagnostics, Inc. (Arlington, TX)
RMC Research, Inc. (Union, NJ)

The following parties previously were participating in the venture under initial negotiation and confidentiality agreements and now have executed, and are participating under, affiliate agreements:

Staubli Corporation (Duncan, SC)
M.B. Sturgis, Inc. (Maryland Heights, MI)

The following additional parties are participating as advisors to the venture:

Southern California Gas Company (Los Angeles, CA)
Canadian Automated Buildings Association (Ottawa, Ontario)

No other changes have been made in either the membership or the planned activities of the Project.

On June 14, 1985, the predecessor in interest to Smart House, L.P. filed the original notification pursuant to section 6(a) of the Act. On September 13, 1985, January 9, 1986, April 28, 1986, July 30, 1986, December 16, 1986, April 8, 1987, June 30, 1987, August 25, 1987, December 4, 1987, February 22, 1988, April 5, 1988, October 27, 1988, June 27, 1989, February 26, 1990, August 1, 1990, and January 31, 1991, Smart House, L.P. or its predecessor in interest filed additional written notifications. The Department of Justice published notices in the **Federal Register** in response to these additional notifications on October 10, 1985 (50 FR 41428), on January 28, 1986 (51 FR 3520), on May 16, 1986 (51 FR 18049), on August 28, 1986 (51 FR 30724), on January 15, 1987 (52 FR 1678), on May 8, 1987 (52 FR 17490), July 30, 1987 (52 FR 28494), on September 22, 1987 (52 FR 35596), on January 5, 1988 (53 FR 186), on March 21, 1988 (53 FR 9154), on May 3, 1988 (53 FR 15750), on December 8, 1988 (53 FR 49614), on August 23, 1989 (54 FR 35091), on April 9, 1990 (55 FR 13199), on September 6, 1990 (55 FR 36711), and on March 15, 1991 (56 FR 11273), respectively.

The principal business address of the Smart House Project is 400 Prince George's Center Boulevard, Upper Marlboro, Maryland 20772–8731.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91–30556 Filed 12–20–91; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 91–69; Exemption Application No. D–8722, et al.]

Grant of Individual Exemptions; Martens, Ryan and Steadman, M.D.'s P.C. Employees Pension Plan III, et al.

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, DC. 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.

Martens, Ryan and Steadman, M.D.'s P.C., Employees Pension Plan III (the Plan) Located in New York, New York

[Prohibited Transaction Exemption 91–69; Exemption Application No. D–8722]

Exemption

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 proposed purchase by the Plan of

certain improved real property (the Property) from Anna M. Ryan (Mrs. Ryan), a disqualified person with respect to the Plan, provided the Plan pays the lesser of $173,900 [1] or the fair market value of the Property at the time of the purchase, less a sales commission which may have otherwise have been paid by Mrs. Ryan in a sale of the Property to an unrelated party.[2]

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on October 2, 1991 at 56 FR 49911/49912.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Data Arts and Sciences, Inc. Pension Plan and Data Arts and Sciences, Inc. Profit-Sharing Plan (together, the Plans) Located in Natick, Massachusetts

[Prohibited Transaction Exemption 91–70; Exemption Application Nos. D–8661 and D–8662]

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 (1) a loan by the Plans (the Loan) of no more than $190,000 to the Strathmore Realty Trust (Strathmore), a party in interest with respect to the Plans, and (2) the personal guarantees of Strathmore's obligations under the Loan by Bjorn E. Nordemo and John C. Travers, who are parties in interest with respect to the Plans; provided that (a) the Loan does not exceed 25 percent of the Plans' assets at any time, and (b) all terms of the Loan are at least as favorable to the Plans as those which the Plans could obtain in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 23, 1991 at 56 FR 54901.

[1] This figure represents the fair market value of the Property determined by an independent qualified appraiser as of July 29, 1991 less a 6% sales commission, which it is represented is the standard real estate brokerage commission for a sale of this type in the State of Connecticut.

[2] Because Dr. Ryan, the husband of Mrs. Ryan, is the only participant in the Plan, there is no jurisdiction under title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under title II of the Act pursuant to section 4975 of the Code.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Lauterbach, Borschow and Company, P.C. Defined Benefit Pension Plan and Trust (the Plan) Located in El Paso, TX

[Prohibited Transaction Exemption 91–71; Exemption Application No. D–8688]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) shall not apply to the proposed extension of credit by the Plan to L and B Realty Company, a disqualified person with respect to the Plan, in connection with the Plan's acquisition of a promissory note from the Resolution Trust Corporation, provided the terms of the transaction are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.[3]

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 6, 1991 at 56 FR 56668.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (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.

[3] Because Mr. Bernard Lauterbach is the sole participant in the Plan, there is no jurisdiction under title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under title II of the Act pursuant to section 4975 of the Code.

Signed at Washington, DC, this 9th day of December, 1991.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 91–30456 Filed 12–20–91; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL CREDIT UNION ADMINISTRATION

Community Development Revolving Loan Program for Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Notice of application.

SUMMARY: The National Credit Union Administration ("NCUA") will accept applications for participation in the Community Development Revolving Loan Program For Credit Unions through March 31, 1992. Application procedures are set forth in part 705 of NCUA's Rules and Regulations ("Community Development Revolving Loan Program for Credit Unions").

ADDRESSES: Applications to participate in the Program should be submitted to: NCUA, Community Development Revolving Loan Program for Credit Unions, 1776 G Street NW., Washington, DC 20456.

DATES: Applications must be received by March 31, 1992.

FOR FURTHER INFORMATION CONTACT: Ronald N. Lewandowski at the above address or telephone (202) 682–9780.

SUPPLEMENTARY INFORMATION: Part 705 of NCUA's Regulations implements the Community Development Revolving Loan Program for Credit Unions (the "Program"). The purpose of the Program is to make reduced rate loans to both federally and state-chartered credit unions serving low-income communities so that the credit unions may provide needed financial services and help to

stimulate the economy in the communities they serve.

This Notice is published pursuant to § 705.9 of NCUA's Regulations stating that NCUA will provide notice in the **Federal Register** when funds in the Program are available for loans, and the time period during which applications for participation in the Program will be accepted. Funds are currently available for loans. Applications for participation in the Program will be accepted through March 31, 1992. Credit unions wishing to participate in the Program should refer to part 705 of NCUA's Regulations for the application procedures and program requirements. Only credit unions currently in existence may apply.

By the National Credit Union Administration Board on December 16, 1991.

Becky Baker,

Secretary, NCUA Board.

[FR Doc. 91-30591 Filed 12-20-91; 8:45 am]

BILLING CODE 7535-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Safety Research; Meeting

The Subcommittee on Safety Research will hold a meeting on January 14, 1992, room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, January 14, 1992—8:30 a.m. Until the Conclusion of Business

The Subcommittee will hold a round-table discussion on the scope, nature and approach of a proposed Committee report on the research program of NRC's Office of Nuclear Regulatory Research.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

The Subcommittee may hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding this matter.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 301/492-8558) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: December 16, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91-30574 Filed 12-20-91; 8:45 am]

BILLING CODE 7590-01-M

Request for Comments on the Compatibility of Agreement States Programs With NRC Regulatory Programs

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for Comments of Interested Parties.

SUMMARY: The Nuclear Regulatory Commission (NRC or Commission) may relinquish its authority to regulate certain materials under the Atomic Energy Act (AEA) to States through an Agreement process. The Commission is reviewing its practices concerning implementation of the requirements in the AEA to assure that the Agreement States' programs are compatible with the NRC's. The Commission has received recommendations from the Agreement States in this regard. The purpose of this notice is to seek comments and recommendations from the full spectrum of interested parties on how the NRC should proceed in implementing this requirement for compatibility to assure an effective regulatory partnership with the Agreement States.

DATE: Comment period expires February 3, 1992. 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: Send written comments to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 and 4:15 Federal workdays.

FOR FURTHER INFORMATION CONTACT: Cardelia Maupin, State Agreements Program, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-0312.

SUPPLEMENTARY INFORMATION:

Introduction

Section 274 of the Atomic Energy Act was enacted by Congress on September 23, 1959 to recognize the interests of the States in the safe use of atomic energy, to clarify the respective responsibilities of State and Federal Governments, and to provide a mechanism for States to enter into formal agreements with the Atomic Energy Commission (AEC), and later, its successor, the Nuclear Regulatory Commission (NRC), under which the States assume regulatory authority over byproduct, source, and small quantities of special nuclear materials, collectively referred to as agreement materials. The mechanism by which the NRC discontinues and the States assume regulatory authority over agreement materials is an agreement between the Governor of a State and the Commission. Before entering into an Agreement, the Governor is required to certify that the State has a regulatory program that is adequate to protect the public health and safety and compatible with NRC programs. In addition, the Commission must perform an independent evaluation and make a finding that the State's program is adequate from the health and safety standpoint and compatible with Commission's regulatory program.

Background

In considering the issue of "compatibility of Agreement State Programs," [1] it is important to examine and understand the regulatory atmosphere prior to the passage of section 274 of the Atomic Energy Act in 1959. Prior to the enactment of the Atomic Energy Act of 1954, nuclear energy activities in the United States were largely confined to the Federal Government. The Act made it possible for private commercial firms to enter the field for the first time. Because of the hazards associated with nuclear materials, Congress determined that

[1] Background information on the Agreement State Programs and NRC's compatibility policy are available for inspection and copying at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC, telephone (202) 634-3273. Ask to see SECY-91-039 and State Programs-General file, October 31, 1991, ACN—#9111060163.

these activities should be regulated under a Federal licensing system to protect the health and safety of workers in the nuclear industry and the public. The AEC and later its successor, the NRC, was the Federal agency charged with this responsibility.

Although the protection of the public's health and safety had traditionally been a State responsibility, the Atomic Energy Act of 1954 did not specify a role for the States in nuclear matters. Because the Atomic Energy Act of 1954 was silent in this area, many States developed their own regulatory programs for these materials, which included requirements for registration and inspection. Thus, many States were independently defining their roles in the regulation of nuclear materials. These programs were varied in nature and sometimes conflicted with the Federal regulations. Thus, section 274 of the Atomic Energy Act was enacted by Congress in 1959. Emphasis was placed on the importance of and the need for compatibility between Federal and State nuclear regulatory programs. This was the beginning of Agreement State Programs. Subsection 274d states, in part, that "The Commission shall enter into an agreement under Subsection b of this section with any State if * * * the Commission finds that the State program is in accordance with the requirements of Subsection o and in all other respects compatible with the Commission program for regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement." Further, Subsection q of section 274 states that "the Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radition to assure that States and Commission programs for protection against hazards of radiation will be coordinated and compatible."

It is important to realize that NRC's relationship with Agreement States is not one in which NRC's regulatory responsibilities are delegated to the State. Rather, the authority is relinquished to the Agreement States and NRC works in partnership with the States. The NRC's responsibilities for assuring adequacy and compatibility are on a programmatic level. NRC does not have case-by-case concurrence in the States' regulatory actions. However, in conducting periodic reviews of Agreement State programs for adequacy and compatibility, NRC does review licensing and regulatory actions taken by the State as indicators of the program's status. NRC also normally performs compatibility reviews of changes to the State's regulations before they are issued in order to minimize additional rulemaking for the States should NRC have concerns about the changes. The NRC program reviews also consider whether the States have taken timely action to adopt rules which have been designated a matter of compatibility.

Implementation

The term "compatibility" was not defined by Congress in its development of section 274. With no definition of compatibility provided in the Atomic Energy Act, the Commission sought to implement the section 274 Agreement State Programs using the legislative history and the language of the amendment for guidance. Historically, compatibility decisions were made on a case-by-case basis and the agency's compatibility policies and practices developed by accretion. Most of the radiation protection standards for a program are defined in the regulations. Consequently, much of the focus and controversy over compatibility matters involve proposed regulations. In 1984, in order to provide guidance to the staff and to better implement the term "compatibility," NRC's State Programs Office adopted internal written procedures, "Internal Procedures, B. Policy, B.7—Criteria for Compatibility Determinations." In the B.7 internal procedures, State Programs categorized pertinent NRC rules according to the degree of uniformity necessary between NRC and Agreement State requirements. Four categories were established as follows:

Division 1 Rules constitute those provisions of the NRC regulations that States are required to adopt, essentially verbatim, into their regulations. For example, these rules include maximum permissible dose limits, definition of basic radiation terminology, radiation sign and symbols, and legal definitions.

Division 2 Rules are other provisions in NRC rules that the States must address in their regulations because these rules include basic principles of radiation safety and regulatory functions. However, the language does not have to be identical to the NRC rules, provided the underlying principles are the same. The States may adopt more stringent rules than the NRC in this area.

Division 3 Rules are those provisions in NRC regulations which would be appropriate for Agreement States to adopt, but which do not require any degree of uniformity between NRC and Agreement States rules.

Division 4 Rules are certain regulatory functions which are reserved to the NRC pursuant to the Atomic Energy Act and 10 CFR part 150.

Appendix A to these internal procedures contain a "Categorization of NRC Rules by Compatibility Type." These categorizations are decided by the staff and Commission on a case-by-case basis.

Discussion

NRC's responsibility for assuring compatible programs encompasses the entire Agreement State's program, including licensing activities as diverse as medical uses of radiopharmaceuticals, industrial uses of gauges, low-level waste disposal sites, and university research. The compatibility of Agreement State Regulatory Programs with NRC's regulatory programs has been the center of many recent policy discussions. Questions have been raised recently by the Commission [2] and by the Organization of Agreement States (OAS) regarding the issue of compatibility. The Agreement States have been increasingly concerned over the direction of various NRC actions in which provisions of NRC regulations have been translated into requirements for the States. Concern regarding NRC's approach to compatibility was most recently highlighted in the public response to the Commission's Below Regulatory Concern (BRC) policy statement published on July 3, 1990 (55 FR 27522). In light of this and other concerns, the Commission has placed a moratorium on the implementation of the policy statement in order to seek more information from all affected parties on BRC-related issues, including compatibility. NRC's pending reconsideration of the general compatibility issue will not affect the moratorium on the BRC policy statement. That moratorium continues to be in effect.

In November 1990, the OAS approved creation of a Task Force to more thoroughly articulate the concerns of the States regarding compatibility. On March 13, 1991 the OAS provided the Commission a copy of the Task Force

[2] The staff has prepared a report entitled "Evaluation of Agreement State Compatibility Issues," identified as SECY-91-039 dated February 12, 1991, which discusses, among other topics, different policy factors and program review areas which might be considered in developing a policy on compatibility. For additional background information to assist you in responding to these questions, this report is available in the NRC Public Document Room.

report on compatibility.[3] On June 11, 1991 the Commission was briefed by the OAS Task Force on its report. As result of that briefing, the NRC staff was requested to seek the comments of interested parties other than regulatory (e.g. materials users and waste generators) on the general matter of compatibility and the advantages and disadvantages of a uniform national approach to radiation safety matters. The NRC staff was also directed to seek comments on appropriate mechanisms to provide the Agreement States flexibility to address local needs and conditions.

In gathering this information, the Commission is particularly interested in comments in response to the following questions:

1. As noted above, Congress established the Agreement State program in part because of the various and conflicting programs being implemented by States. Do you believe that there should be a uniform national approach to radiation safety matters? Should the scope of uniformity be narrowly focused or comprehensive? Please explain the advantages and disadvantages of views expressed.

2. As indicated in the description of the four Divisions for compatibility decisions on regulations, compatibility can be implemented in a tiered manner, with the ranging from being identical to complete Agreement State Flexibility.

a. Is the tiered approach described in the Divisions a reasonable approach for regulations? For programs as a whole?

b. What areas of Agreement State radiation control and protection should be identical to those of the NRC and why?

c. What areas of Agreement State radiation control and protection should be allowed to be different from those of the NRC and why? Should the differences include: more stringent standards? less stringent standards? more comprehensive requirements? or less comprehensive requirements? Please explain the basis for your views.

3. What mechanisms should the NRC use to allow Agreement States to have flexibility to address local needs or conditions? What factors should the Commission consider in balancing local needs or conditions and interstate or international commerce concerns or other national interests?

4. Should Agreement States be given a greater degree of flexibility in fashioning their own standards for low-level waste disposal, in view of the State's increased responsibility in this area, according to the Low-Level Radioactive Waste Policy Amendments Act of 1985?

5. Provided the issue of compatibility is fully aired in rulemaking notices, is the current comment process sufficient for continuing dialogue with those persons outside the NRC/Agreement State regulatory partnership? If not, what alternative would you suggest and why?

6. Should the NRC develop exemption criteria for an Agreement State that does not adopt a rule deemed a matter of compatibility, as described for NRC's Division 1 and 2 rules, if an Agreement State requests such an exemption? What Factors should be considered in the criteria to assure that the exemption is justified?

Paperwork Reduction Act Statement

This request for comments does not constitute information collection under the exception from the definition of information contained in 5 CFR 1320.7(j)(4) and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501).

Dated at Rockville, Maryland, this 16th day of December , 1991.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91–30577 Filed 12–20–91; 8:45 am]

BILLING CODE 7590–01–M

[3] This report and a related letter dated January 24, 1991, are available in the NRC Public Document Room. Single copies are available upon request. They may be obtained by writing to Cardelia Maupin, State Agreements Program, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555 or by telephoning (301) 504–0312.

[DOCKET No. 50-322]

Long Island Lighting Co.; Consideration of Issuance of an Order Authorizing Decommissioning a Facility and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an order to Facility Operating License No. NPF–82, issued to Long Island Lighting Company (LILCO, the licensee), for the Shoreham Nuclear Power Station, Unit 1 (SNPS) located in Suffolk County, New York, The order would involve approval of the SNPS Decommissioning plan.

On June 28, 1989, LILCO, the owner of SNPS, entered into an agreement with the State of New York. This settlement agreement between LILCO and New York State specifies that LILCO will transfer ownership of SNPS to Long Island Power Authority (LIPA), an entity of New York State. LIPA will decommission SNPS. All spent fuel has been transferred from the reactor to the spent fuel pool and License No. NPF–82 has been amended to possess-but-not-operate status, This Order would allow the immediate dismantlement of the reactor pressure vessel and internals, contaminated systems, and plant structures (DECON). LIPA further intends to remove all radioactive waste generated during decommissioning of SNPS offsite and return the facility to unrestricted use. With respect to fuel disposition, LIPA has proposed two fuel disposal options. The first and preferred option is to ship the fuel to another utility for use (Nine Mile Point, Unit 2), and the second option is to ship the fuel for reprocessing in Europe in accordance with International Atomic Energy Agency regulations. Therefore, fuel disposal is not considered part of the decommissioning actions at SNPS.

The Plan also analyzes potential accidents at the facility and the controls established for radiation protection and the prevention of the release of radioactivity from the site. A supplement to the SNPS environmental Report submitted with the Decommissioning Plan analyzes the environmental impacts of the DECON deommissioning option.

Before issuance of the proposed Order, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By January 22, 1992, the Licensee may file a request for a hearing with respect to issuance of the order to the subject facility and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555 and at the local public document room, Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786–9697. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing

Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature or the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matter within the scope of the order under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Seymour H. Weiss: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to W. Taylor Reveley, III, Esq., Hunton and Williams, River Front Plaza, East Tower, 951 East Byrd Street, Richmond, VA 23219–4074, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding office or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application dated January 2, 1991, and the Decommissioning Plan dated December 29, 1990 as supplemented on August 26, November 27 and December 6, 1991, available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786–9697.

Dated at Rockville, Maryland, this 17th day of December 1991.

For the Nuclear Regulatory Commission.

Stewart W. Brown,

Project Manager, Non-Power Reactors, Decommissioning and Environmental Project Directorate, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 91–30559 Filed 12–20–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–333]

Power Authority of the State of New York; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License, No. DPR–59, issued to the Power Authority of the State of New York (the licensee), for the operation of the James A. FitzPatrick Nuclear Power Plant in Oswego County, New York.

Identification of Proposed Action

The amendment would consist of changes to the Technical Specifications (TS) that would authorize an increase to the storage capacity of the spent fuel pool from 2244 fuel assemblies to 2797 fuel assemblies.

The amendment to the TS is responsive to the licensee's application dated May 31, 1990, as supplemented October 31, 1990, December 5, 1990, June 26, 1991, July 12, 1991, July 16, 1991, and September 19, 1991. The Commission's staff has prepared an Environmental Assessment of the Proposed Action, "Environmental Assessment by the Office of Nuclear Reactor Regulation Relating to the Expansion of the Spent Fuel Pool, Facility Operating License No. DPR–59, Power Authority of the State of New York, James A. FitzPartrick Nuclear Power Plant, Docket No. 50–333," dated December 13, 1991.

Summary of Environmental Assessment

The "Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Power Reactor Fuel" (NUREG–0575), Volumes 1–3, concluded that the environmental impact of interim storage of spent fuel was negligible and the cost of the various alternatives reflects the advantage of continued generation of nuclear power with the accompanying apart fuel storage. Because of the differences in design, the FGEIS recommended evaluating spent fuel pool expansions on a case-by-case basis.

For the James A. FitzPatrick Nuclear Power Plant, the expansion of the

storage capacity of the spent fuel pool will not create any significant additional radiological effects or non-radiological environmental impacts.

The additional whole body dose that might be received by an individual at the site boundary is well within regulatory limits and is not significant. The additional whole body dose that might be received by an individual at the site boundary is well within regulatory limits and is not significant. The occupational radiation dose for the proposed operation of the expanded spent fuel pool is estimated to be less than three percent of the total annual occupational radiation exposure for this facility.

The only non-radiological impact affected by the spent fuel pool expansion is the waste heat rejected. The increase in total plant waste heat is insignificant. There is no significant environmental impact attributed to the waste heat from the plant due to the spent fuel poorly expansion.

Finding of no Significant Impact

The staff has reviewed the proposed spent fuel pool expansion to the facility relative to the requirements set forth in 10 CFR part 51. Based on this assessment, the staff concludes that there are no significant radiological or non-radiological impacts associated with the proposed action and that the issuance of the proposed amendment to the license will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, no environmental impact statement needs to be prepared for this action. For further details with respect to this action, see (1) the application for amendment to the Technical Specifications dated May 31, 1990, as supplemented October 31, 1990, December 5, 1990, Jnne 26, 1991, July 12, 1991, July 16, 1991, and September 19, 1991, (2) the FGEIS on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575), the Final Environmental Statement for James A. FitzPatrick dated March 1973 and (4) the Environmental Assessment dated.

These documents are available for public inspection at the Commission Public Document Room, 2120 L Street, NW., Washington, DC 20555 and at the Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York.

Dated at Rockville, Maryland, this 13th day of December 1991.

For the Nuclear Regulatory Commission.

Francis J. Williams Jr.,

Acting Director, Project Directorate I–I, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–30560 Filed 12–20–91; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

Merrifield Facility; Cancellation of Commission Visit

December 17, 1991.

Notice is hereby given that the Postal Rate Commission staff visit to the Merrified, Virginia, post office scheduled for December 18, 1991, appearing in the **Federal Register** of December 13, 1991, at page 65105 (FR Doc. 91–29833), has been postponed indefinitely.

Charles L. Clapp,

Secretary.

[FR Doc. 91–30578 Filed 12–20–91; 8:45 am]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer—Kenneth Fogash (202) 272–2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, Washington, DC 20549.

New

Small Business Information Interviews, File No. 270–362

Notice is hereby given pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted for OMB approval a request to interview up to 150 persons or entities concerning obstacles to capital raising by small businesses and the application of the Commission's rules to small businesses. These interviews are necessary to gain a greater understanding and appreciation of the burden that the Commission's registration and periodic reporting requirements have on capital raising by small businesses. Each interview is estimated to require one burden hour.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: December 10, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–30505 Filed 12–20–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30084; File No. SR–NASD–91–56]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Payment of NASDAQ Entry Fees With Listing Application

December 16, 1991.

The National Association of Securities Dealers, Inc. ("NASD" or "Association") submitted on October 28, 1991, a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder.[2] The proposal amends Part IV of Schedule D to the NASD By-Laws [3] to require companies which apply for listing on the NASDAQ Stock Market to pay all entry fees at the time of application for inclusion in the system.

Notice of the proposed rule change together with the language of the proposal was provided by the issuance of a Commission release (Securities Exchange Act Release No. 29916, November 7, 1991) and by publication in the **Federal Register** (56 FR 57912, November 14, 1991). No comments were received with respect to the proposed rule change.

The NASD currently collects fees from applicants for inclusion in the NASDAQ Stock Market in two steps: first, the $1,000 non-refundable application processing fee; and second, the entry fee, which is collected on or after the company's entry into the system. The NASD has determined that collecting the processing and entry fee at the time an application is submitted would allow insurers entering the NASDAQ Stock

[1] 15 U.S.C. 78s(b)(1) (1988.

[2] 17 CFR 240.19b–4 (1990).

[3] NASD Securities Dealers Manual, Schedule D to the By-Laws, Part IV, §§ A&C, CCH ¶¶ 1814 and 1816.

Market through a public offering to incorporate the entry fee into the syndicate expenses of the offering. The New York and American Stock Exchanges currently employ a similar process for applicant companies.[4] The rule proposal also adds new subsections to Sections A and C to provide that if an application is withdrawn or not approved, the entry fee, except for the non-refundable processing fee, will be refunded.[5] The Commission agrees with the NASD that collecting the processing and entry fees at the time an application is submitted would reduce its administrative burden and avoid the delisting of companies which enter the system but subsequently fail to pay the entry fee.

Section 15A(b)(5)[6] of the Act requires, in part, that the rules of the NASD provide for the equitable allocation of dues, fees, and other charges among issuers and other persons using any facility or system which the Association operates or controls. The Commission believes that the joining of the application and listing fee at the time an issuer applies for inclusion in the NASDAQ system is consistent with the requirements of section 15A(b)(5). Furthermore, because an issuer will be refunded its listing fee if it is not included in the system, the Commission believes that the proposal is consistent with section 15A(b)(9) of the Act, which requires that the rules of the Association not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change, SR–NASD–91–56, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–30568 Filed 12–20–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30082; File No. SR–NASD–91–46]

Self-Regulatory Organizations: National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Appointment of Executive Representatives

December 16, 1991.

On August 23, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association") submitted to the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and rule 19b–4 thereunder.[2] The proposal amends article III, section 3 of the NASD By-Laws [3] regarding the appointment by member firms of "executive representatives" to the NASD.[4] Article III, section 3 of the NASD By-Laws requires member firms to appoint one executive representative who is responsible for voting and acting for the member in all affairs of the NASD. As amended, section 3 will require that only persons of authority in a member firm who are members of the firm's senior management and registered principals may be designated as the executive representative to the NASD.

Notice of the proposed rule change, as amended, together with its terms of substance was provided by the issuance of a Commission release (Securities Exchange Act Release No. 29906, November 6, 1991) and by publication in the **Federal Register** (56 FR 57713, November 13, 1991). No comments were received on the proposal. This order approves the proposed rule change.

The current qualification requirements for executive representatives are both broad and optional, and in the past according the NASD, have led to the designation or persons who have limited authority in their firms. Since all important communications between the NASD and its members firms are directed to executive representatives, who are eligible to cast votes for their respective firms, the NASD is concerned that important matters may not be directed to the appropriate person at each firm.

In order to address this concern, the NASD proposal will amend article III, section 3 of the By-Laws to require that only persons who are members of the senior management of the member firm and registered principals may be designated as the executive representative to the NASD. Moreover, the word "preferably" is to be deleted with the result that compliance with the provision will become mandatory.

In addition, the executive representative designated by a member firm is currently identified as the firm's "contact person" in the Form BD and in the Central Registration Depository ("CRD"). In order to distinguish between the role of the executive representative and the member's contact person, who may be different from the executive representative, the NASD will maintain an executive representative list separately from the firm contact list in the CRD. This additional administrative procedure will help assure that the executive representative will receive all important NASD communications and that routine CRD notices will be directed to the appropriate person(s) at the member firm. Further, the NASD's Notice to Members announcing the Commission's approval of the instant rule change will include an executive representative form to be completed by all members in order to designate their executive representative. The NASD will request that the executive representative form be filed with the Secretary's Office of the NASD prior to the date that the rule change becomes effective. As requested by the NASD, the rule change will become effective 120 days after Commission approval in order to provide time for the filing of the executive representative form.

Prior to filing the proposed amendment with the Commission, the NASD published the proposal for member comment in Notice to Members 91–9 (February 1991). Two commentators, both affiliated with insurance company members, were critical of the proposal, noting that in their companies, persons other than

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[4] See American Stock Exchange Guide, Volume 2, Listing Standards, Policies and Requirements, Section 140, CCH ¶ 10,040; New York Stock Exchange Listed Company Manual, Listing Fees Section 902.

[5] The rule proposal also amends sections B and D of part IV relating to annual fees to conform the language of those sections to that in sections A and C as proposed. Specifically, the NASD is clarifying that it is referring to "classes of securities" in its fee structure, as opposed to "a security." The instant rule proposal does not change the annual fees in said sections B and D.

[6] 15 U.S.C. 78*o*–3 (1988).

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] NASD Securities Dealers Manual, By-Laws, CCH, ¶ 1133.

[4] The NASD also filed amendment No. 1 to the proposed rule change on September 27, 1991 and amendment No. 2 on October 7, 1991. Amendment No. 1, made at the request of the Commission staff, clarifies the NASD's interpretation of the proposed rule change as it may, in certain circumstances, apply to insurance company members. Amendment No. 2 provides the results of the NASD membership vote on the proposed rule (1,923 in favor, 177 against, 12 not voting, and 15 unsigned).

senior management were most qualified to handle the executive representative's duties. In its filing with the Commission, the NASD stated that it was aware that where the entire insurance company is a member, there may be circumstances where the most appropriate person to be designated "executive representative" is in the middle management of the company but is acting as senior management of the company's securities operations. The NASD believes it is an appropriate interpretation of the proposed rule that, upon review, the NASD may permit an insurance company member to appoint as executive representative the most appropriate employee, registered as a principal, who is in an equivalent position to senior management in charge of the insurance company's securities operations. The NASD has, therefore, determined to include in the Notice to Members announcing approval of this rule change the clarification that insurance company members may request advice from the NASD's Membership and Qualifications Department regarding the applicability of this rule to their particular circumstances.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular the requirements of section 15A(b)(4) of the Act [5] which requires that the "association assure a fair representation of its members in the selection of its directors and administration of its affairs * * *." The Commission believes that the NASD has responded adequately to the initial comments of its insurance company affiliate members and that the proposed amendment will help ensure that all NASD member firms continue to receive important communications from the Association.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-30504 Filed 12-20-91; 8:45 am]

BILLING CODE 8010-01-M

[5] 15 U.S.C. 78*o*-3(b)(4) (1988).

[6] 17 CFR 200.30-3(a)(12) (1991).

[Release No. 34-30086; File No. SR-NYSE-90-40]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange, Inc. Relating to Rules 116.40, 123A.43 and 13 Regarding Procedures for Handling Market-on-Close Orders on Expirations Fridays

December 17, 1991.

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 September 7, 1990, the New York Stock Exchange, Inc. ("NYSE" 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.

Notice of the proposed rule change was first provided in Securities Exchange Act Release No. 28452 (September 19, 1990), 55 FR 39342 (September 26, 1990). The Commission received three comment letters on the proposal.[1] Because a substantial period of time has elapsed since the original publication of this notice in the **Federal Register**, the Commission is re-publishing this notice to solicit any additional 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 proposed rule change seeks to modify current NYSE procedures for handling and executing market-on-close ("MOC") orders [2] on expiration Fridays [3] as provided in Exchange Rule 116.40 by allowing for partial executions of MOC orders with the approval of a Floor Governor when significant imbalances occur. The proposal would also amend NYSE Rules 123A.43 and 13 to conform the language of these rules with the proposed amendments to NYSE Rule 116.40.

[1] *See* letters to Jonathan G. Katz, Secretary, SEC, from Dexter D. Earle, Partner, Goldman, Sachs & Co., dated October 18, 1990; R. Sheldon Johnson, Managing Director, Morgan Stanley & Co., Inc., dated October 25, 1990; and Michael Schwartz, Chairman, Committee on Options Proposals, dated November 14, 1990.

[2] Pursuant to current NYSE Rule 13, an MOC order is defined as a market order which is to be executed in its entirety at the closing price, on the Exchange, of the stock named in the order, and if not so executed, is to be treated as cancelled.

[3] "Expiration Friday" is the one Friday per month on which stock index futures, stock index options and options on stock index futures (collectively, "derivative instruments") expire.

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

The purpose of the proposed rule change to NYSE Rules 116.40, 123A.43 and 13 is to allow for partial executions of MOC orders where significant imbalances exist which can contribute to, or exacerbate, excess market volatility at the close on expiration Fridays.[4] Currently NYSE Rule 116.40 requires specialists to execute MOC orders in their entirety unless trading in the stock has been halted,[5] or the order contains a restriction that cannot be met, such as the instruction that the order be executed on a "minus" tick, which renders the order non-executable if the closing transaction is on a "plus" tick.[6]

[4] The current procedures for handling and executing MOC orders on monthly expiration Fridays originally were approved by the Commission for a one year pilot program beginning in November, 1988. The pilot program subsequently has been extended through October 31, 1992. [See Securities Exchange Act Release Nos. 26293 (November 17, 1988), 53 FR 47599 and 26408 (December 29, 1988), 54 FR 343 (approving File No. SR-NYSE-88-37); 27448 (November 16, 1989), 54 FR 48343 (noticing and granting accelerated approval to File No. SR-NYSE-89-38); 28564 (October 22, 1990), 55 FR 43427 (noticing and granting accelerated approval to File No. SR-NYSE-90-49); and 29871 (October 28, 1991), 56 FR 56434 (noticing and granting accelerated approval to File No. SR-NYSE-91-31).] The expiration Friday procedures apply to 52 pilot stocks on a list consisting of the 50 highest-weighted Standard & Poor's ("S&P") 500 Index stocks, based on market values, and any of the 20 Major Market Index ("MMI") stocks not among the 50 highest-weighted stocks.

[5] For example, trading may be halted to allow for the dissemination of material information about a security (a regulatory, or news pending, trading halt) or because of a sudden influx of orders for a security (an order imbalance trading halt). Trading also may be halted when the Dow Jones Industrial Average (a service mark of Dow Jones & Company, Inc.) ("DJIA") reaches a value 250 or more points below its closing value on the previous trading day. See NYSE Rule 80B.

[6] A "minus" tick (or downtick) refers to a sale price lower than the last "regular way" sale of the security. A "plus" tick (or uptick) is the reverse.

The Exchange is concerned that imbalances of MOC orders on expiration Fridays which must be executed (unless trading is halted or a tick condition cannot be met) may result in significant price swings at the close, which add to investor concerns about excess market volatility and the orderliness of the Exchange market.

On expiration Friday, July 20, 1990, cancellations or reductions of MOC orders entered prior to 3 p.m., and the entry in large size of offsetting MOC orders, reversed previously published buy-side imbalances in many of the 52 pilot stocks, placing significant selling pressure on these stocks, without a corresponding opportunity to attract contra-side buying interest. The resulting sharp decline in the DJIA (35 points during the last hour of trading) adds to investor perceptions that the markets have become unduly volatile, particularly on expiration days.[7]

Under the proposed rule change, the specialist would be permitted to give partial execution to the MOC orders he is holding where the depth of the contra side interest is not sufficient for all such orders to be executed in their entirety. The specialist would be permitted, with the prior approval of a Floor Governor, to give partial executions of MOC orders by assigning 100 shares in turn to each MOC order on the imbalance side of the market up to the total number of shares of the imbalance to be filled. Where the number of shares to be executed against the imbalance is not sufficient to permit the assignment of 100 shares to each MOC order on the imbalance side, the specialist would assign 100 shares to such orders based on their order of receipt. The unexecuted portion of any MOC order will be deemed to be canceled. The proposed amendments would be applicable to MOC orders only on expiration Fridays.[8]

While the proposed rule change can be expected to help minimize excess market volatility on the close, the Exchange continues to believe that the settlement of derivative index products based on the opening price on the Exchange provides a more orderly means of ensuring that an appropriate equilibrium is reached as to buying and selling interest. Exchange opening procedures provide for dissemination of price indications where a substantial price change is anticipated. These procedures allow for a minimum of 15 minutes between a first indication and a stock's opening, with re-indications as appropriate, and ensure that a sudden influx of orders on one side of the market will not have an immediate, sudden effect on a stock's price, as may occur during the compressed time period at the close of the trading day on expiration Friday.

At the present time there are a total of six derivative instrument products whose settlement is based on the NYSE opening price: one version of the Chicago Board Options Exchange's ("CBOE") S&P 500 option contract ("NSX"); the Chicago Mercantile Exchange's ("CME") S&P 500 index futures contract and the options on that index future contract (except as noted below); and three contracts traded on the New York Futures Exchange related to the NYSE Composite Index. The following derivative instruments base their settlement value on the closing NYSE price on expiration Fridays: one version of the CBOE S&P 500 options contract ("SPX") and the S&P 100 options contract ("OEX"); the CME's options on the S&P 500 futures contract (non-quarterly); the American Stock Exchange's XMI option contract and the options contract on its Institutional Index ("XII"); the CBOT MMI index futures contract and options thereon; the Kansas City Board of Trade Value Line futures contract; the Philadelphia Stock Exchange's options contract on the Value Line Index, options contract on the Utility Index, options contract on Over-the-Counter ("OTC") Stock Index ("XOC"), and the Philadelphia Board of Trade's futures contract on the XOC (inactive).

The Exchange's opening procedures have proven to be very effective in minimizing any excess volatility that may be associated with the expiration of those derivative index products whose settlement value is based on the NYSE opening price. The Exchange is continuing to urge that the settlement value of all derivative index products be based on the NYSE opening price.

2. Statutory Basis

The basis under the Act for this proposed rule change is section 6(b)(5) which requires that the rules of the Exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such other 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, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-90-40 and should be submitted by January 13, 1992.

[7] The Commission notes that there have been several expirations since the July 1990 expiration which have experienced volatility at the close (*e.g.*, the October 1990 expiration Friday).

[8] The auxiliary closing procedures on Expiration Fridays for the pilot stocks are described in detail in an Information Memo distributed to the NYSE membership each month. Generally, the current procedures preclude (1) entry of any MOC orders relating to the liquidation of any positions that relate to a trading strategy involving any derivative instrument after 3:00 p.m. and (2) entry of other MOC orders after the imbalance publication unless they offset the imbalance.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-30569 Filed 12-20-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30087; File No. SR-PSE-91-48]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by Pacific Stock Exchange, Inc., Relating to New Listing Criteria—Rule 2.3(t)

December 17, 1991.

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 December 11, 1991, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, and II below, which Items have been prepared by the self-regulatory organization.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 3.2 to provide listing requirements to accommodate securities not otherwise covered under existing PSE Rules.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

(a) *Listing Guidelines.* During the past several years, the Exchange has added provisions to its listing criteria to accommodate securities that could not be readily categorized under the Exchange's traditional listing requirements for common and preferred stocks, bonds, and warrants. For example, the Exchange has recently adopted specific requirements covering foreign currency and index warrants.[3]

Today, more so than at any time in the past, issuers and underwriters are proposing to list new types of securities. These securities may contain features borrowed from more than one category of currently listed securities (*e.g.* fixed face amount debt securities incorporating an opportunity for equity appreciation and fixed amount payment certificates based on the price level of the issuer's equity securities). Such securities are often designed to achieve more than one objective in connection with a specific corporate transaction, and, on occasion, have involved assets or categories of what traditionally may not have been segregated or used as collateral for a particular issue. As a consequence, such securities may take a variety of forms depending upon the particular objective(s) being sought, as well as general market conditions.

The Exchange believes it is necessary to provide added flexibility in its listing requirements to accommodate such multi-faceted and/or multi-purpose issues without having to continually add new provisions to its listing requirements. The proposed amendments to Rule 3.2 are intended to allow the Exchange added flexibility to consider the listing of new securities on a case-by-case basis, in light of the suitability of the issue for auction market trading. However, the proposed new Rule 3.2 requirements are not intended to accommodate the listing of securities that raise significant new regulatory issues.[4]

The numerical listing criteria in proposed Rule 3.2(t) are intended to accommodate major issuers with assets of at least $100 million and stockholders' equity of at least $10 million. These requirements substantially exceed Rule 3.2 standard listing requirements.[5] Such issuers generally will be expected to meet an earnings requirement equal to pre-tax income of at least $750,000 in the last fiscal year or in two of the three last fiscal years.[6] Issuers not meeting these requirements generally will be required to have assets of at least $200 million and stockholders' equity of $10 million, or, alternatively, assets of at least $100 million and stockholders' equity of at least $20 million.

The public distribution requirements in proposed Rule 3.2(t) shall be 1,000,000 trading units and at least 400 beneficial holders, except that when trading is expected to occur in much larger than average trading units (*e.g.*, $1,000 principal amount), a minimum of 100 holders will be expected. The aggregate market value of issues listed under proposed Rule 3.2(t) will be expected to be at least $20 million.

Where such an issue contains cash settlement provisions, settlement will be required to be made in U.S. dollars. And, where the instrument contains mandatory redemption provisions, the redemption price must be at least $3 per unit.

The Exchange will apply the requirements for continued listing contained in Rule 3.5 to proposed Rule 3.2(t) securities as appropriate, in light of the specific nature of the securities (*e.g.*, debt/equity characteristics).

(b) *Membership Circular.* Securities listed for trading under proposed Rule 3.2(t) are likely to possess characteristics common to both debt, equity, and derivative instruments. For this reason, prior to trading securities admitted to listing under Rule 3.2(t), the

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[9] 17 CFR 200.30-3(a)(12) (1990).

[1] The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

[2] The proposed amendments to Rule 3.2 will be codified as Rule 3.2(t).

[3] See, *e.g.*, Securities Exchange Act Release No. 28034 (May 22, 1990), 55 FR 22001 (order approving PSE proposal to list and trade index warrants based on established market indices, both domestic and foreign).

[4] The Commission notes that the proposed listing of securities that raise significant new regulatory issues would require a separate filing with the Commission pursuant to Rule 19b-4 under the Act. For example, securities that have raised significant new regulatory issues in the past include Americus Trusts [*See* Securities Exchange Act Release No. 21863 (March 18, 1985), 50 FR 11972 (March 26, 1985) (file No. SR-Amex-84-35)]; currency warrants [See Securities Exchange Act Release No. 24555 (June 5, 1987), 52 FR 22570 (June 12, 1987) (File No. SR-Amex-87015) (proposal to list warrants on foreign currencies)]; index warrants [*See* Securities Exchange Act Release No. 26152 (October 3, 1988), 53 FR 39832 (October 12, 1988) (order approving File No. SR-Amex-87-27) (listing guidelines for foreign currency and index warrants) and Securities Exchange Act Release No. 27565 (December 22, 1989), 55 FR 376 (January 4, 1990) (File No. SR-Amex-89-22) (proposal to list index warrants based on the Nikkei Stock Average)]; and unbundled stock units ("USUs") [See File Nos. SR-NYSE-88-39 and 88-40 (proposals to list USUs and constituent securities, subsequently withdrawn by the NYSE)].

[5] For example, the standard listing requirements of Rule 3.2 currently require, among other things, total net tangible assets of $1 million.

[6] See letter from David P. Semak, Vice President, Regulation, PSE, to Laurie E. Petrell, Division of Market Regulation, SEC, dated December 13, 1991.

Exchange will evaluate the nature and complexity of the issue and, if appropriate, distribute a circular to the membership providing guidance regarding member firm compliance responsibilities when handling transactions in such securities. In determining whether such a membership circular is necessary, the Exchange will consider such characteristics of the issue as: Unit size and term; cash-settlement; exercise or call provisions; characteristics that may affect payment of dividends and/or appreciation potential; whether the securities are primarily of retail or institutional interest; and such other features of the issue that might entail special risks not normally associated with securities currently listed on the Exchange.

(2) Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld form the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–91–48 and should be submitted by January 13, 1992.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the PSE's proposal to amend Rule 3.2 provide listing requirements to accommodate certain new types of securities which cannot be readily categorized under the PSE's existing listing requirements is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the Act.[7] Specifically, the Commission believes the proposal is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers, or dealers. In this regard, the Commission believes that the proposed guidelines applicable to the listing of new, innovative securities will provide the flexibility desired by the PSE, while helping to ensure that only the more financially substantial companies are eligible to have their new products listed on the Exchange. Proposed Rule 3.2(t), therefore, should provide a more efficient and expedient process for listing new securities, and will protect investors and the public interest by ensuring that the financial products listed on the Exchange have met predetermined financial criteria set forth by the Exchange,[8] an important consideration due to the additional or contingent financial obligations created by these instruments.

In addition, the Commission believes that the portion of proposed Rule 3.2(t) relating to the membership circular addresses the additional regulatory concerns raised by these products. These novel products, by combining features of debt, equity, and securities derivative products, may be more risky and complex than straight stock, bond, or equity warrants. The Commission believes, therefore, that the portion of the proposed rule change requiring the Exchange to evaluate the nature and complexity of each issue in order to determine whether to distribute a membership circular indicating member firm compliance responsibilities will provide the PSE with the ability to address, in a flexible manner, any potential sales practice problems and questions that may arise in connection with these new issues. Moreover, the Commission believes that the distribution of this circular should help to ensure that only customers with an understanding of the specific risks attendant to the trading of particular securities products trade these products on their brokers' recommendations. In this regard, the membership circular requirement will help to ensure that investors and the public interest are protected when the new products are traded on the Exchange.

Finally, the Commission believes that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act because it relates only to those securities which are similar to products currently listed for trading on the Exchange. If a new product raises novel or significant regulatory issues, the PSE must file a proposed rule change so that the Commission would have an opportunity to review the regulatory structure for the product.[9]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Commission has approved substantially similar proposed rule changes submitted by the American Stock Exchange, Inc. ("Amex"), the New York Stock Exchange, Inc. ("NYSE"), the Cincinnati Stock Exchange, Inc. ("CSE"), and the Chicago Board Options Exchange, Inc. ("CBOE"), all of which adopted listing criteria for hybrid securities.[10] In addition, the Commission recently approved proposals submitted by the PSE, the NYSE, and the Midwest Stock Exchange ("MSE") to adopt listing criteria to trade CVRs, which are akin to the type of hybrid products the PSE proposal would include.[11] The Commission did not

[7] 15 U.S.C. 78f (1988).

[8] This standard, however, would not preclude the PSE from submitting specific standards for other companies to have similar securities traded on the Exchange.

[9] See note 4, *supra*.

[10] See Securities Exchange Act Release Nos. 27753 (March 1, 1990), 55 FR 8624 (March 8, 1990) (order approving File No. SR–Amex–89–29); 28217 (July 18, 1990), 55 FR 30056 (order granting accelerated approval to File No. SR–NYSE–90–30); 28528 (October 11, 1990), 55 FR 42112 (order approving File No. SR–CSE–90–11); and 28662 (November 30, 1990), 55 FR 50428 (order approving File No. SR–CBOE–90–29).

[11] See Securities Exchange Act Release Nos. 28558 (October 22, 1990), 55 FR 43238 (order approving File No. SR–PSE–90–34); 28072 (May 30, 1990), 55 FR 23166 (order approving the NYSE proposal to list CVRs on the Exchange); and 28143 (June 25, 1990), 55 FR 27317 (granting accelerated approval to the MSE's proposal to list CVRs).

receive any comments on those proposals, or on the Amex, NYSE, CSE or CBOE hybrid products filings. In light of the lack of new regulatory issues raised by the PSE proposal, the Commission believes it is in the public interest to approve it on an accelerated basis so that the PSE will be able to compete with the other exchanges for hybrid securities.

It is therefore ordered, pursuant to section 19(b)(2) of the Act [12] that the proposed rule change is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-30570 Filed 12-20-91; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 18443; International Series Rel. No. 353; 812-7833]

G.T. Global Growth Series, et al.; Notice of Application

December 16, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: G.T. Global Growth Series, G.T. Investment Funds, Inc. and G.T. Investment Portfolios, Inc., and any existing or future series thereof (the "Funds"); G.T. Capital Management, Inc. ("G.T. Capital"); G.T. Global Financial Services, Inc. ("G.T. Global"); and any registered investment company or series thereof which in the future are advised by G.T. Capital or any of its affiliates or for which G.T. Global or any of its affiliates would serve as principal underwriter.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 12(d)(3) and rule 13d3-1.

SUMMARY OF APPLICATION: Applicants seek a conditional order permitting them to invest in equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter or investment adviser ("foreign securities companies") in accordance with the conditions of the proposed amendments to Rule 12d3-1.

FILING DATE: The application was filed on December 9, 1991.

[12] 15 U.S.C. 78s(b)(2) (1988).

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 10, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 50 California Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: C. David Messman, Senior Attorney, at (202) 272-2813, or Barry D. Miller, Branch Chief, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds are each open-end management investment companies registered under the Act. G.T. Capital serves as investment manager and administrator to each of the Funds and G.T. Global serves as distributor for each of the Funds.

2. Applicants wish to invest in the equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter, or investment adviser.

3. Applicants seek relief from section 12(d)(3) of the Act and rule 12d3-1 thereunder to invest in the equity securities of foreign securities companies to the extent permitted in the proposed amendments to Rule 12d3-1. See Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989).

Applicants' Legal Conclusions

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3-1 under the Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities-related activities, provided the acquisitions satisfy certain conditions set forth in the rule.

2. Subparagraph (b)(4) of Rule 12d3-1 provides that "any equity security of the issuer * * * (must be) a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." While "margin security" status is generally available only to securities that are traded principally in United States markets, the Board of the Governors of the Federal Reserve System amended Regulation T in 1990 to include "foreign margin stock[s]." However, because the requirements for inclusion on the Board's "List of Foreign Margin Stocks" are generally more restrictive than the requirements from inclusion on its "List of Marginable OTC Stocks," securities issued by many foreign securities companies are not "foreign margin stocks," and thus are not "margin securities" under Regulation T. See 12 CFR § 220.2(i) and (q)(6). Accordingly, applicants seek an exemption from the "margin security" requirements of rule 12d3-1.

3. Proposed amended rule 12d3-1 provides that the "margin security" requirement would be excused if the acquiring company purchases the equity securities of foreign securities companies that meet criteria comparable to those applicable to equity securities of United States securities-related businesses. The criteria, as set forth in the proposed amendments, "are based particularly on the policies that underlie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989).

Applicants' Condition

Applicants agree to the following condition in connection with the relief requested: Applicants will comply with the provisions of the proposed amendments by rule 12d3-1 (Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)) and as such amendments may be reproposed, adopted, or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-30561 Filed 12-20-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18446; 811-4224]

Oppenheimer Ninety-Ten Fund; Notice of Application

December 17, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Oppenheimer Ninety-Ten Fund ("Ninety-Ten").

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on November 18, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 13, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, NY 10048-0203.

FOR FURTHER INFORMATION CONTACT: Eva Marie Carney, Senior Attorney, at (202) 504-2274, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company organized as a Massachusetts business trust. On February 8, 1985, applicant filed a notification of registration on Form N-8A. On that same date, applicant filed a registration statement on Form N-1A pursuant to section 8(b) of the Act. On November 20, 1985, the registration statement was declared effective and the public sale of applicant's shares commenced.

2. On March 7, 1991, the board of trustees of applicant approved an agreement and plan of reorganization (the "Plan"), whereby all of the assets of Ninety-Ten (other than a cash reserve needed to pay applicant's liabilities and liquidation expenses) would be exchanged for shares of the Oppenheimer Asset Allocation Fund (File No. 811-3864) ("Asset Allocation"), and these shares would be distributed to applicant's shareholders. In approving the Plan, applicant's trustees, including the disinterested trustees, determined that applicant's reorganization would be in the best interests of its shareholders and would not dilute their interests. The trustees considered that combing applicant with Asset Allocation could produce economies of scale which may be reflected in reduced cost per share, resulting in net benefits to applicant's shareholders.

3. The Plan was submitted to applicant's shareholders for approval; on June 20, 1991, a majority of the shareholders approved the Plan at a special meeting of shareholders.

4. Under the Plan, the reorganization of applicant was contingent on the approval by shareholders of Oppenheimer Premium Income Fund ("Premium Income") of a substantially similar plan pursuant to which Premium Income's assets would also be acquired by Asset Allocation. On June 20, 1991, a majority of the shareholders of Premium Income approved their fund's reorganization plan.

5. On June 21, 1991, pursuant to the Plan, applicant transferred substantially all of its assets to Asset Allocation in exchange for shares of Asset Allocation on a *pro rata* basis. This transfer and exchange of assets was based on the relative net asset values of applicant and Asset Allocation.

6. At the close of business on June 20, 1991, immediately preceding the reorganization, applicant had 604,649.410 shares outstanding, with an aggregate net asset value of $6,566,490.09 and a net asset value per share of $10.863513.

7. Expenses incurred in connection with the reorganization, including legal and accounting fees, printing, transfer agency, filing and proxy solicitation costs, totaled $32,257. Applicant assumed $24,650 of these expenses; Asset Allocation assumed the remainder.

8. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no outstanding debts or other liabilities. Applicant is not a party to any litigation or administrative proceeding.

9. Applicant will effect its dissolution with the proper Massachusetts authorities on issuance of an order of deregistration.

10. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 91-30566 Filed 12-20-91, 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18447; 811-2759]

Oppenheimer Premium Income Fund; Notice of Application

December 17, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Oppenheimer Premiums Income Fund ("Premium Income").

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on November 18, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 13, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, NY 10048-0203.

FOR FURTHER INFORMATION CONTACT: Eva Marie Carney, Senior Attorney, at (202) 504-2274, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company initially organized on July 27, 1977 as a Maryland corporation under the name "Oppenheimer Options Fund, Inc." On February 1, 1986, applicant reorganized under its present name as a Massachusetts business trust. On August 11, 1977, applicant filed a notification of registration on Form N–8A. On that same date, applicant filed a registration statement on Form N–1A pursuant to section 8(b) of the Act. On September 28, 1977, the registration statement was declared effective and the public sale of applicant's shares commenced.

2. On March 7, 1991, the board of trustees of applicant approved an agreement and plan of reorganization (the "Plan"), whereby all of the assets of Premium Income (other than a cash reserve needed to pay applicant's liabilities and liquidation expenses) would be exchanged for shares of the Oppenheimer Asset Allocation Fund (File No. 811–3864) ("Asset Allocation"), and these shares would be distributed to applicant's shareholders. In approving the Plan, applicant's trustees, including the disinterested trustees, determined that applicant's reorganization would be in the best interests of the shareholders and would not dilute their interests. The trustees considered that combining applicant with Asset Allocation could produce economies of scale which may be reflected in reduced costs per share, resulting in net benefits to applicant's shareholders.

3. The Plan was submitted to applicant's shareholders for approval; on June 20, 1991, a majority of the shareholders approved the Plan at a special meeting of shareholders.

4. Under the Plan, the reorganization of applicant was contingent on the approval by shareholders of Oppenheimer Ninety-Ten Fund ("Ninety-Ten") of a substantially similar plan pursuant to which Ninety-Ten's assets would also be acquired by Asset Allocation. On June 20, 1991, a majority of the shareholders of Ninety-Ten approved their fund's reorganization plan.

5. On July 12, 1991, pursuant to the Plan, applicant transferred substantially all of its assets to Asset Allocation in exchange for shares of Asset Allocation on a *pro rata* basis. This transfer and exchange of assets was based on the relative net asset values of applicant and Asset Allocation.

6. At the close of business on July 11, 1991, immediately preceding the reorganization, applicant had 8,500,335,480 shares outstanding, with an aggregate net asset value of $156,922,613.91 and a net asset value per share of $18.460755.

7. Expenses incurred in connection with the reorganization, including legal and accounting fees, printing, transfer agency, filing and proxy solicitation costs, totaled $82,629. Applicant assumed $75,022 of these expenses; Asset Allocation assumed the remainder.

8. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no outstanding debts or other liabilities. Applicant is not a party to any litigation or administrative proceeding.

9. Applicant will effect its dissolution with the proper Massachusetts authorities on issuance of an order of deregistration.

10. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 91–30565 Filed 12–20–91, 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18444; 811–3576]

Oppenheimer Regency Fund; Notice of Application

December 17, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Oppenheimer Regency Fund ("Regency").

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on November 18, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 13, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, NY 10048–0203.

FOR FURTHER INFORMATION CONTACT: Eva Marie Carney, Senior Attorney, at (202) 504–2274, or Max Berueffy, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company originally organized on September 2, 1982 as a Maryland corporation under the name "Oppenheimer Regency Fund, Inc." On April 30, 1987, applicant reorganized under its present name as a Massachusetts business trust. On October 5, 1982, applicant filed a notification of registration on Form N–8A. On that same date, applicant filed a registration statement on Form N–1A pursuant to Section 8(b) of the Act. On December 30, 1982, the registration statement was declared effective and the public sale of applicant's shares commenced.

2. On March 7, 1991, the board of trustees of applicant approved an agreement and plan of reorganization (the "Plan"), whereby all of the assets of Regency (other than a cash reserve needed to pay applicant's liabilities and liquidation expenses) would be exchanged for shares of the Oppenheimer Target Fund (Filed No. 811–3105) ("Target"), and these shares would be distributed to applicant's shareholders. In approving the Plan, applicant's trustees, including the disinterested trustees, determined that applicant's reorganization would be in the best interests of its shareholders and would not dilute their interests. The trustees considered that combining applicant with Target could produce

economies of scale which may be reflected in reduced costs per share, resulting in net benefits to applicant's shareholders.

3. The Plan was submitted to applicant's shareholders for approval; on June 20, 1991, a majority of the shareholders approved the Plan at a special meeting of shareholders.

4. Under the Plan, the reorganization of applicant was contingent on the approval by shareholders of Oppenheimer Directors Fund ("Directors") of a substantially similar plan pursuant to which Directors' assets would also be acquired by Target. On June 20, 1991, a majority of the shareholders of Directors approved their fund's reorganization plan.

5. On June 21, 1991, pursuant to the Plan, applicant transferred substantially all of its assets to Target in exchange for shares of Target on a *pro rata* basis. This transfer and exchange of assets was based on the relative net asset values of applicant and Target.

6. At the close of business on June 20, 1991, immediately preceding the reorganization, applicant had 8,994,820.710 shares outstanding, with an aggregate net asset value of $121,609,975.69 and a net asset value per share of $13,518.861.

7. Expenses incurred in connection with the reorganization, including legal and accounting fees, printing, transfer agency, filing and proxy solicitation costs, totaled $77,532. Applicant assumed $69,925 of these expenses; Target assumed the remainder.

8. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no outstanding debts or other liabilities. Applicant is not a party to any litigation or administrative proceeding.

9. Applicant will effect its dissolution with the proper Massachusetts authorities on issuance of an order of deregistration.

10. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 91-30567 Filed 12-20-91, 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18448; 811-2854]

Oppenheimer Directors Fund; Notice of Application

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Oppenheimer Directors Fund ("Directors").

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on November 18, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 13, 1992, and should be accompanied by proof of service on the applicant, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, NY 10048-0203.

FOR FURTHER INFORMATION CONTACT: Eva Marie Carney, Senior Attorney, at (202) 504-2274, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment company originally organized on May 23, 1978 as a Maryland corporation under the name "Oppenheimer Directors Fund, Inc." on February 1, 1987, applicant reorganized under its present name as a Massachusetts business trust. On July 31, 1978, applicant filed a notification of registration on Form N-8A. On that same date, applicant filed a registration statement on Form N-1A pursuant to section 8(b) of the Act. On December 28, 1978, the registration statement was declared effective and the public sale of applicant's shares commenced.

2. On March 7, 1991, the board of trustees of applicant approved an agreement and plan of reorganization (the "Plan"), whereby all of the assets of Directors (other than a cash reserve needed to pay applicant's liabilities and liquidation expenses) would be exchanged for shares of the Oppenheimer Target Fund (File No. 811-3109) ("Target"), and these shares would be distributed to applicant's shareholders. In approving the Plan, applicant's trustees, including the disinterested trustees, determined that applicant's reorganization would be in the best interests of its shareholders and would not dilute their interests. The trustees considered that combining applicant with Target could produce economies of scale which may be reflected in reduced costs per share, resulting in net benefits to applicant's shareholders.

3. The Plan was submitted to applicant's shareholders for approval; on June 20, 1991, a majority of the shareholders approved the Plan at a special meeting of shareholders.

4. Under the Plan, the reorganization of applicant was contingent on the approval by shareholders of Oppenheimer Regency Fund ("Regency") of a substantially similar plan pursuant to which Regency's assets would also be acquired by Target. On June 20, 1991, a majority of the shareholders of Regency approved their fund's reorganization plan.

5. On June 21, 1991, pursuant to the Plan, applicant transferred substantially all of its assets to Target in exchange for shares of Target on a *pro rata* basis. This transfer and exchange of assets was based on the relative net asset values of applicant and Target.

6. At the close of business on June 19, 1991, immediately preceding the reorganization, applicant had 5,505,275.640 shares outstanding, with an aggregate net asset value of $110,821,198.87 and a net asset value per share of $20.128166.

7. Expenses incurred in connection with the reorganization, including legal and accounting fees, printing, transfer agency, filing and proxy solicitation costs, totaled $76,496. Applicant assumed $68,889 of these expenses; Target assumed the remainder.

8. There are no securityholders to whom distributions in complete liquidation of their interests have not been made. Applicant has no outstanding debts or other liabilities. Applicant is not a party to any litigation or administrative proceeding.

9. Applicant will effect its dissolution with the proper Massachusetts authorities on issuance of an order or deregistration.

10. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-30563 Filed 12-20-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18441; 811-5158]

Tappan Zee Currency Shares, Inc.; Application for Deregistration

December 16, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Tappan Zee Currency Shares, Inc. (the "Fund") .

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on August 2, 1990 and amended on June 24, 1991, July 19, 1991, October 16, 1991 and December 12, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 13, 1992 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for laywers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 575 Fifth Avenue, 17th Floor, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504-2263, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant was organized as a Maryland Corporation and is registered as an open-end non-diversified management investment company under the Act. On May 8, 1987, applicant filed a notification of registration on Form N-8A. On August 6, 1987, applicant filed a registration statement on form N-1A. This registration statement never became effective for the purposes of the Securities Act of 1933, and applicant never made a public offering of its shares.

2. At a meeting held on December 11, 1989, applicant's board of directors approved a plan of liquidation and dissolution. On December 27, 1989, applicant's sole shareholder, an overseas institutional investor, was paid an extraordinary dividend consisting of all of applicant's remaining net investment income and capital gains. On December 28, applicant's sole shareholder redeemed all of its shares and received a final distribution of $28,861,251, that represented the net asset value of the shares minus a redemption fee of $72,801 and liquidation expenses of $2,000.

3. As of the date of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any liquidation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-30564 Filed 12-20-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18442; 811-5598]

The Whitestone Fund, Inc.; Application for Deregistration

December 16, 1991.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Whitestone Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on August 2, 1990 and amended on June 24, 1991, July 19, 1991, October 16, 1991 and December 12, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 13, 1992 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 575 Fifth Avenue, 17th Floor, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504-2263, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant was organized as a Maryland Corporation and is registered as an open-end non-diversified management investment company under the Act. On June 23, 1988, applicant filed a notification of registration on Form N-8A. On September 21, 1988, applicant filed a registration statement on Form N-1A. This registration statement never became effective for the purposes of the Securities Act of 1933, and applicant never made a public offering of its shares.

2. At a meeting held on January 23, 1990, applicant's board of directors approved a plan of liquidation and dissolution. On January 25, 1990, applicant's only shareholders, two overseas institutional investors, were paid an extraordinary dividend consisting of all of applicant's remaining net investment income and capital gains. On February 1, 1990, applicant's

shareholders redeemed their shares, one receiving $18,388,441.65 and the other $9,574,500.94 for a total of $27,962,942.59. Liquidation expenses of $10,000 were split pro rata between the two shareholders.

3. As of the date of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-30562 Filed 12-20-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 91-12-25; Docket 47724]

Application of Atlantic Coast Airlines for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Atlantic Coast Airlines fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate and overseas scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than December 26, 1991.

ADDRESSES: Objections and answers to objections should be filed in Docket 47724 and addressed to the Documentary Services Division (C-55, room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P-56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2340.

Dated: December 16, 1991.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs

[FR Doc. 91-30491 Filed 12-20-91; 8:45 am]

BILLING CODE 4910-26-M

Federal Aviation Administration

[Summary Notice No. PE-91-42]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 12, 1992.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9704.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR rule 11).

Issued in Washington, DC, on December 16, 1991.

Denise D. Castaldo,

Manager, Program Management Staff.

Petitions for Exemption

Docket No.: 21780
Petitioner: Civil Air Patrol Inc.
Sections of the FAR Affected: 14 CFR 61.118
Description of Relief Sought: To continue to allow the members of the Civil Air Patrol Inc., (CAP) holding private pilot certificates to be reimbursed fuel, oil, and maintenance expenses while serving on official CAP missions.

Docket No.: 22822
Petitioner: T.B.M., Inc.
Sections of the FAR Affected: 14 CFR 91.116 and 91.45
Description of Relief Sought: To renew Exemption No. 5204 from § 91.116 of the Federal Aviation Regulations. This exemption, if granted, would apply to § 91.45. It would continue to permit T.B.M., Inc., and its subsidiary, Butler Aircraft Company, to conduct ferry flights with one engine inoperative on its McDonnell Douglas DC-6/DC-7 aircraft, without obtaining a special flight permit for each flight.

Docket No.: 25053
Petitioner: Crew Pilot Training, Inc.
Sections of the FAR Affected: 14 CFR
Description of Relief Sought: To rescind the restrictions that were levied in the grant of Exemption No. 5011B and grant relief from the 2 hours of pilot flight training stipulated in Condition 6 of Exemption No. 5011B.

Docket No.: 25403
Petitioner: CCAir, Inc.
Sections of the FAR Affected: 14 CFR 121.371(a) and 121.378
Description of Relief Sought: To allow CCAir, Inc., to continue to use foreign original equipment manufacturers to perform maintenance services outside the United States on parts and components used on CCAir, Inc.'s British Aerospace Jetstream Model 3101 and Short Brothers model MD 3-60 aircraft, subject to conditions.

Docket No.: 26475
Petitioner: Felts Field Aviation, Inc.
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought: To consider Denial of Exemption No. 5331 from § 43.3(g) of the Federal Aviation Regulations. This exemption, if granted, would allow appropriately trained crew members and line service personnel employed by Felts

Field Aviation, Inc., to change aircraft cabin configurations by removing aircraft passenger seats and replacing them with stretcher racks, oxygen racks, and baby isolettes.

Docket No.: 26686
Petitioner: Evergreen International Airlines, Inc.
Sections of the FAR Affected: 14 CFR 121.583(a)(2)
Description of Relief Sought: To authorize Evergreen International Airlines, Inc. to operate their DC–8, DC–9, B–727 and B–747 cargo aircraft while transporting employees of Evergreen International Airlines, Inc., on board the aircraft.

Docket No.: 26662
Petitioner: Aloha Airlines
Sections of the FAR Affected: 14 CFR 121.565 (b)(3) and (d)(6)
Description of Relief Sought: To allow Aloha Airlines to seat passengers in exit row seating who do not understand the English language and who cannot follow oral directions unassisted in the event of an emergency.

Dispositions of Petitions

Docket No.: 19634
Petitioner: Douglas Aircraft Company
Sections of the FAR Affected: 14 CFR 121.310(d)(4)
Description of Relief Sought/ Disposition: To extend indefinitely Exemption No. 3055, as amended, from Section 121.310(d)(4) of the Federal Aviation Regulations. This exemption allows operators of Douglas Model DC–8 series aircraft to operate these aircraft in passenger-carrying operations without a cockpit control device for each emergency light as required by § 121.310(d)(4), when the operator complies with the conditions in the exemption.
GRANT, November 29, 1991, Exemption No. 3055F

Docket No.: 25120
Petitioner: Singapore Airlines
Sections of the FAR Affected: 14 CFR 21.197(C)
Description of Relief Sought/ Disposition: To remove by amendment the N118KD aircraft from the list of aircraft covered under Exemption No. 4792.
GRANT, December 5, 1991, Exemption No. 4792C

Docket No.: 25550
Petitioner: The Department of the Army
Sections of the FAR Affected: 14 CFR 91.169(c) [formerly § 91.83(c)]
Description of Relief Sought/ Disposition: To allow the U.S. Army to select alternate airports in accordance with its own regulations, as opposed to the criteria prescribed by § 91.169(c).
GRANT, November 25, 1991, Exemption No. 5368

Docket No.: 25892
Petitioner: British Aerospace, Inc.
Sections of the FAR Affected: 14 CFR 61.56(b)(1), 61.57 (c) and (d); 61.58(c)(1) and (d); 61.63(d) (2) and (3); 61.67(d)(2); 61.157(d) (1) and (2) and (e) (1) and (2); Appendix A of Part 61; and Appendix H of Part 121
Description of Relief Sought/ Disposition: To extend Exemption No. 5110 from §§ 61.56(b)(1), 61.57 (c) and (d); 61.58(c)(1) and (d); 61.63(d) (2) and (3); 61.67(d)(2); 61.157(d) (1) and (2) and (e) (1) and (2); Appendix A of Part 61; and Appendix H of Part 121 of the Federal Aviation Regulations. The exemption permits British Aerospace, Inc. to use FAA-approved simulators to meet certain training and testing requirements.
GRANT, November 27, 1991, Exemption No. 5110A

Docket No.: 25973
Petitioner: Simulator Training, Inc.
Sections of the FAR Affected: 14 CFR 63.37(b) (1), (2), (3), and (4)
Description of Relief Sought/ Disposition: To permit Simulator Training, Inc. students applicants, for flight engineer certificate with a class rating and who have not received at least 5 hours of flight training in the duties of a flight engineer to substitute training that combines 5 hours of line observation, under the supervision of a qualified flight engineer instructor, time with a line oriented flight training (LOFT) program consisting of two LOFT sessions of 2 hours each, in STI's FAA-approved visual flight simulator.
DENIAL, November 26, 1991, Exemption No. 5369

Docket No.: 26297
Petitioner: Fairchild Aircraft Corporation
Sections of the FAR Affected: 14 CFR 91.531(a)(3)
Description of Relief Sought/ Disposition: To permit FAC's type-rated company pilots to conduct airplane production test flights and experimental test flights in SA–227 commuter category airplanes without a second-in-command.
PARTIAL GRANT, November 25, 1991, Exemption No. 5367

Docket No.: 26618
Petitioner: American Airlines
Sections of the FAR Affected: 14 CFR 121.359(e)
Description of Relief Sought/ Disposition: To permit American Airlines and its pilots to operate 12 McDonnell Douglas Corporation MD 82/83 (MD–82/83) aircraft without the pilots of the aircraft using a boom microphone, below 18,000 feet sea level, that is connected to, and would record on, a cockpit voice recorder that has been installed on those aircraft.
DENIAL, November 25, 1991, Exemption No. 5371

[FR Doc. 91–30533 Filed 12–20–91; 8:45 am]
BILLING CODE 4910–13–M

Gulfport-Biloxi Regional Airport, Mississippi; Notice of Intent To Rule on Application

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Intent to Rule on application to impose and use the revenue from a Passenger Facility Charge (PFC) at the Gulfport-Biloxi Regional Airport, Gulfport, Mississippi.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Gulfport-Biloxi Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and 14 CFR part 58.

On December 16, 1991, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Gulfport-Biloxi Regional Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 4, 1992.

DATES: Comments must be received on or before January 22, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Airports District Office, 120 North Hangar Drive, suite B, Jackson, Mississippi 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bruce A. Frallic, Executive Director, of the Gulfport-Biloxi Regional Airport Authority at the following address: Gulfport-Biloxi Regional Airport Authority, Post Office Box 2127, Gulfport, Mississippi 39505.

Comments from air carriers and foreign air carriers may be in the same form as provided to the Gulfport-Biloxi

Regional Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Elton E. Jay, Principal Engineer, FAA/Airports District Office, 120 North Hangar Drive, suite B, Jackson, Mississippi 39208–2306; telephone number (601) 965–4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1992.

Proposed charge expiration date: May 31, 1995.

Total estimated PFC revenue: $891,000.

Brief description of proposed project(s): Terminal building improvements: construct access/service roads; acquire pavement sweeper; clearing and grubbing; land acquisition; electrical vault rehabilitation; relocate maintenance building; cargo ramp site preparation; expand air carrier ramp; master plan update; overlay Runways 13/31 and 17/35.

Availability of Application

Any person may inspect the application in person at the FAA office listed above. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the office of the Gulfport-Biloxi Regional Airport Authority.

Issued in Atlanta, Georgia, on December 16, 1991.

Stephen A. Brill,

Manager, Airports Division, Southern Region.

[FR Doc. 91–30534 Filed 12–20–91; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA), Technical Management Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. appendix I), notice is hereby given for the meeting of the RTCA Technical Management Committee to be held January 14, 1992, at the National Business Aircraft Association, 1200 18th Street, NW., Washington, DC, commencing at 10 a.m.

The agenda for this meeting is as follows: (1) Opening remarks and introductions; (2) Elect TMC chairman; (3) Establish committee administrative procedures; (a) Balloting in lieu of meeting; (b) TMC alternate members; (4) Review and approve revised terms of reference for special committees; (a) SC–135, Environmental Conditions and Test Procedures for Airborne Equipments; (b) SC–162, Aviation Systems Design Guidelines for Open Systems Interconnection (OSI); (c) SC–172, Future Air-Ground Communications Improvements in the VHF Aeronautical Band (118–131 MHZ); (5) Consider for approval DO–181A, Minimum Operational Performance Standards for Air Traffic Control Radar Beacon System Mode Select (ATCRBS/MODE S) Airborne Equipment; (6) Implement new special committee on FAA–STD–G2100E, Ground System Electronics Procurement Specification, SC–175; (7) Review of special committee progress; (8) Take action on recommendations of ad hoc Committee on RTCA technical matters; (9) Other business; (10) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833–9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on December 12, 1991.

Joyce J. Gillen,

Designated Officer.

[FR Doc. 91–30532 Filed 12–20–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

December 17, 1991.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0078.

Form Number: CF 1302 and CF 1302A.

Type of Review: Extension.

Title: Cargo Declaration and Cargo Declaration (Outward with Commercial Forms).

Description: Customs forms 1302 and 1302A are used by the master of a vessel to list all inward cargo on board and for the clearance of all cargo on board with commercial forms.

Respondents: Businesses or other for-profit.

Estimated Number of Responses: 5,600.

Estimated Burden Hours Per Response: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 11,662 hours.

Clearance Officer: Ralph Meyer (202) 566–4019, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 91–30573 Filed 12–20–91; 8:45 am]

BILLING CODE 4820–02–M

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986): Bahrain, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, Yemen, Republic of.

Dated: December 17, 1991.

Kenneth W. Gideon,

Assistant Secretary for Tax Policy.

[FR Doc. 91–30500 Filed 12–20–91; 8:45 am]

BILLING CODE 4810–25–M

[Department Circular—Public Debt Series—No. 39–91]

Treasury Notes of December 31, 1993, Series AJ–1993

Washington, December 16, 1991.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $13,500,000,000 of United States securities, designated Treasury Notes of December 31, 1993, Series AJ–1993 (CUSIP No. 912827 D5 8), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated December 31, 1991, and will accrue interest from that date, payable on a semiannual basis on June 30, 1992, and each subsequent 6 months on December 31 and June 30 through the date that the principal becomes payable. They will mature December 31, 1993, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in a minimum amount of $5,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulates governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulates governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, Wednesday, December 18, 1991, prior to 12:00 noon, Eastern Standard time, for noncompetitive tenders and prior to 1:00 p.m., Eastern Standard time, for competitive tenders. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, December 17, 1991, and received no later than Tuesday, December 31, 1991.

3.2. The part amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $5,000,000. A noncompetitive bidder may not have entered into an agreement, not make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue being auctioned prior to the designated closing time for receipt of competitive tenders.

3.4. The following institutions may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished: depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)); and government securities broker/dealers, registered with the Securities and Exchange Commission that are registered or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities and Exchange Act of 1934, as amended by the Government Securities Act of 1986. Others are permitted to submit tenders only for their own account.

3.5. Tenders from bidders who are making payments by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.5. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Tuesday, December 31, 1991. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, December 27, 1991. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 91-30659 Filed 12-19-91; 11:59 am]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 40-91]

Treasury Notes of December 31, 1996, Series W-1996

Washington, December 16, 1991.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for approximately $9,000,000,000 of United States securities, designated treasury Notes of December 31, 1996, Series W-1996 (CUSIP No. 912827 D6 6), hereafter referred to as Notes. the Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be terminated in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated December 31, 1991, and will accrue interest from that date, payable on a semiannual basis on June 30, 1992, and each subsequent 6 months on December 31 and June 30 through the date that the principal becomes payable. They will mature December 31, 1996, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in a minimum amount of $1,000 and in multiples of that amount. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500, Thursday, December 19, 1991, prior to 12:00 noon, Eastern Standard time, for noncompetitive tenders and prior to 1 p.m., Eastern Standard time, for competitive tenders. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, December 18, 1991, and received no later than Tuesday, December 31, 1991.

3.2 The par amount of Notes bid for must be stated on each tender. The

minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $5,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive closing time for receipt of competitive tenders.

3.4. The following institutions may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished: depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)); and government securities broker/dealers, registered with the Securities and Exchange Commission that are registered or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities and Exchange Act of 1934, as amended by the Government Securities Act of 1986. Others are permitted to submit tenders only for their own account.

3.5. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of competitive tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

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5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.5. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Tuesday, December 31, 1991. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, December 27, 1991. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is

pledged to pay, in legal tender, principal and interest on the Notes.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 91-30660 Filed 12-19-91; 11:59 am]

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UNITED STATES INFORMATION AGENCY

Summer Institute for English-as-a-Foreign-Language Educators from Francophone and Lusophone Africa

AGENCY: United States Information Agency.

ACTION: Notice—request for proposals.

SUMMARY: The Bureau of Educational and Cultural Affairs of the United States Information Agency requests proposals for a Summer Institute for African educators in the field of English-as-a-Foreign-Language (EFL). The general objective of the Summer Institute is to support and encourage the upgrading of the teaching of English at the secondary school level in French and Portuguese speaking African countries. The Summer Institute will focus on improvement of skills for teaching EFL and on development of skills for training and evaluating teachers of EFL.

Participants will be individuals who teach, administer, or supervise secondary school level programs in EFL from French and Portuguese speaking African countries. USIA asks for detailed proposals from U.S. not-for-profit institutions of higher education which have an acknowledged reputation in the field of training teachers of EFL, special expertise in handling cross-cultural programs, and experience with African educators. Subject to availability of funds, one grant will be awarded to conduct a 1992 Summer Institute .

DATES: Deadline for proposals: All proposals must be received at the U.S. Information Agency by 5 p.m. EST on February 4, 1992. Faxed documents will not be accepted, nor will documents postmarked February 4, 1992, but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. The Summer Institute should be programmed to encompass about 45 days beginning on or about Friday, July 10, 1992, and ending on or about Saturday, August 22, 1992. Institutions may propose minor variations in beginning and ending dates to coincide with local Summer Session academic calendars. No funds may be expended until a grant agreement is signed with USIA's Office of Contracts.

ADDRESSES: The original and 15 copies of the completed application, including required forms should be submitted by the deadline to: U.S. Information Agency, Ref: Summer Institute for EFL Educators from Francophone and Lusophone Africa, Office of the Executive Director, E/X, room 357, 301 4th St., SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions should contact Ann J. Martin at the U.S. Information Agency, Academic Exchange Programs Division, E/AEA, room 232, 301 4th St. SW., Washington, DC 20547, telephone (202) 619-5355, to request detailed application packets, which include award criteria additional to this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION:

Overview

The Bureau of Educational and cultural Affairs of the United States Information Agency (USIA) solicits proposals for a Summer Institute for African secondary school teachers, trainers of secondary school teachers and supervisors/inspectors of English-as-a-Foreign-Language (EFL). Depending upon availability of funds, approximately 25 teachers selected from French and Portuguese speaking African countries will participate in the Institute. Participants will be individuals who teach, administer, or supervise secondary school level programs in EFL.

USIA asks for detailed proposals from U.S. institutions of higher education which have an acknowledged reputation in the field of teaching teachers of English-as-a-Foreign-Language (EFL), special expertise in handling cross-cultural programs, and experience with African educators.

Notice: Applicant organizations should demonstrate a proven record (at least four years) of experience in international exchange.

The general objective of the Institute is to support and encourage the upgrading of the teaching of English at the secondary school level in French and Portuguese speaking African countries. The specific objectives of the 1992 Summer Institute are to improve skills for teaching EFL, to develop skills for training and evaluating teachers of EFL, and to stimulate initiative to assume leadership in national EFL programs. To meet the needs of the various participants, two concurrent academic components within the same Institute should be designed: One for secondary level classroom teachers with responsibilities in curriculum planning and course material development; and one for teacher trainers with responsibilities in supervision and staff training.

Authority for this exchange is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended, Public Law 87-256 (Fulbright-Hays Act). The Fulbright-Hays Act seeks to increase mutual understanding between the people of the United States and people of other countries. Pursuant to the Bureau of Educational and Cultural Affairs authorizing legislation, programs must maintain a non-political character; be balanced and representative of the diversity of American political, social and cultural life; maintain scholarly integrity and meet the highest standards of academic excellence.

Guidelines

Time Frame: The Summer Institute should be programmed to encompass about 45 days beginning on or about Friday, July 10, 1992, and ending on or about Saturday, August 22, 1992. Institutions may propose minor variations of no more than 10 days in beginning and ending dates to coincide with local Summer Session academic calendars. Please explain why a variation in dates is proposed and demonstrate improvements in program quality and cost effectiveness that may be achieved thereby.

Proposed Budget: A comprehensive line item budget must be submitted with the proposal by the application deadline. Specific guidelines for budget preparation are available in the application packet (see instructions above to obtain packet). Experience with similar institutes indicates that the cost to USIA for the Summer Institute for EFL Educators from Francophone and Lusophone Africa should probably not exceed $125,000.

Eligibility of African Participants: Participants will be selected by the U.S. Information Agency. Minimum qualifications for all participants will be a two-year teacher training diploma beyond secondary school. Many participants will hold the equivalent of BA/BS degrees from their national education systems.

Few participants will have visited the United States previously. In view of this, an initial orientation to the university community and a brief introduction to U.S. society and education should be considered an integral part of the Institute and should be held on the first two or three days of the program.

Program Description: The applicant is asked to design a two part program:

(a) A five-week academic program at the university with emphasis on methodology and teaching techniques in EFL which will meet the special needs of secondary school teachers and teacher trainers from Africa. The program should include a variety of formats such as discussion sessions, lectures, workshops, and practicums. Lengthy lectures should be kept to a minimum.

(b) A one-week escorted cultural and educational tour of Washington, DC, planned, arranged, and conducted by the Program Director and principal university staff. The tour should be seen as an integral part of the program, complementing and reinforcing the academic material. Programming in Washington should include a half-day briefing session at the U.S. Information Agency. Proposals may include cultural and educational visits en route to Washington, if such stops contribute to program quality and are cost effective.

The academic program should provide time for interaction with American students, faculty, and administrators, and the local community to promote mutual understanding between people of the United States and people of African countries. In this regard, the Institute should incorporate cultural features such as community and cultural activities, field trips to places of local interest, home stays with families in the area (with other secondary educators if possible), and events which will bring the participants into contact with Americans from a variety of backgrounds.

Program Objectives: The U.S. institution should plan to conduct an initial needs assessment of participants and should be prepared to adjust program emphasis as necessary to respond to participants' concerns for teaching EFL. Specific areas to address in the Institute follow:

1. EFL teaching methodology in theory and practice.

2. Improvement of pedagogical skills, including classroom management and discipline, with particular attention to the management of large classes of 50 or more students.

3. Development of curriculum materials during the Institute which can be used in the participants' respective countries. To the extent possible, Institute materials should be chosen and/or designed to be useful upon returning to Africa.

4. For teacher trainers: Enhancement of teacher training skills; evaluation and observation of classroom teachers; development of in-service training programs for teachers; designing and conducting workshops to train EFL teachers.

5. Specialized discussions of the nuances and idiomatic expressions common to American English, as well as particular difficulties of grammar and pronunciation for French or Portuguese learners of English.

6. Introduction to computer based word processing with emphasis on hands-on experience. Participants should be encouraged to improve their writing and editing skills through the flexibility provided by common word processing programs.

7. Visits to on-going EFL classes in local educational or community centers, providing participants with opportunities to practice EFL teaching skills.

8. Involvement of participants in American culture through community/cultural activities. This should include interaction with Americans from a variety of backgrounds.

9. On-going evaluation and adjustment of program components accordingly, as well as evaluation of the entire Institute.

10. Adaptability to the different needs of the two groups; that is, to teachers and to teacher trainers.

Program Administration: All Institute programming and administrative logistics, management of the academic program and the cultural tour, local travel, and on-site university arrangements, including enrolling participants as members of Teachers of English to Speakers of other Languages (TESOL) will be the responsibility of the Institute grantee. USIA will be responsible for all communications to and from the U.S. Information Service posts in Africa, which submit nominations to the Academic Exchange Programs Division and are responsible for all international travel. USIA will provide the university with participants' curriculum vitae and itineraries and be available to offer any advice or guidance the university may find useful.

The African participants will arrive directly at the campus site from their home countries. Actual arrival dates may be spread out over a four-day period, from Wednesday to Saturday, depending upon airline flight schedules from each country. It is expected that the university program staff will make arrangements to have participants met upon arrival at the airport nearest the university campus. Plans for receiving and housing participants will need to take the variation in arrival dates into account. Departures will be from Washington, DC. The program staff will have to plan for transportation to airports and differing lengths of stay before departure.

The host institution is responsible for arrangements for lodging, food and maintenance for participants while at the host institution and in Washington. The host institution should strive to balance cost effectiveness in accommodations and meal plans with flexibility for differing diets and personal habits among the participants.

Application Requirements (Refer to Application Packet): Proposals must be submitted within deadline and provide a detailed plan in response to the objectives and needs outlined above. Applicants should draw imaginatively on the full range of resources offered by their universities but may involve outstanding professionals from other universities or organizations. The overall quality and effectiveness of the Institute hinges upon administrative and organizational competence to manage interactions between African educators and Americans.

The proposal package must include one original and fifteen copies. Each proposal must be presented as follows:

1. A completed and signed cover sheet for grant applications which will be provided in the application packet.

2. An abstract of the proposed Summer Institute not to exceed two double-spaced pages.

3. A narrative not to exceed twenty double-spaced pages. The detailed narrative should outline the structure and organization of Institute courses and must include a day-by-day agenda for classes and supplementary activities, in accordance with program objectives outlined above. Plans for lodging and meals should be discussed in this section. Discuss how the applicant will conduct an initial needs assessment of the specific program participants and adjust program emphasis as necessary. Also note plans to identify appropriate books and readings to be distributed to participants on arrival or to be sent to them upon their return home as follow-up to Institute themes. At the option of the grant applicant, lists of readings may be included in an appendix. A plan for institutional evaluation of the project should also be included.

4. A budget in the prescribed format outlining specific expenditures. Refer to the application packet for format.

5. Appendices must contain the following information:

a. Academic/professional resumes of program director(s), instructors, consultants, and program staff (not to exceed two double-spaced pages for each).

b. Evidence of the institution's activities in substantive academic programs which train EFL teachers.

c. Demonstrations of the institution's experience with similar international exchange projects.

d. Option items for appendices are reading lists and examples of evaluation instruments.

6. Completed forms in support of the proposal. See application packet for the following forms: Bureau of Educational and Cultural Affairs Grant Application Cover Sheet; Assurance of Compliance; Certification Regarding Drug-Free Workplace Requirements; Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion; Disclosure of Lobbying Activities.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate geographic area office, the budget office and the contracts office. Eligible proposals may also be reviewed by the Office of the General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the following criteria:

1. Quality, rigor, and appropriateness of proposed syllabus to the program objectives of the Institute.

2. Institutional capacity. Proposed personnel and institutional resources should be adequate and appropriate to achieve a substantive academic and pedagogical EFL program.

3. Potential for program excellence and/or track record of applicant institution. The Agency will consider the past performance of prior grantees and the demonstrated potential of new applicants.

4. Multiplier effect/impact. Proposed program should contribute to mutual understanding and sharing of information about Africa among American faculty and students, as well as to understanding and information about the U.S. among the African participants.

5. Evaluation plan. Proposals should provide a plan for evaluation by the grantee institution at the conclusion of the Summer Institute.

6. Evidence of strong on-site administrative and managerial capabilities for international visitors with specific discussion of how managerial and logistical arrangements will be undertaken.

7. The experience of the staff assigned to the Institute in a cross-cultural context.

8. Effective use of community and regional resources.

9. A well-thought out and comprehensive cultural tour to complement the academic program.

10. Cost-effectiveness. Administrative components of the grant should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector as well as institutional direct funding contributions.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about May 1, 1992. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: December 17, 1991.

Barry Fulton,

Deputy Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 91-30592 Filed 12-20-91; 8:45 am]

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Sunshine Act Meetings

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Vol. 56, No. 246
Monday, December 23, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 56, page 65109, December 13, 1991.

PREVIOUSLY ANNOUNCED DATE OF MEETING: December 19, 1991.

CHANGES: The Commission added consideration of revisions to the proposed budget for fiscal year 1993 to the Agenda for December 19, 1991. The Commission decided that agency business required adding this matter without the normal seven days notice.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue Bethesda, MD 20207 301–504–0800.

Dated: December 18, 1991.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 91–30705 Filed 12–19–91; 2:25 pm]

BILLING CODE 6355–01–M

Corrections

Federal Register
Vol. 56, No. 246
Monday, December 23, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1001, 1004, and 1124

[Docket No. AO-14-A65, etc; DA-91-013]

Milk in the New England and Certain Other Marketing Areas; Tentative Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Correction

FR Doc. 91-29999, concerning milk in the New England and certain other areas, was published on page 65801 in the issue of Thursday, December 19, 1991. It was incorrectly published in the Rules section and should have appeared in the Proposed Rules section of the Federal Register.

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

Abacus Broadcasting Corp. et al.; Applications for Consolidated Hearing

Correction

In notice document 91-29493, beginning on page 64514, in the issue of Tuesday, December 10, 1991, make the following correction:

On page 64514, in the table at the bottom of the page, in the "MM Docket No." column, "1-350" should read "91-350".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 422

RIN 0960-AD06

Earnings and Benefit Statements

Correction

In proposed rule document 91-29137 beginning on page 63893 in the issue of Friday, December 6, 1991, make the following corrections:

1. On page 63893, in the third column, in the first full paragraph, in the sixth line from the bottom, insert "or" after "wages".

2. On the same page, in the same column, in the last paragraph, in the sixth line from the bottom, "1955" should read "1995"; and in the fourth line from the bottom, insert ending quotation marks after "individuals" and the following phrase: "who attain age 60 during that fiscal year. We will also advise individuals".

§ 404.811 [Corrected]

3. On page 63895, in the first column, in § 404.811:

a. In paragraph (b)(1), in the first line, "taxes" should read "taxed"; and in the third line, insert "of" after "as";

b. In paragraph (b)(3), in the third line, insert "for" after "have"; and

c. In paragraph (b)(5), in the first line, "for" should read "of".

BILLING CODE 1505-01-D

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2617

Determination of Plan Sufficiency and Termination of Sufficient Plans

Correction

In proposed rule document 91-27551, beginning on page 58014, in the issue of Friday, November 15, 1991, make the following corrections:

1. On page 58015, in the first column, in the fourth line, "on" should read "in".

2. On the same page, in the second column, in the second full paragraph, in the first line, "defined" should read "define".

3. On page 58016, in the third column, in the first full paragraph, in the fifth line, "failed" should read "filed".

4. On the same page, in the same column, in the third full paragraph, eight lines from the bottom, "excepts" should read "expects".

5. On page 58017, in the first column, in the second full paragraph, four lines from the bottom, "this" should read "thus".

§ 2617.40 [Corrected]

6. On the same page, in the second column, the section heading should read as set forth above. And in § 2617.40(b), in the last line, "affective" should read "effective".

§ 2617.41 [Corrected]

7. On the same page, in the third column, in § 2617.41(b), in the last line, after "receipt" insert ")".

§ 2617.42 [Corrected]

8. On page 58018, in the first column, in § 2617.42(d)(3), in the second line, "terminated" should read "terminate".

BILLING CODE 1505-01-D

federal register

Monday
December 23, 1991

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

Public and Indian Housing Youth Sports Program; Notice of Funding Availability

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-91-3364; FR-3159-N-01]

Public and Indian Housing Youth Sports Program; Funding Availability

AGENCY: Office of the Assistant Secretary for Public and Indian Housing HUD.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: This NOFA announces HUD's FY 1992 funding of $8,250,000 for the Youth Sports Program (YSP) to be used for sports, cultural, educational, recreational, or other activities designed to appeal to youth as alternatives to the drug environment in public or Indian housing projects. In the body of this document is information concerning the purpose of the NOFA, applicant eligibility, available amounts, selection criteria, and application processing, including how to apply and how selections will be made.

DATES: Application is due on or before January 23, 1992.

FOR FURTHER INFORMATION CONTACT: Jose Marquez, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-1197 or 708-3502. A telecommunications device for deaf persons (TDD) is available at (202) 708-0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2577-0140. The public reporting burden for each of these collections of information is estimated to include the time for reviewing and instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Information on the estimated public reporting burden is provided as follows:

Section of NOFA affected	Number of respondents	Number of Respondents per response	Total annual responses	Hours per response	Total hours
III (entire)	500	1	500	24	12,000
Total Annual Reporting Burden					12,000

I. Purpose and Substantive Description

(a) Authority

This program is authorized by section 520 of the National Affordable Housing Act (NAHA) (approved November 28, 1990, Pub. L. 101-625).

A NOFA for FY 1991 Youth Sports funding was published in the **Federal Register** of October 28, 1991, (56 FR 55584). That NOFA stated, at 56 FR 55584, that if FY 1992 Youth Sports program funds were made available in the near future, as was anticipated, the Department expected to make FY 1992 Youth Sports funds available under the same terms as those set forth in the FY 1991 NOFA. If the timing permitted, the Department would publish a **Federal Register** notice for the FY 1992 funds that applied the terms of the FY 1991 NOFA to them, combined the application process for the FY 1991 and FY 1992 funds, and if necessary, extended the application due date to provide at least 30 days after the FY 1992 **Federal Register** notice to submit applications. This notice is published for the purpose of accomplishing those goals. Accordingly, except for the explanation of the amount of funding available, the terms of this NOFA are identical to those of the FY 1991 Youth Sports Program NOFA. These terms are set out below for the convenience of applicants.

(b) Allocation Amounts

Section 520(k) of the NAHA provides that five percent of any funding appropriated for the Drug Elimination Program shall be available for Youth Sports Program grants. The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (approved October 28, 1991, Public Law 102-139, hereinafter, 92 App. Act) appropriated $165 million for the Drug Elimination Program in FY 1992. Accordingly, $8.25 million is the amount available for the Youth Sports Program for Fiscal Year 1992. Program funds are to be used for sports, cultural, educational, recreational, or other activities designed to appeal to youth as alternatives to the drug environment in public or Indian housing projects.

Because of the limited amount of funding appropriated for this program, and to ensure that the program is implemented on a broad, nationwide basis, each applicant may submit only one application. The maximum annual Youth Sports amount per applicant is $125,000. As more fully explained below, applicants must supplement grant funds with an amount of funds from non-Federal sources equal to or greater than 50 percent of the amount provided by the grant.

(c) Eligibility

(1) Eligible Applicants

Funding for this program in FY 1992 is limited to PHAs and IHAs. Although section 520 of NAHA lists seven categories of entities qualified to receive grants (States; units of general local government; local park and recreation districts and agencies; public housing agencies (PHAs); nonprofit organizations providing youth sports services programs; Indian tribes; and Indian housing authorities (IHAs)), the 92 App. Act limited the funding for the Drug Elimination Program to PHAs and IHAs only. Since the funding of the Youth Sports Program is dependent on the appropriation for the Drug Elimination Program, the limitations that apply to Drug Elimination affect Youth Sports as well. Therefore, for FY 1992 only PHAs and IHAs are eligible applicants for Youth Sports Program Funding.

In designing an activity for funding, PHA and IHA applicants shall consult with RMCs/RCs where they exist, and with other entities that would be eligible for funding under this program, as listed

above, with at least two years of experience in designing or operating sports, cultural, recreational, educational or other activities for youth. Eligible local entities that are affiliates of national organizations may rely on the experience of the national organization for this purpose. These consultations will provide applicants with valuable resident input and will involve entities with experience in designing and implementing the eligible types of activities under this program with PHA and IHA applicants that may not have this type of experience. These experienced entities may establish a sub-contracting relationship, in accordance with 24 CFR part 85, with the PHA/IHA if deemed appropriate by the grantee to further their public/private partnership. This consultation process will also provide entities that are not PHAs or IHAs with a greater appreciation and understanding of the operations and problems of public and Indian housing projects. The end result will be more effective program activities that make more efficient use of program funds. This result is expected because it draws upon and combines the expertise of PHA and IHA applicants with respect to the operations and problems of public and Indian housing projects, and the expertise of other entities with respect to designing and implementing youth activities.

(2) Eligible Activities

Youth Sports Program funds may be used to assist in carrying out sports, cultural, recreational, educational or other activities for youth in any of the following manners:

(i) Acquisition, construction, or rehabilitation of community centers, parks, or playgrounds is an eligible activity under the Youth Sports Program.

(A) Acquisition, construction or rehabilitation costs shall not be approved unless the applicant demonstrates the need for the type of facilities to be assisted by the grant (section III.(a)(3) of this NOFA).

(B) Facilities that receive Youth Sports funding must be used primarily for youth from the public or Indian housing projects in which the funded facility is operated (section III.(a)(2)(ii) and III.(a)(10)(iii) of this NOFA).

(C) Facilities (community centers, parks, or playgrounds) acquired, constructed, or rehabilitated under this program must be on or immediately adjacent to the premises of the public housing project identified in the application for assistance under this program. In the case of Indian Housing Authorities, the applicant must specify how youth from IHA projects will have access to the facility, since IHAs often cover large areas (section III.(a)(9) of this NOFA).

(D) Facilities receiving Youth Sports funding must comply with any applicable local or tribal building requirements for recreational facilities (section III.(a)(2)(iii) of this NOFA).

(E) Facilities receiving Youth Sports funding must be used exclusively for Youth Sports activities commensurate with the extent of the Youth Sports funding, unless a waiver is obtained from HUD. For example, if a facility is funded 60 percent by a Youth Sports grant, then it must be used at least 60 percent for Youth Sports activities, unless a waiver is obtained from HUD.

(F) In accordance with the requirements of 24 CFR 8.21, facilities should be designed and constructed to be readily accessible to and usable by individuals with handicaps. Alterations to existing facilities shall, to the maximum extent feasible, be made readily accessible to and usable by individuals with handicaps.

(G) In accordance with the requirements of 24 CFR 8.20, no qualified applicant with handicaps shall, because a recipient's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefit of, be excluded from participation in, or otherwise be subjected to discrimination in the program.

(ii) Redesigning or modifying public spaces in public or Indian housing projects to provide increased utilization of the areas by Youth Sports activities is an eligible activity under this program.

(A) The construction of sports facilities on public or Indian housing property to implement Youth Sports activities is permitted under this program. These facilities may include, but not be limited to, baseball diamonds, basketball courts, football fields, tutoring centers, swimming pools, soccer fields, public or Indian housing community centers, and tennis courts.

(iii) Provisions of public services, including salaries and expenses for staff of youth sports programs, cultural activities, educational programs relating to drug abuse, and sports and recreation equipment are eligible activities under this program.

(A) Educational programs for youth relating to illegal drug use are permitted under this section. The program must be formally organized and provide the knowledge and skills youth need to make informed decisions on the potential and immediate dangers of drug abuse and involvement with illegal drugs. Grantees may contract with drug education professionals to provide the appropriate training or workshops. These educational programs may be part of organized sports activities or other eligible youth activities.

(B) Activities providing an economic/educational orientation for Youth Sports Program participants are eligible for funding as public services. These activities must provide, for public or Indian housing youth, the opportunities for interaction with, or referral to, higher educational or vocational institutions, and develop the skills of program participants to pursue educational, vocational, and economic goals. These activities may also provide public or Indian housing youth the opportunity to interact with private sector businesses in their community with the purpose of promoting the development of educational, vocational, and economic goals in public or Indian housing youth.

(C) The cost of the initial purchase of sports and recreation equipment to be used by program participants is permitted under this program.

(D) Cultural and recreational activities, such as ethnic heritage classes, art, dance, drama and music appreciation and instruction programs are eligible Youth Sports Program activities.

(E) Youth leadership skills training for program participants is permitted under this program. These activities must provide opportunities designed to involve public and Indian housing youth in peer leadership roles in the implementation of program activities, for example, as team or activity captains, counselors to younger program participants, assistant coaches, and equipment or supplies managers. Grantees may contract with youth trainers to provide services which may include training in peer pressure reversal, resistance or refusal skills, goal planning, parenting skills, and other relevant topics.

(F) Transportation costs directly related to Youth Sports activities (for example, leasing a vehicle to transport a Youth Sports team to a game) are eligible program expenses.

(G) The purchase of vehicles under this program is prohibited.

(H) Liability insurance costs directly related to Youth Sports activities are eligible program expenses.

(3) Threshold requirements for funding.

Every activity proposed for funding under the Youth Sports Program must satisfy each of the following requirements or it will not be considered for funding:

(i) The activity must be operated as, in conjunction with, or in furtherance of,

an organized program or plan designed to eliminate drugs and drug-related problems in the public or Indian housing project or projects for which the activity is proposed. (See, section III.(a)(7), below, of this NOFA.)

(ii) The activity for which funding is sought must be conducted with respect to public or Indian housing sites that HUD determines have a substantial problem regarding the use or sale of illegal drugs.

(A) The determination required in paragraph (ii) will be made on the basis of information submitted in the applicant's plan as described below in "Checklist of Application Submission Requirements," section III.(a)(7).

(iii) The activities or facilities funded by Youth Sports grants must serve primarily youth from the public or Indian housing projects for which the activities or facilities are operated. (See, section III.(a)(10), below.)

(v) Applicants must be able to supplement the amount provided by a grant under the Youth Sports Program with an amount of funds from non-Federal sources equal to or greater than 50 percent of the amount provided by the grant. (See, section III.(a)(2)(ii), below.) Funds from non-Federal sources are funds the applicant receives for the Youth Sports activities identified in its application from the following:

(A) States;

(B) Units of general local government or agencies of such governments;

(C) Indian tribes;

(D) Private contributions;

(E) Any salary paid to staff to carry out the Youth Sports activities of the applicant, computed as follows:.

(1) Only that portion of staff salaries representing time that will be spent on new and additional duties directly involved with Youth Sports activities may qualify as funds from non-Federal sources;

(2) Staff salaries that are paid with Youth Sports funds do not qualify as funds from non-Federal sources for the purpose of this program;

(F) The value of the time and services contributed by volunteers to carry out the program of the grant recipient to be determined as follows:

(1) Except as set out in paragraph (2), below, the value of time and services contributed by volunteers is to be computed on the basis of five dollars per hour;

(2) Where the volunteer is a professional or a person with special training performing a service directly related to the profession or special training, the value of the service is to be computed on the basis of the usual and customary hourly rate paid for the service in the community where the Youth Sports activity is located;

(G) The value of any donated material, equipment, or building, computed on the basis of the fair market value of the donated item(s) at the time of the donation;

(1) The applicant must document the fair market value of donated items by referencing bills of sale, advertised prices, or appraisals, not more than one year old and taken from the community where the item or the Youth Sports activity is located (whichever is more appropriate), of identical or comparable items;

(H) The value of any lease on a building, or part of a building, computed on the basis of the fair market value of a lease for similar property similarly situated.

(1) The applicant must document the fair market value of a lease by referencing an existing, or no more than one year old, lease from the building involved; or evidence, such as advertisements or appraisals, of the value of leases for comparable buildings.

(vi) Grant funds provided under this program and any State, tribal, or local funds used to supplement grant funds under this program may not be used to replace other public funds previously used, or designated for use, for the purpose of this program. (See section III.(a)(2)(vi).

(d) Selection Criteria

Each application for a grant award that is submitted in a timely manner to the local HUD field office or, in the case of IHAs, to the appropriate HUD Office of Indian Programs, and that otherwise meets the requirements of this NOFA, will be evaluated. An application must receive a minimum score of 75 points out of the maximum 110 points awardable under this competition to be eligible for funding. Grants will be awarded to the three highest-ranked, eligible PHA applications within each region. In addition, grants will be awarded to the three highest-ranked, eligible IHA applications on a nation-wide basis. All of the remaining eligible applications, both PHAs and IHAs, will then be placed in overall nation-wide ranking order, with the remaining funds granted in order of rank until all funds are awarded. If FY 1992 funds are subsequently made available under the terms of this NOFA, a comparable process of PHA regional, IHA, and nationwide awards will be followed as specified in a **Federal Register** notice announcing the availability of the additional funds. The following criteria will be used to evaluate eligible applications:

(1) The extent to which the Youth Sports activities to be assisted with the grant address the particular needs of the area to be served by the activities and employs methods, approaches, or ideas in the design or implementation of the activities particularly suited to fulfilling the needs (whether such methods are conventional or unique and innovative). (Maximum points: 30). In assessing this criterion, HUD will consider the following factors:

(i) The appropriateness of the applicant's methods, approaches, or ideas in addressing the particular needs of the area to be served by the program, as reflected in the description of the services to be provided by the applicant's proposed Youth Sports Program (section III.(a)(3) of this NOFA); (10 points)

(ii) The resources committed to each activity and service (section III.(a)(5) of this NOFA) proposed for funding in the application; (10 points)

(iii) An estimate of the number of youth from public or Indian Housing projects that will be involved in the applicant's proposed activities, in accordance with section III.(a)(8) of this NOFA. (5 points)

(iv) The applicant's explanation of the procedures that will be followed to ensure that the Youth Sports activities will serve primarily youth from the public or Indian housing project in which the program to be assisted by a grant is operated, as required by section III.(a)(10)(iii). (5 points)

(2) The technical merit of the application of the qualified applicant. (Maximum points: 10). In assessing this criterion HUD will consider the following factors:

(i) The quality and thoroughness of the statement required in the application (section III.(a)(6) of this NOFA) regarding the extent to which the applicant's proposed Youth Sports activities meet the selection criteria for this program; (10 points)

(3) The qualifications, capabilities, and experience of the personnel and staff of the sports program who are critical to achieving the objectives of the program as described in the application. (Maximum points: 15). In assessing this criterion HUD will consider the following factors:

(ii) The position descriptions of staff critical to achieving the objectives of the applicant's program, required under section III.(a)(10)(ii) of this NOFA; (10 points)

(ii) The nature of the duties volunteers will perform, required under section III.(a)(10)(ii) of this NOFA. (5 points)

(4) The capabilities, related experience, facilities, and techniques of the applicant for carrying out its youth sports program and achieving the objectives of its program as described in the application, and the potential of the applicant for continuing the youth sports program. (Maximum points: 20) In assessing this criterion HUD will consider the following factors:

(i) The related experience of the applicant, as evidenced by its staff, and of the entity consulted by the applicant in preparing its application, in conducting the type of activities, in public or Indian housing, for which funding is requested (section III.(a)(10)(i) and (ii) of this NOFA). (5 points)

(ii) The appropriateness, in terms of need, size, location, and suitability, of the facilities to be used for youth activities (section III.(a)(9) of this NOFA). (5 points)

(iii) The applicant's workplan and implementation schedule for the Youth Sports activities for which funding is sought (section III.(a)(4) of this NOFA). (5 points)

(iv) The extent of the resources committed to continue the operation of Youth Sports activities and facilities beyond the grant term included in the applicant's description of plans to continue the Youth Sports activities in the future, as required in section III.(a)(12) of this NOFA. (5 points)

(5) The severity of the drug problem at the local public or Indian housing site for the Youth Sports program and the extent of any planned or actual efforts to rid the site of the problem. (Maximum points: 10) In assessing this criterion HUD will consider the following factors:

(i) The extent of the drug-related problems at the housing projects to be assisted, as established in the applicant's plan required by section III.(a)(7) of this NOFA. (5 points)

(ii) The extent of any planned or actual efforts to rid the housing projects to be assisted of their drug-related problem, as described in the applicant's plan required by section III.(a)(7) of this NOFA. (5 points)

(6) The extent to which local sports organizations or sports figures are involved. (Maximum points: 5 points) In assessing this criterion, HUD will consider the following factor:

(i) The documentation provided in the application of the level of on-site or other participation by local sports, cultural, recreational, educational, or other community organizations or figures that is focused on the specific youth activities for which the application is prepared (section III.(a)(11) of this NOFA). (5 points)

(7) The extent of the coordination of proposed activities with local resident management groups or resident associations (where such groups exist) and coordination of proposed activities with ongoing programs of the applicant that further the purposes of the Youth Sports program. (Maximum points: 10) In assessing this criterion, HUD will consider the following factors:

(i) The applicant's description of its consultations with resident management groups or resident associations, where they exist, and residents, as required by section III.(a)(7) of this NOFA; (5 points)

(ii) The extent to which the applicant demonstrates the relationship of the Youth Sports activities with other existing anti-drug activities, if any, in the housing projects to be assisted as reflected in the applicant's plan required by section III.(a)(7) of this NOFA. (5 points)

(8) The extent of non-Federal contributions that exceed the fifty percent amount of such funds required. (Maximum points: 5) In assessing this criterion, HUD will consider the following factor:

(i) The applicant's budget describing the share of the costs of the applicant's Youth Sports Program provided by a grant under this program and the share of the costs provided from funds from non-federal sources and other resources, such as the number of volunteers and volunteer hours committed, submitted in accordance with section III.(a)(5) of this NOFA. (5 points)

(9) The extent to which the applicant demonstrates local government or tribal support for the program. (Maximum points: 5) In assessing this criterion, HUD will consider the following factor:

(i) The applicant's description of local or tribal government support as evidenced by contributions from these entities listed under section III.(a)(5) of this NOFA. (5 points)

II. Application Process

(a) An application package may be obtained from the local HUD field office or by calling HUD's Drug Information and Strategy Clearinghouse on 800–245–2691. The application package contains information on all exhibits and certifications required under this NOFA.

(b) The deadline for the submission of grant applications under this NOFA is January 23, 1992. In order to be eligible, the original and two copies of the application must be physically received by the close of business on the deadline date at the local HUD field office or, in the case of IHAs, in the local HUD Office of Indian Programs, with jurisdiction over the PHA or IHA, Attention: Public Housing Division Director, or Office of Indian Programs Director. A list of these offices is included as Appendix 1 to this NOFA. It is not sufficient for an application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable.

III. Checklist of Application Submission Requirements

(a) Each application for a grant under this program must include the following:

(1) Standard Grant Application Forms SF–424 and SF–424A with narrative showing breakdown by program and cost, to include all equipment.

(2) The following certifications, executed by the CEO of the applicant:

(i) A certification that the applicant will supplement the amount provided by a grant under this program with an amount of funds from non-federal sources equal to or greater than 50 percent of the amount provided by the grant;

(ii) A certification that the activities or facilities funded by the Youth Sports grant will serve primarily youth from the public or Indian housing projects in which the activities or facilities are operated;

(iii) A certification that facilities receiving Youth Sports funding comply with any applicable local or tribal building requirements for recreational facilities;

(iv) A certification that the applicant will maintain a drug-free workplace in accordance with the requirements of the Drug-Free Workplace Act of 1988, 24 CFR part 24, subpart F (Applicants may submit a copy of their most recent drug-free workplace certification, which must be dated within the past year.);

(v) A certification and disclosure in accordance with the requirements of section 319 of the Department of the Interior Appropriations Act (Pub. L. 101–121, approved October 23, 1989), as implemented in HUD's interim final rule published in the **Federal Register** on February 26, 1990 (55 FR 6736). (This statute generally prohibits recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific, contract, grant, or loan.);

(vi) A certification that grant funds provided under this program and any State, tribal, or local funds used to supplement grant funds under this program will not be used to replace

other public funds previously used, or designated for use, for the purpose of this program;

(vii) A certification that the applicant has assessed its potential liability arising out of Youth Sports activities, has considered any limitations on liability under State, local or tribal law, and that, upon being notified of a Youth Sports grant award, the applicant will obtain adequate insurance coverage to protect itself against any potential liability arising out of the eligible activities under this program;

(viii) A certification that the applicant will comply with Title VI of the Civil Rights Act of 1964 and section 504 of the Rehabilitation Act of 1973.

(3) A description of the nature of the services to be provided by the applicant's proposed Youth Sports Program, including an explanation of the way in which the activities or facilities proposed for funding address the particular needs of the area to be served by the program.

(4) A workplan with an 18 months maximum task timeline providing an implementation schedule for the Youth Sports activities.

(5) A budget describing the financial and other resources committed to each activity and service of the program. The budget must identify the share of the costs of the applicant's Youth Sports activities provided by a grant under this program and provide a narrative describing how the share of the costs provided from other sources of funds (e.g. local or tribal government, corporations, individuals), including funds from non-Federal sources, will be obtained.

(6) A statement regarding the extent to which the applicant's proposed Youth Sports activities meet the selection criteria in section I.(d), above.

(7) A plan designed to eliminate drugs and drug-related problems on the premises of the housing projects proposed for funding. Applicants are given a choice to satisfy this requirement in one of two ways. First, an applicant may submit a current-year plan prepared for the housing projects in accordance with 24 CFR 961.15 as a part of a Drug Elimination Program grant. In this case, the applicant must indicate how its proposed Youth Sports activities will be operated as, in conjunction with, or in furtherance of the § 961.15 plan. The other choice is that an applicant may submit an abbreviated plan prepared for this NOFA as follows:

(i) The plan must describe the drug-related problems in the projects that are proposed for funding under this program, using:

(A) Objective data, if available, from the local police precinct or the PHA's or IHA's records on the types, number and sources of drug-related crime in the projects proposed for assistance. If crime statistics are not available at the project or precinct level, the applicant may use other reliable, objective data including those derived from the records of Resident Management Corporations (RMCs), Resident Corporations (RCs), or other resident associations. The data should cover the past one-year period and, to the extent feasible, should indicate whether these data reflect a percentage increase or decrease in drug-related crime over the past several years.

(B) Information from other sources which have a direct bearing on drug-related problems in the projects proposed for assistance. Examples of these data are: resident/staff surveys on drug-related issues or on-site reviews to determine drug activity; vandalism costs and related vacancies attributable to drug-related crime; information from schools, health service providers, residents and police.

(ii) The plan must include a narrative discussion of the applicant's current activities, if any, to eliminate drug-related problems in the targeted projects. Any efforts being undertaken by community and governmental entities, residents of the project, Resident Management Corporations (RMCs), Resident Corporations, (RCs), other resident associations, or any other entities to address the drug-related problems in the projects proposed for assistance must be described. The applicant must also indicate how its proposed Youth Sports activities will be operated as, in conjunction with, or in furtherance of the other activities described in the plan.

(8) An estimate of the number of youth involved.

(i) The applicant must provide the total estimated number of youth involved for each proposed activity and participating in youth leadership assignments (for example, team managers, assistant managers, team captains) computed on an annual and, if applicable, a session or seasonal basis (for example, classes or league sports may be organized in sessions or seasons that run for a certain number of weeks or months, or more activities may take place and more youth may be involved on weekends than on weekdays).

(ii) The total estimated number given for each activity must be further broken down by categories of age (e.g., 5–8 years old, 9–12 years old, etc.), sex (male, female, co-ed), and residency in public or Indian housing.

(9) A description of the facilities used.

(i) Facilities to be used for Youth Sports activities must be described in the application with regard to their dimensions, location, and the number of youth that can be accommodated at one time.

(A) In the case of an Indian housing project, if a facility to be acquired, constructed, or rehabilitated is not located on or immediately adjacent to the premises of the project to be assisted, the application must specify how youth from the Indian housing project will have access to the facility (e.g., transportation will be provided, transportation service is readily available.)

(ii) Where applicable, the application must provide a detailed explanation of all facility acquisition, construction, rehabilitation, operation, redesign or modification proposed for funding under this program.

(A) The application must specify what percent of the facility will be used for youth activities (as opposed to, for example, senior citizen or adult activities). This percentage may not be less than the percentage of Youth Sports funding provided for the facility.

(iii) The application must identify the entity that will be responsible for the operation of any facility funded by a Youth Sports grant.

(10) A description of the organization of the applicant's proposed Youth Sports program, which must detail:

(i) The consultations entered into by the applicant with RMCs/RCs, where they exist, and other entities experienced in the design and implementation of the type of proposed youth sports activities;

(ii) The position descriptions of the staff that will be responsible for managing and operating the Youth Sports activities must be included in the application; if volunteers are involved, their number, job descriptions, and hours per week of involvement must be included;

(iii) The procedures that will be followed to ensure that the Youth Sports activities or facilities will serve primarily youth from the public or Indian housing project in which the program to be assisted by a grant is operated must be explained in the application.

(11) A description of the extent of involvement of local sports organizations or sports figures.

(i) The applicant must provide documentation of the level of on-site or other participation by local and nationally affiliated sports organizations, except as provided in

section (ii) below, with at least two years of organizational and operational experience. These may include, but are not limited to, strictly sports organizations, such as, Little Leagues, Midnight Basketball, or professional teams. Participation by cultural, recreational, or educational organizations is also permissible. The participation of these groups must be focused on the youth activities for which the application is prepared.

(ii) The applicant may demonstrate the involvement of local or national sports, cultural, recreational or educational figures, such as athletes, coaches, artists, entertainers and teachers in place of, or in addition to, the participation of organizations. The participation of these figures must be focused on the youth activities for which the application is prepared.

(12) A description of plans and resources to continue the Youth Sports activities beyond the grant term under this program, including the commitment of entities (e.g., local and tribal governments, corporations, community organizations) and individuals to continue their involvement in the applicant's Youth Sports activities and facilities.

IV. Corrections to Deficient Applications

(a) HUD will notify an applicant, in writing, of any curable technical deficiencies in the application. The applicant must submit corrections in accordance with the information specified in HUD's letter within 14 calendar days from the date of receipt of HUD's letter notifying the applicant of any such deficiency.

(b) Curable technical deficiencies relate to items that:

(1) Are not necessary for HUD review under selection criteria/ranking factors; and

(2) Cannot be submitted after the application due date has expired, to improve the substantive quality of the proposal. An example of a technical deficiency would be the failure of an applicant to submit a certification with its proposal.

V. Other Matters

(a) *Environmental Impact.* A Finding of No Significant Impact (FONSI) with respect to the environment for the FY 1991 NOFA has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. Since the requirements of this FY 1992 NOFA are exactly identical to those of the FY 1991 NOFA, and since the same application processing dates apply to both, the FONSI prepared for the FY 1991 NOFA will apply to this NOFA as well. The FONSI is available for public inspection and copying from 7:30 to 5:30 weekdays in the Office of the Rules Docket Clerk, room 10276, 451 Seventh Street, SW., Washington, DC 20401. HUD will review all applications and their proposed activities in accordance with the environmental requirements of 24 CFR part 50.

(b) *Federalism Impact.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions of this NOFA do not have "federalism implications" within the meaning of the Order. The NOFA implements a program that provides positive sports, cultural, recreational, educational or other activities designed to appeal to youth as alternatives to the drug environment in public and Indian housing, and makes available grants to PHAs and IHAs to help them implement these activities. As such, the program helps PHAs and IHAs to combat serious drug-related crime problems in their projects, thereby strengthening their role as instrumentalities of the States. Further review under the Order is also unnecessary since the NOFA generally tracks the statute and involves little implementing discretion.

(c) *Family Impact.* The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this NOFA have the potential for significant positive impact on family formation, maintenance and general well-being within the meaning of the Order. The NOFA implements a program that provides positive sports, cultural, recreational, educational, or other activities designed to appeal to youth as alternatives to the drug environment in public and Indian housing, and makes available grants to PHAs and IHAs to help them implement these activities. As such, the program is intended to improve the quality of life of public and Indian housing project residents by reducing the incidence of drug-related crime and should have a strong positive effect on family formation, maintenance and general well-being for PHAs and IHAs selected for funding. Further review under the Order is also not necessary since the NOFA essentially tracks the authorizing legislation and involves little exercise of HUD discretion.

(d) *Section 102 HUD Reform Act.* On March 14, 1991, the Department published in the **Federal Register** a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (24 CFR part 12, 56 FR 11032). Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by the Department.

Since HUD makes assistance under this program available on a competitive basis, part 12 requires HUD to:

—Ensure that documentation and other information regarding each application submitted to the Department are sufficient to indicate the basis upon which assistance was provided or denied. HUD must make this material available for public inspection for a five-year period. (§ 12.14(b)) HUD will provide further guidance on how this material may be accessed in a later Notice published in the **Federal Register.**

—Publish a Notice in the **Federal Register** at least quarterly indicating the recipients of the assistance. (§ 12.16(a))

Subpart C of the rule requires applicants that seek assistance from HUD for a specific project or activity must make the disclosures required under § 12.32. This subpart will be made effective through later publication of a Notice in the **Federal Register.** Since it will apply to applications solicited on or after the effective date of the Notice, this NOFA is not subject to its provisions.

(e) *Section 103 HUD Reform Act.* HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her

Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

(f) *Section 112 HUD Reform Act.* Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule.

Any questions regarding the rule should be directed to Arnold J. Haiman, Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3815; TDD: (202) 708–1112. (These are not toll-free numbers.) Forms necessary for compliance with rule may be obtained from the local HUD office.

Authority: Sec. 520, National Affordable Housing Act (approved November 28, 1990, Pub. L. 101–625); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: December 16, 1991.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 91–30499 Filed 12–20–91; 8:45 am]

BILLING CODE 4210–33–M

federal register

Monday
December 23, 1991

Part III

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 83

Procedures for Establishing That an American Indian Group Exists as an Indian Tribe; Extension of Public Comment Period on Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 83

Procedures for Establishing That an American Indian Group Exists as an Indian Tribe

December 13, 1991.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Extension of public comment period on proposed rule.

SUMMARY: The Bureau of Indian Affairs (BIA) of the Department of the Interior extends until January 17, 1992, the public comment period on the proposed rule published in the September 18, 1991, **Federal Register** at 56 FR 47320. The proposed rule would revise 25 CFR part 83 to improve and clarify the system for considering petitions from Indian groups seeking acknowledgment as Indian tribes. The proposed revisions would clarify the procedures for petitioners, eliminate some of the problems that have arisen that were not covered by the existing regulations, and improve the quality of future petitions. The comment period for the proposed rule was scheduled to close on December 17, 1991. The BIA has received several requests from interested parties for more time to thoughtfully respond to the proposed revisions. In response to these requests, the Department is extending the comment period 30 days. Comments will now be accepted until January 17, 1992.

Copies of the proposed rule may be obtained by calling Holly Reckord, Acting Chief, Branch of Acknowledgment & Research at (202) 208–3592.

DATES: The BIA will accept written comments on the proposed rule until January 17, 1992.

ADDRESSES: Comments may be mailed to: Bureau of Indian Affairs, Branch of Acknowledgment and Research, MS–2612 Main Interior Building (MIB), 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Holly Reckord, Acting Chief, Branch of Acknowledgment and Research, Bureau of Indian Affairs, 1849 C Street, NW., Mail Stop 2612–MIB, Washington, DC 20240, (202) 208–3592.

SUPPLEMENTARY INFORMATION: On September 18, 1991 (56 FR 47320) the Department published proposed revisions to 25 CFR part 83 to improve and clarify the system for considering petitions from Indian groups seeking acknowledgment as Indian tribes. The

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 91–30496 Filed 12–20–91, 8:45 am]

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federal register

Monday
December 23, 1991

Part IV

Department of Education

34 CFR Part 668

Student Assistance General Provisions; Rule and Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 668

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the audit requirements set out in 34 CFR 668.23 to permit institutions of higher education to submit audits conducted in accordance with Office of Management and Budget (OMB) Circular A–133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations" as published in the **Federal Register** on March 16, 1990, at 55 FR 10019. Audits made in accordance with OMB Circular A–133 may be submitted instead of the other audits specified under 34 CFR 668.23.

EFFECTIVE DATE: These regulations take effective either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. However, the amendment to § 668.23(d) will not become effective until the information collection requirements contained in that section have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Wendy L. Macias, Program Specialist, Pell Grant Policy Section, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, room 4318), Washington, DC 20202–5346. Telephone (202) 708–7888. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The Secretary is amending § 668.23(d) to address the publication of Office of Management and Budget Circular A–133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations." The Circular provides policy guidance to Federal agencies for establishing uniform requirements for audits of awards provided to institutions of higher education and other nonprofit organizations. The Office of Management and Budget (OMB) published the final version of Circular A–133 in the **Federal Register** on March 16, 1990 (55 FR 10019). Circular A–133 was developed to cover colleges, universities, and other nonprofit organizations that are excluded from coverage under the Single Audit Act of 1981, Public Law 98–502. Currently, § 668.23(d) states that an audit conducted in accordance with the Single Audit Act of 1981 satisfies the audit requirements contained in paragraph (c). The Secretary is amending this section to state that an audit conducted in accordance with Circular A–133 also satisfies the audit requirements contained in paragraph (c) of § 668.23. The reference in the regulations is to Circular A–133 as published in the **Federal Register** on March 16, 1990. If Circular A–133 is amended at some future date the Department will adopt those amendments in a separate document. The Secretary has reviewed Circular A–133 and determined that there is no present need for any Department exceptions from its substance. The Secretary has also determined that compliance with the OMB Circular A–133 guidelines should be extended to all entities subject to the audit requirements set forth in 34 CFR 668.23. The Secretary understands that some institutions that are required to submit audits under 34 CFR 668.23 have been required to prepare Circular A–133 audits for other agencies due to their participation in other Federal programs. By permitting these institutions to submit the Circular A–133 audits for purposes of 34 CFR 668.23, the Secretary is relieving a restriction and reducing a regulatory burden on these entities.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act, 20 U.S.C. 1232(b)(2)(A), and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, since an institution may already be required to prepare an A–133 audit due to its participation in other Federal programs, no additional burden will be imposed upon any entity subject to audit reporting requirements set out in 34 CFR 668.23. Further, OMB adopted Circular A–133 only after providing a full opportunity for public comment. (See 53 FR 45744, November 10, 1988.) Accordingly, the Secretary finds that soliciting further public comment with respect to these regulations is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in that order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a serious economic impact on a substantial number of small entities. The small entities affected by these proposed regulations are small institutions of postsecondary education. These regulations make only technical modifications. Furthermore, these changes will not increase institutions' workload, or costs associated with administering the Title IV, HEA programs and therefore will not have a serious economic impact on a substantial number of small entities.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Student aid.

(Catalog of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant Program, 84.007; Consolidation Program, 84.032; Guaranteed Student Loan Program, 84.032; PLUS Program, 84.032; Supplemental Loans for Students Program, 84.032; College Work-Study Program, 84.033; Perkins Loan Program, 84.038; Pell Grant Program, 84.063; State Student Incentive Grant Program, 84.069)

Dated: September 4, 1991.

Lamar Alexander,

Secretary of Education.

The Secretary amends part 668 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

2. Section 668.23 is amended by revising paragraph (d) to read as follows:

§ 668.23 Audits, records, and examinations.

* * * * *

(d) The Secretary considers the audit requirement in paragraph (c) of this section to be satisfied by an audit conducted in accordance with—

(1) The Single Audit Act (Chapter 75 of title 31, United States Code); or

(2) Office of Management and Budget Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations."

* * * * *

[FR Doc. 91-30389 Filed 12-20-91, 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840-AB19

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the Student Assistance General Provisions regulations. These proposed regulations are needed to implement statutory changes, including changes required by the Omnibus Budget Reconciliation Act of 1989, the Department of Defense Authorization Act, 1987, and the Compact of Free Association. These proposed regulations also would make necessary technical modifications and enhance program integrity in the student financial assistance programs authorized by title IV of the Higher Education Act of 1965, as amended (Title IV, HEA programs).

DATES: Comments must be received on or before February 6, 1992.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Ms. Carney M. McCullough, Chief, Pell Grant Policy Section, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, room 4318), Washington, DC 20202-5346.

FOR FURTHER INFORMATION CONTACT: Wendy L. Macias, Program Specialist, Pell Grant Policy Section, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW. (Regional Office Building 3, room 4318), Washington, DC 20202-5346. Telephone (202) 708-7888. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The Student Assistance General Provisions regulations implement requirements that are common to the participation of postsecondary institutions in the title IV, HEA programs. The title IV, HEA programs include the Pell Grant, Stafford Loan (formerly Guaranteed Student Loan (GSL)), PLUS, Supplemental Loans for Students (SLS), Consolidation, State Student Incentive Grant (SSIG), Income Contingent Loan (ICL), Perkins Loan, College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) programs. The last three programs are known collectively as the "campus-based programs." These proposed regulations take into account changes to paragraph designations made as a result of the publication of final regulations published in the **Federal Register** on July 31, 1991 (56 FR 36682).

SUMMARY OF PROPOSED CHANGES

I. Subpart A—General

Section 668.2 General Definitions

The Secretary is proposing technical amendments to clarify the definitions of several of the title IV, HEA programs, consistent with the November 20, 1990 Notice of Proposed Rulemaking for the Guaranteed Student Loan programs. First, the Secretary is proposing to remove the name and current definition of the "Guaranteed Student Loan (GSL) Program" and refer to that program as the "Stafford Loan Program". The Secretary is also proposing revised, more descriptive definitions for the Stafford Loan Program and the SLS, PLUS, and Consolidation programs. Third, the Secretary is proposing a new definition of the Guaranteed Student Loan (GSL) programs which would include the Stafford Loan, SLS, PLUS and Consolidation programs. The Secretary is proposing these changes to reflect a statutory change. The Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, Public Law 100-297, renamed the "Guaranteed Student Loan Program" authorized under title IV-B of the HEA as the Robert T. Stafford Loan Program.

Section 668.7 Eligible Student

The Secretary is proposing several amendments to § 668.7. These changes are being made to address a statutory change, and to provide consistent standards with regard to the effect of a defaulted loan on a student's eligibility for title IV, HEA program assistance. In addition, the Secretary is requesting comments on § 668.7(e) regarding the possible development of specific conditions under which a student who has previously defaulted on a title IV, HEA loan may be eligible for additional assistance.

The first group of proposed changes implements statutory and technical amendments to the regulations governing student eligibility under § 668.7(a). First, the Secretary is proposing to amend § 668.7(a)(1)(ii) in accordance with amended section 484(b) of the HEA to state that a student who is enrolled or accepted for enrollment at an eligible institution in a teacher certification program that is required for employment is eligible for assistance under the GSL programs.

Second, the Secretary is proposing to amend § 668.7(a)(4) in order to conform with the Compact of Free Association (Public Law 99-239) and Public Law 100-369. At the time of publication of the current regulations, the Compact of Free Association intended to create three new political entities from the Trust Territory of the Pacific Islands—the Republic of Palau, the Federated States of Micronesia, and the Marshall Islands. In anticipation of this change in status, the regulations listed the territories separately from the "Trust Territory of the Pacific Islands" category to ensure that citizens of these territories would continue to be eligible for title IV, HEA assistance after ratification of the Compact of Free Association. Although the Federated States of Micronesia and the Marshall Islands did change status, the Republic of Palau did not. Thus, the proposed regulations seek to clarify the current status of the Republic of Palau, the Federated States of Micronesia, and the Marshall Islands. Since the Republic of Palau remains the only Trust Territory of the Pacific Islands, the name Palau would be added in parentheses after the "Trust Territory of the Pacific Islands" category. The proposed regulations would continue to list the Federated States of Micronesia and the Marshall Islands separately.

In addition, the original Compact of Free Association limited eligibility for title IV, HEA program assistance to citizens of the Federated States of Micronesia and citizens of the Marshall Islands who were postsecondary students on the day of ratification. This eligibility was limited to four years. These provisions have been amended by Public Law 100-369 which extends eligibility for title IV, HEA program assistance to citizens of the Federated States of Micronesia and citizens of the Marshall Islands who were not postsecondary students on the day of ratification and removes the four year limit on aid.

Third, the Secretary proposes to amend § 668.7(a)(6) to correct a previous omission by adding the requirement that a student does not owe, and certifies that he or she does not owe, a refund on a Perkins Loan due to an overpayment in order to be eligible to receive title IV, HEA program assistance.

Fourth, the Secretary is proposing to amend § 668.7(a)(9) to require a student to certify that he or she has not borrowed in excess of title IV loan limits in order to be eligible to receive additional title IV, HEA program assistance. Currently, in order for a student to be eligible, the institution that the student attends must determine that

he or she has not borrowed in excess of title IV loan limits; however, the student is not required to certify to this fact. The proposed certification requirement would implement a policy that is already in effect (this requirement is included as part of the "Statement of Educational Purpose/Certification Statement on Refunds and Default" found on all Student Aid Reports) and is similar to the requirements of § 668.7(a)(6) and (7) that require a student to certify that he or she does not owe a refund on a grant and is not in default on a loan.

The second group of proposed changes implements statutory and technical changes to § 668.7(d).

First, the Secretary is proposing to remove references to scholarship programs in § 668.7(d) (which currently delineates the conditions under which a student who owes a refund of a grant or scholarship due to an overpayment is eligible to receive assistance under a title IV, HEA program) as the Byrd Scholarship Program is no longer covered by the Student Assistance General Provisions regulations. Further, the Secretary proposes to correct a previous omission to amend §§ 668.7(d) and 668.7(d)(2) to add the Perkins Loan Program to the list of programs in which a student may owe a refund due to an overpayment and still be eligible to receive assistance under a title IV, HEA program under the conditions listed in § 668.7(d), since the conditions under which a student who owes a refund on a Perkins Loan due to an overpayment is eligible to receive assistance are the same as those delineated for a student who owes a refund on a SEOG or SSIG due to an overpayment.

In the third group of proposed changes, the Secretary is proposing to make additional technical amendments to § 668.7 (e) and (f). One of these changes is the clarification that a defaulted loan has been fully repaid by the student no longer would be considered in default for the purposes of student eligibility. This proposed change allows a student who had previously defaulted on a title IV loan to reestablish eligibility for title IV, HEA program assistance if he or she subsequently fully repays the loan. This exception exists as a condition of loan eligibility in regulations governing the GSL programs (34 CFR 682.201(e)(4)), but the Secretary published proposed regulations for 34 CFR part 682 on November 20, 1990, that omit this provision from the GSL program regulations. The Secretary is proposing to transfer this exception from the Guaranteed Student Loan regulations to the Student Assistance General Provisions and extend the provisions to apply to all title IV, HEA programs. Thus, under these proposed regulations, a student who is otherwise eligible, and is or has been in default on a loan made under any title IV, HEA program, may be eligible to receive title IV, HEA program assistance if: (1) He or she has made satisfactory arrangements to repay the loan, (2) he or she has fully repaid the loan, or (3) for a student who had been in default on a loan made under the GSL, PLUS, SLS, or Consolidation program, the loan has been rehabilitated and sold under section 428F of the HEA. In addition, the Secretary is amending § 668.7(e) by adding an additional subparagraph (1)(ii)(C) to clarify that a loan that has been rehabilitated and sold under section 428F of the HEA no longer would be considered to be in default for the purposes of student eligibility. This proposed change is required by the Omnibus Budget Reconciliation Act of 1989, which amended section 428F(b)(3) of the HEA.

Finally, the Secretary is proposing to modify paragraph (f) of the current regulations with regard to bankruptcy. The current regulations provide that a student is considered not to be in default on a title IV loan if that loan is discharged in bankruptcy. Therefore, under current regulations, a student who has defaulted on a title IV loan and has had that loan discharged in bankruptcy, would still be considered eligible for title IV loan and grant programs. The Secretary is proposing to continue to apply this provision to applicants under the Pell Grant, SEOG, SSIG and CWS programs. However, a student who has defaulted on a title IV loan and applies for a loan made under the Stafford, SLS, Perkins Loan, or ICL programs would be considered ineligible for any loan assistance because of the prior default, even if he or she files or has filed for bankruptcy, or has had the prior loan discharged in bankruptcy, unless he or she makes satisfactory arrangements to repay that loan.

The Bankruptcy Act, 11 U.S.C. 525, provides that the Federal Government may not discriminate against a bankrupt person in the awarding of certain licenses, grants, and other benefits. At the time that current regulations were adopted, there was no controlling, authoritative precedent interpreting the effect of 11 U.S.C. 525 on the consideration of applications for assistance under government-sponsored or financed credit programs. Therefore, the Secretary considered an otherwise eligible student who is in default on a title IV, HEA loan discharged in bankruptcy to still be eligible to receive additional title IV, HEA program assistance, loans as well as grants.

However, case law has now held that section 525 of the Bankruptcy Act does not apply to student loans. *See Goldrich v. New York State Higher Education Services Corporation*, 771 F.2d 28 (2nd Cir. 1985); *In re Richardson*, 17 B.R. 925 (E.D. Pa. 1982). In light of the distinction drawn in these cases between grants and loans, and the congressional directive underlying section 484(a)(3) of the HEA, that persons should not be given additional loan assistance if they have not honored their previous repayment commitments, the Secretary now believes that the current regulations unduly restrict the consideration of that default in determining whether a defaulted borrower qualifies for a new title IV, HEA student loan.

Although the Secretary recognizes that section 484(a)(3), enacted by Congress well after 11 U.S.C. 525, could reasonably be read to bar all subsequent title IV, HEA program assistance to a title IV loan defaulter, such a broad reading would conflict with Congress's intention, as explained in these cases, to have section 525 of the Bankruptcy Act apply only to government grants and not to qualification for loans or loan guarantees. The Secretary accepts that distinction as a sound basis for revising the current regulations. Thus, the Secretary regards a borrower who is in default as presenting an unacceptable credit risk—whether his or her loan was previously discharged in bankruptcy or whether the borrower has filed for but not yet received a discharge in bankruptcy—in determining that borrower's eligibility for further loan assistance under title IV of the HEA. However, that risk is minimized if the borrower has made satisfactory arrangements to repay that loan, has repaid the loan in full, or has had the loan rehabilitated under section 428F of the HEA.

In addition, the Secretary is requesting comments on whether § 668.7(e) should be revised to establish the specific conditions under which a student who has previously defaulted on a title IV loan may be eligible for additional assistance. Currently, institutions and guarantee agencies are using a variety of standards to determine when a student has made satisfactory arrangements to repay a defaulted title IV loan. These standards vary from three payments, or the payment of a specific amount, to full

repayment of the defaulted loan. The Secretary is interested in knowing whether the existence of multiple policies regarding satisfactory repayment arrangements creates confusion among defaulted borrowers and increases the difficulty of developing a coordinated national policy to attack the problem of student loan defaults, or whether the flexibility obtained with multiple policies is considered useful as a collection tool by holders of loans. Under one alternative, § 668.7(e) would be changed to allow an otherwise eligible student who has defaulted on a title IV loan to receive assistance under the title IV, HEA programs if the student makes 12 consecutive monthly payments to a lender (for a Stafford, PLUS, or SLS loan) or 12 consecutive monthly payments to an institution (for a National Defense/Direct loan or Perkins loan). This approach ensures that (1) the borrower recognizes that he or she has an obligation to repay that defaulted loan, (2) the borrower is making a good-faith effort in meeting that obligation, and (3) the borrower has become accustomed to making regular loan payments. The Secretary is considering including this option in the final regulations in order to apply a consistent standard of satisfactory repayment arrangements in the title IV, HEA programs. Alternatively, the Secretary is considering including an option proposed as a result of public comment in a subsequent NPRM in order to apply a consistent standard of satisfactory repayment arrangements in the title IV, HEA programs.

Section 668.8 Eligible Program

The Secretary is proposing a technical change to modify the circumstances under which a program of study by correspondence qualifies as an eligible program at a vocational school. The modification, which would require completion in a correspondence program of at least 300 clock hours, corresponds to a similar provision in the definition of a vocational school in § 600.7(a)(3)(iii) of the regulations for Institutional Eligibility under the Higher Education Act of 1965, as amended.

II. Subpart B—Standards for Participation in title IV, HEA Programs

Section 668.13 Factors of Financial Responsibility

The Secretary proposes to require an institution to submit, upon the Secretary's request, an audited and certified financial statement of the institution for its latest two fiscal years. Under current regulations, while the Secretary may require an audited statement from any institution, in practice the Secretary often allows the submission of unaudited statements that are attested to for accuracy by the ownership or chief executive officer of an institution. Under this proposal, the Secretary would require an audited statement each time that an institution seeks initial or continued certification to participate in a title IV, HEA program. The Secretary believes that an audited statement gives a more accurate indication of the financial position of an institution than an unaudited financial statement, which is purely the representation of the management or ownership of the institution. Further, this requirement would permit the Secretary to standardize the Department's evaluation of the financial condition of institutions, so that all institutions may be judged on the same basis. Under this proposal the Secretary considers this audit requirement to be satisfied by an audit conducted in accordance with the Single Audit Act of 1981, Public Law 98–502 or the Office of Management and Budget Circular A–133 "Audits of Institutions of Higher Education and Other Nonprofit Organizations." The submission of audits conducted in accordance with the Single Audit Act and Circular A–133 also satisfy the audit requirements contained in paragraph (c) § 668.23, Audits, records, and examinations.

Section 668.22 Distribution Formula for Institutional Refund and for Repayments of Disbursements Made to the Student for Noninstitutional Costs

The Secretary is proposing to amend the definition of institutional refund in § 668.22(a)(2) to prevent an institution from including an unpaid balance that was scheduled to be paid by cash from a student, when the institution determines the amount that the institution may retain for the portion of the payment period that the student actually attended. The proposed regulations would require that the student's full expected payment to the institution be taken into consideration before the amount of the institutional refund is calculated.

Current Distribution Formula

Under the current regulations, when a student withdraws, drops out, or is expelled before he she has paid his or her institutional charges for the payment period, those institutional charges that were scheduled to be paid for by the student are actually paid by title IV, HEA program assistance instead of the student. Furthermore, under the current regulations, a student who has not paid all of his or her institutional charges prior to dropping out receives more title IV, HEA program assistance than a student who has paid his or her institutional charges in full. These inequities are illustrated in the following example:

Example A: Current Title IV distribution Formula for Institutional Refunds

Situation: Students A, B, and C are enrolled in the same eligible program, which charges $3,000 for the payment period. The students all receive $2,500 in Title IV, HEA program assistance. All are scheduled to pay $500 from their own resources to meet the full $3,000 in institutional charges.

The students drop out on the same day. Student A has paid nothing. Student B has only paid $250. Student C has paid the full $500. Under the institution's refund policy, the institution is entitled to retain $1,500 for the portion of the payment period that the student was actually enrolled at the institution.

Currently, under § 668.22(a)(2) of the regulations, an institution calculates an institutional refund by subtracting the amount retained for the student's actual period of enrollment (which is calculated according to the institution's refund policy) from the amount paid for institutional charges by cash and/or financial aid. The institutional refunds for the three students in this example are calculated as follows:

Determination of Refund	Student A	Student B	Student C
Amount paid by cash	$0	$250	$500
Plus			
Amount paid by Title IV (excluding CWS)	2,500	2,500	2,500
Equals			
Total amount paid	2,500	2,750	3,000
Minus			
Amount retained for institutional charges	1,500	1,500	1,500
Equals			
Amount of institutional refund	1,000	1,250	1,500

Then, under § 668.22(a)(3) of the regulations, the institution determines the portion of the institutional refund that must be returned to the Title IV, HEA programs by multiplying the amount of the institutional refund by the fraction in § 668.22(a)(3)(ii). In this example, the amounts of the students' institutional refunds that must be

returned to the Title IV, HEA programs are currently determined as follows:

DISTRIBUTION OF INSTITUTIONAL REFUND TO THE TITLE IV, HEA PROGRAMS

	Student A	Student B	Student C
Amount of Institutional Refund	$1,000	$1,250	$1,500
Multiplied by			
Total Title IV aid for the payment period	2,500	2,500	2,500
Total financial aid for the payment period	2,500	2,500	2,500
Equals			
Amount returned to Title IV	1,000	1,250	1,500

The example shows that Student A, who paid none of the $500 he was expected to pay, actually received a larger portion of title IV, HEA program assistance, $1,500, ($2,500 awarded minus $1,000 refunded to the title IV, HEA programs) than Student C, $1,000, ($2,500 awarded minus $1,500 refunded to the title IV, HEA programs), who paid all of the $500 she was expected to pay.

The Secretary believes that the current regulations treat students who diligently pay their bills on time unfairly and reward students who are negligent in making their payments, because title IV, HEA program assistance pays for institutional costs that the students were expected to pay from their own resources. The Secretary believes that when this situation occurs under the current regulations, it contradicts the basic assumption of the title IV refund distribution formula that the student's own resources are expended before title IV, HEA program assistance is used. Furthermore, the Secretary believes that the title IV, HEA programs should no longer be the guarantor of credit extended by an institution to its students and therefore is proposing to revise the definition of institutional refund in § 668.22(a)(2) to eliminate this situation.

Proposed New Distribution Formula

In order to address this inequity in the definition of institutional refund, the Secretary is proposing that an institution must exclude any unpaid amount that the student was obligated to pay for the payment period from the amount that the institution retains for institutional charges.

The Secretary proposes that before calculating the institutional refund of a student who received assistance under any title IV, HEA program (other than the CWS Program), an institution must first determine whether the student has fully paid his or her scheduled cash payment for institutional charges for that payment period. If a student has not fully paid the amount that he or she was scheduled to pay, an institution must deduct that unpaid amount from the amount an institution may retain under its refund policy before calculating the institutional refund amount. If the unpaid amount is equal to or greater than the amount that an institution may retain under its refund policy for a student's actual period of enrollment, then an institution must return all of the assistance from the title IV, HEA programs (other than the CWS Program) credited to the student's account for institutional charges for the payment period.

Example B: Proposed Title IV Distribution Formula for Institutional Refunds

Using the same situtation provided in Example A, the institutional refunds for the three students under the proposed regulations would be calculated as follows:

Step One: Determine if the student owes any cash amount for the payment period.

Determination of Refund	Student A	Student B	Student C
Student's scheduled payment	$500	$500	$500
Minus			
Amount paid by the student	0	250	500
Equals			
Amount student owes toward scheduled payment	500	250	0

Under the proposed regulations, the preliminary step in the refund distribution process is to determine whether the student has satisfied his or her financial obligation to the institution prior to having dropped out, withdrawn, or been expelled. In this example, all students were obligated to pay $500 to the institution for institutional charges in the payment period. Student C paid this obligation in full, while Student B paid only half and Student A paid nothing. This information will be used in the next step.

Step Two: Subtract amount student owes from the amount that the institution may retain under its refund policy.

	Student A	Student B	Student C
Amount institution may retain for institutional charges under its institutional refund policy	$1,500	$1,500	$1,500
Minus			
Amount student owes toward scheduled payment	500	250	0
Equals			
Amount institution may retain for institutional charges	1,000	1,250	1,500

Under the second step of the proposed regulations, the institution would subtract the amount of the student's unpaid obligation, which was determined in the previous step, from the amount that the institution is entitled to retain under the institution's refund policy. By excluding this unpaid obligation, the proposed regulations ensure that the student must fulfill his or her original obligation to the institution for the payment period, and also ensure that the institution, rather than the Federal Government, assumes all of the risk for its extension of credit to the student for the payment period.

Step Three: Determine amount of institutional refund.

	Student A	Student B	Student C
Amount paid by the student (from Step 1)	$0	$250	$500
Plus			
Amount paid by Title IV (excluding CWS)	2,500	2,500	2,500
Equals			
Total amount paid	2,500	2,750	3,000
Minus			
Amount institution may retain for institutional charges (from Step 2)	1,000	1,250	1,500
Equals			
Amount of institutional refund	1,500	1,500	1,500

Note that under the proposed regulations, this step would not differ from the current regulations. The Secretary is not proposing to change the provisions under which an institution determines how much of the institutional refund must be returned to the title IV, HEA programs.

Likewise, the amount of the students' institutional refund that must be returned to the title IV, HEA programs under the proposed regulations would continue, as under the current regulations, to be determined by multiplying the amount of the institutional refund by the fraction in proposed § 668.22(a)(5)(ii), as follows:

DISTRIBUTION OF INSTITUTIONAL REFUND TO THE TITLE IV, HEA PROGRAMS

	Student A	Student B	Student C
Amount of institutional refund	$1,500	$1,500	$1,500
Multiplied by			
Total title IV aid for the payment period	2,500	2,500	2,500
Total financial aid for the payment period	2,500	2,500	2,500
Equals			
Amount returned to title IV	1,500	1,500	1,500

Under the proposed regulations all three students ultimately would receive the same amount of title IV, HEA program assistance ($1,000), unlike example A, and the same amount of assistance would be returned to the title IV, HEA programs. Note, however, that under these proposed regulations, Student A would owe $500 to the institution and Student B would owe $250 to the institution after the institutional refund has been returned to the title IV, HEA programs, as follows:

	Student A	Student B	Student C
Amount student owes to institution	$500	$250	$0

The amount that the student owes to the institution plus the amount that the student has already paid to the institution equals the amount that the institution originally charged the student for that payment period.

The Secretary believes that this proposed change would establish a more equitable method of treating students with similar circumstances than the distribution method defined in the current regulations. In addition, this proposed change would ensure that a student's own resources are expended before title IV, HEA program assistance is expended and would reaffirm the principle that a student and his or her family are primarily responsible for financing that student's education.

III. Subpart C—Statement of Educational Purpose and Selective Service Registration Status

Section 668.33 Statement of Registration Status

The Secretary is proposing to amend § 668.33(b) of these regulations to provide an additional condition under which an institution may waive the requirement that a student file a Statement of Registration Status. Under the current regulations, an institution may waive the requirement for a student to file a Statement of Registration Status if the institution has clear and unambiguous evidence that a student is not required to register with the Selective Service. The Secretary is proposing to amend these regulations to permit an institution to waive the requirement for a student to file a Statement of Registration Status if the student (a) failed to register with the Selective Service when required and is now 26 years old or older, and (b) provides to the institution an advisory opinion that he obtained from the Selective Service System that demonstrates that he did not knowingly and willfully fail to register. The institution may accept this advisory opinion unless the institution has uncontroverted evidence that the student in fact did knowingly and willfully fail to register. This change is required by the Department of Defense Authorization Act, 1987, which amended section 12 of the Military Selective Service Act (50 U.S.C. App. 462). The amended statute provides that no person may be denied any Federal benefit if he failed to register with Selective Service, if the requirement for him to register has terminated or become inapplicable, and if he can demonstrate by a preponderance of evidence that he did not knowingly and willfully fail to register. If an institution waives the requirement that a student file a Statement of Registration Status under this provision, the institution must document its determination.

Section 668.34 Model Statement of Educational Purpose and Registration Status

The Secretary is proposing to amend § 668.34 to remove reference to scholarship programs from the Statement of Educational Purpose as the only scholarship program this was applicable to, the Byrd Scholarship Program, is no longer covered by the Student Assistance General Provisions regulations. Further, the Secretary is proposing to amend the Statement of Registration Status to expressly refer to residents of Palau under the condition "I am a permanent resident of the Trust Territory of the Pacific Islands" and remove the reference to Palau under the condition, "I am a citizen of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau." (See the discussion for the proposed change to § 668.7(a)(4) explaining the need to clarify the current status of the Republic of Palau [as it continues to be a part of the Trust Territory of the Pacific Islands], the Federated States of Micronesia, and the Marshall Islands.)

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a serious economic impact on a substantial number of small entities. The small entities affected by these proposed regulations are small institutions of postsecondary education. These regulations make only technical modifications and reduce potential abuse in the title IV, HEA programs. However, these changes will not substantially increase institutions' workload, or costs associated with administering the Title IV, HEA programs and therefore will not have a serious economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

Sections 668.8, 668.13, 668.22, 668.33 and 668.34 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

Annual public reporting burden for this collection of information is estimated to average 4.11 hours per response for 19,410 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 4318, Regional Office Building 3, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays. To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Student aid.

(Catalog of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant Program, 84.007; Consolidation Program, 84.032; Guaranteed Student Loan Program, 84.032; PLUS Program, 84.032; Supplemental Loans for Students Program, 84.032; College Work-Study Program, 84.033; Perkins Loan Program, 84.038; Pell Grant Program, 84.063; State Student Incentive Grant Program, 84.069; Income Contingent Loan Program, 84.226)

Dated: September 4, 1991.

Lamar Alexander,

Secretary of Education.

The Secretary proposes to amend part 668 of title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

§ 668.1 [Amended]

2. In § 668.1, remove the words "Guaranteed Student Loan (GSL)" from paragraph (c)(4) and add, in their place, the words "Stafford Loan"; and remove the word "Loan" from paragraph (c)(7).

3. Section 668.2(b) is amended by removing the definition of the "Guaranteed Student Loan (GSL) Program"; by revising the definitions of the "PLUS Program", "Supplemental Loans for Students (SLS) Program" and "Consolidation Loan Program"; and by adding in alphabetical order new definitions for the "Guaranteed Student Loan Programs" and "Stafford Loan Program" to read as follows:

§ 668.2 General definitions.

* * * * *

Consolidation Program: The loan program authorized by title IV–B of the HEA which encourages the making of loans to borrowers for the purpose of consolidating their repayment obligations, with respect to loans received by those borrowers while they were students, under the Stafford Loan, PLUS (as in effect prior to October 17, 1986), SLS, and Perkins Loan Programs, and under the Health Professions Student Loan (HPSL) Program authorized by subpart II of part C of title VII of the Public Health Service Act.

* * * * *

Guaranteed Student Loan (GSL) Programs: The loan programs authorized under title IV–B of the HEA, including the Stafford Loan, PLUS, Supplemental Loans for Students (SLS), and Consolidation Programs, in which lenders use their own funds to make loans to enable students or their parents to pay the costs of the student's attendance at postsecondary institutions.

* * * * *

PLUS Program: The loan program authorized by title IV–B of the HEA which encourages the making of loans to parents of dependent students.

* * * * *

Stafford Loan Program: The loan program authorized by title IV–B of the HEA which encourages the making of loans to undergraduate, graduate, and professional students.

* * * * *

Supplemental Loans for Students (SLS) Program: The loan program authorized by title IV–B of the HEA which encourages the making of loans to graduate, professional, independent undergraduate, and certain dependent undergraduate students.

4. Section 668.7 is amended by revising paragraphs (a)(1)(ii), (a)(4) (iii) and (iv), (a)(6), (a)(9) introductory text, (d) introductory text, (d)(2) introductory text, (e) introductory text, (e)(1)(ii), (e)(2)(ii), and (f) to read as follows:

§ 668.7 Eligible student.

(a) * * *

(1) * * *

(ii) For purposes of the GSL programs—

(A) Enrolled as at least a half-time student in a course of study necessary for enrollment in an eligible program for no longer than one twelve-month period; or

(B) Enrolled or accepted for enrollment in a program at an eligible institution necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State;

* * * * *

(4) * * *

(iii) Is a permanent resident of the Trust Territory of the Pacific Islands (Palau); or

(iv) For purposes of the Pell Grant, SEOG, and CWS programs—

(A) Is a citizen of the Federated States of Micronesia; or

(B) Is a citizen of the Marshall Islands;

* * * * *

(6) Except as provided in paragraph (d) of this section, does not owe, and certifies that he or she does not owe, a refund on a grant or loan awarded under the Pell Grant, Perkins Loan, SEOG, or SSIG programs. A student owes a refund on a grant or loan if the student receives a grant or loan overpayment. A student receives a grant or loan overpayment if the student's grant or loan payments exceed the amount he or she is eligible to receive or use;

* * * * *

(9) As determined by the institution that he or she attends, has not borrowed, and certifies that he or she has not borrowed—

* * * * *

(d) *Refund of a grant or loan overpayment.* Notwithstanding paragraph (a)(6) of this section, a student who owes a refund on a Pell Grant, Perkins Loan, SEOG, or SSIG due to an overpayment is eligible to receive assistance under a title IV, HEA program under the following conditions:

* * * * *

(2) *Perkins Loan, SEOG or SSIG overpayment.* If an institution makes a Perkins Loan, SEOG or SSIG overpayment to a student, that student is eligible to receive assistance under a title IV, HEA program if—

* * * * *

(e) *Default on a loan.* Notwithstanding paragraph (a)(7) of this section, a student who is or has been in default on any loan made under the National

Defense/Direct Student Loan, Perkins Loan, ICL, or GSL programs is eligible to receive assistance under a title IV, HEA program under the following conditions:

(i) * * *

(ii)(A) The Secretary, for a federally insured loan or a Stafford Loan that has been assigned to Department of Education, or a guarantee agency, for a loan guaranteed by that agency, determines that the student has made satisfactory arrangements to repay that loan;

(B) The loan has been paid in full; or

(C) The loan has been rehabilitated and sold under 428F of the HEA.

(2) * * *

(ii)(A) The institution that made the loan or the Secretary, if the loan has been assigned to the Department of Education, certifies that the student has made satisfactory arrangements to repay that loan; or

(B) The loan has been paid in full.

(f) *Effect of discharge of a title IV, HEA program loan in bankruptcy.* (1) For purposes of determining a student's eligibility for a grant under the Pell Grant, SEOG, and SSIG programs, and employment compensation provided under the CWS Program, the Secretary does not consider that a student is in default on a loan made under any title IV, HEA program, if that loan is discharged in bankruptcy.

(2) For purposes of determining a student's eligibility for a loan under any title IV, HEA program, the Secretary considers a student who has previously defaulted on a loan made under any of those programs and who has, while in default, filed for relief in bankruptcy or received a discharge for that loan in bankruptcy, to remain in default unless the student is considered eligible in accordance with paragraph (e) of this section.

5. Section 668.8 is amended by revising paragraph (a)(2)(v)(D) to read as follows:

§ 668.8 Eligible program.

(a) * * *

(2) * * *

(v) * * *

(D) In the case of a program of study by correspondence, requires not less than an average of 12 hours of preparation each week over each 12-week period and completion of a minimum of 300 clock hours in not less than six months; and

* * * * *

6. Section 668.13 is amended by removing paragraph (f); redesignating paragraphs (g) through (k) as paragraphs (f) through (j) respectively; removing the term "(g)(1)" from newly redesignated paragraph (f)(2) and adding, in its place, the term "(f)(1)"; and revising paragraph (e) to read as follows:

§ 668.13 Factors of financial responsibility.

* * * * *

(e) The Secretary determines whether an institution is financially responsible in accordance with paragraphs (b), (c), and (d) of this section by evaluating documents submitted by the institution and information obtained from other sources, including outside sources of credit information. To enable the Secretary to make this determination, an institution shall, upon the request of the Secretary, submit for its two latest complete fiscal years a financial statement of the institution, prepared in accordance with generally accepted accounting principles and audited and certified by an independent, licensed, certified public accountant in accordance with generally accepted auditing standards. The statement must contain a balance sheet and the related statements of income, earnings, and cash flows. The Secretary may also require the institution to submit the accountant's work papers. The Secretary considers the audit requirement in this paragraph to be satisfied by an audit conducted in accordance with—

(1) The Single Audit Act (Chapter 75 of Title 31, United States Code); or

(2) Office of Management and Budget Circular A–133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations."

* * * * *

7. Section 668.22 is amended by revising paragraph (a) to read as follows:

§ 668.22 Distribution formula for institutional refund and for repayments of disbursements made to the student for noninstitutional costs.

(a) *Repayment of institutional refunds of title IV, HEA programs.* (1) An institution shall return a portion of the refund owed to a student to the title IV, HEA programs if—

(i) The student officially withdraws, drops out, or is expelled from the institution on or after his or her first day of class of a payment period; and

(ii) The student received assistance for the payment period under any title IV, HEA program other than the CWS Program.

(2) For purposes of this section, an institutional refund means the amount paid for institutional charges for a payment period minus the amount that the institution may retain under paragraph (a)(3) of this section for the portion of the payment period that the student was actually enrolled at the institution.

(3) An institution may not include any unpaid amount of a scheduled cash payment in determining the amount that the institution may retain for institutional charges. A scheduled cash payment is the amount of institutional charges that is not paid by financial aid for the payment period. In determining the amount that the institution may retain for the portion of the payment period during which the student was actually enrolled, an institution shall—

(i) Compute the unpaid amount of a scheduled cash payment by subtracting the amount paid by the student for that payment period from the scheduled cash payment for the payment period; and

(ii) Subtract the unpaid amount of the scheduled cash payment from the amount that may be charged by the institution according to the institution's refund policy.

(4) An institution shall return the total amount of title IV, HEA program assistance (other than amounts received from the CWS Program) paid for institutional charges for the payment period if the unpaid amount of the student's scheduled cash payment is greater than or equal to the amount which may be retained by the institution under the institution's refund policy.

(5) The portion of the refund that an institution shall return to the title IV, HEA program(s) is the lesser of—

(i) The amount of assistance received under the title IV, HEA programs other than under the CWS Program for the payment period; or

(ii) The amount obtained by multiplying the institutional refund by the following fraction:

$$\frac{\text{Total amount of title IV, HEA program assistance (exclusive of CWS Program earnings) awarded for the payment period.}}{\text{Total amount of assistance (exclusive of all work earnings) awarded for the payment period.}}$$

* * * * *

8. Section 668.33 is amended by revising paragraphs (a)(1)(ii) and (b) to read as follows:

§ 668.33 Statement of Registration Status.

(a) * * *

(1) * * *

(ii) Certify the institutional portion of the application under the GSL programs.

* * * * *

(b) An institution may waive the requirement that a student file a Statement of Registration Status if the institution determines, based on clear and unambiguous evidence that—

(1) The student is not required to be registered with Selective Service; or

(2) The student—

(i) Was required to be registered with Selective Service prior to age 26;

(ii) Is now at least 26 years old or older;

(iii) Failed to register with Selective Service prior to age 26; and

(iv) Demonstrates to the institution that he did not knowingly and willfully fail to register with the Selective Service. The Secretary considers that a student satisfies this requirement by obtaining and presenting to the institution an advisory opinion from the Selective Service System that does not dispute the student's claim that he did not knowingly and willfully fail to register, and the institution does not have uncontroverted evidence that the student knowingly and willfully failed to register.

* * * * *

§ 668.34 [Amended]

9. In § 668.34 the STATEMENT OF EDUCATIONAL PURPOSE is amended by removing the phrase ", or scholarship" and adding the word "or" before the words "work study". The STATEMENT OF REGISTRATION STATUS is amended by removing the phrase ", or the Republic of Palau" and adding the word "(Palau)" after the words "Pacific Islands" and by removing the comma after the words "Marshall Islands" and adding in its place, the word "or".

§§ 668.7, 668.23 [Amended]

10. In 34 CFR part 668 remove the term "PLUS, SLS," in the following places:

(a) Section 668.7(a) introductory text; and

(b) Section 668.23(c)(1).

§§ 668.7, 668.8, 668.32 [Amended]

11. In 34 CFR part 668 remove the term ", PLUS, or SLS" in the following places:

(a) Section 668.7(a)(1)(ii), (a)(3)(ii)(B), and (a)(11)(v);

(b) Section 668.8(a)(1)(iii) and (a)(2)(vi);

(c) Section 668.32(a) introductory text and (a)(2).

§§ 668.7, 668.22 [Amended]

12. In 34 CFR part 668 remove the term ", GSL, PLUS, or SLS" and add, in its place, the term "or GSL" in the following places:

(a) Section 668.7(a)(9)(i); and

(b) Section 668.22(b)(3)(i).

§§ 668.7, 668.22, 668.23 [Amended]

13. In 34 CFR part 668 remove the term ", PLUS, and SLS" in the following places:

(a) Section 668.7(c) introductory text;

(b) Section 668.22(b)(3)(ii), (c)(1) and (e)(4); and

(c) Section 668.23(f)(1)(iv).

§ 668.15, 668.19, 668.51, 668.55, 668.57, 668.59, 668.60 [Amended]

14. In 34 CFR part 668 remove the term "GSL" and add, in its place, the words "Stafford Loan" in the following places:

(a) Section 668.15 (a)(1) and (f)(1);

(b) Section 668.19(a)(4)(ii)(A), (c)(4), and (c)(10);

(c) Section 668.51(a)(2) and (d);

(d) Section 668.55(c) introductory text;

(e) Section 668.57(d)(5) introductory text;

(f) Section 668.59(c) introductory text, (c)(1)(ii), and (e); and

(g) Section 668.60(b) introductory text and (d).

§§ 668.15, 668.19, 668.56, 668.58, 668.59, 668.60, 668.61, 668.90 [Amended]

15. In 34 CFR part 668 remove the term "GSL" and add, in its place, the words "Stafford Loan" in the following places:

(a) Section 668.15(b) introductory text, (b)(1) (i) and (ii), and (e);

(b) Section 668.19(a)(3) (iii) and (iv), (a)(4)(i), and (a)(4)(ii) introductory text;

(c) Section 668.56(b) introductory text, (b)(1) introductory text, (b)(2) introductory text, and (b)(3);

(d) Section 668.58(c);

(e) Section 668.59(d);

(f) Section 668.60(b)(1)(i)(C), and (D), (b)(1)(ii), and (b)(3);

(g) Section 668.61(b); and

(h) Section 668.90(a)(3)(iii).

§§ 668.20, 668.22 [Amended]

16. In 34 CFR part 668 remove the term ", GSL, PLUS, and SLS" and add, in its place, the term "and GSL" in the following places:

(a) Section 668.20(c) introductory text and (d)(2); and

(b) Section 668.22 (e)(5) and (e)(6).

§§ 668.54, 668.55, 668.58 [Amended]

17. In 34 CFR part 668 remove the term "GSL" and add, in its place, the word "Stafford" in the following places:

(a) Section 668.54(a)(2)(i);

(b) Section 668.55 (c)(1), (c)(2), and (d)(2); and

(c) Section 668.58 (a)(1)(iii), (a)(2)(iii) (A) and (B), (a)(2)(iv), (d)(1), and (d)(2).

§§ 668.94, 668.95 [Amended]

18. In 34 CFR part 668 remove the term "Guaranteed Student Loan or PLUS" and add, in its place, the term "GSL" in the following places:

(a) Section 668.94(a)(4); and

(b) Section 668.95(b)(1) introductory text.

§ 668.7 [Amended]

19. In § 668.7, paragraphs (a)(7), (a)(9)(ii), and (e) introductory text are amended by removing the term "GSL, PLUS, SLS, or Consolidation Loan" and adding, in its place, the term "or GSL".

20. In § 668.7, paragraph (e)(1) introductory text is amended by removing the terms ", *PLUS, SLS, or Consolidation Loan*" and ", PLUS, SLS, or Consolidation Loan".

§ 668.12 [Amended]

21. In § 668.12, paragraph (a)(1)(ii) is amended by removing the term ", SLS, or PLUS".

§ 668.19 [Amended]

22. In § 668.19, paragraph (c)(4) is amended by removing the words "Consolidation Loan" and adding, in their place, the word "Consolidation".

23. In § 668.19 paragraph (a)(4)(ii)(B) is amended by removing the term "PLUS, SLS, Consolidation Loan,".

§ 668.22 [Amended]

24. In § 668.22, paragraph (b)(1) is amended by removing the term ", GSL, PLUS, or SLS program" and adding, in its place, the term "or GSL programs".

25. In § 668.22, paragraph (c)(2) is amended by removing the term "GSL, PLUS, or SLS program" and adding, in its place, the term "the GSL programs".

26. In § 668.22, paragraph (e)(2) is amended by removing the term ", PLUS, or SLS program" and adding, in its place, the word "programs".

§ 668.23 [Amended]

27. In § 668.23, paragraph (a) introductory text is amended by removing the term "PLUS (34 CFR part 682), SLS,".

§ 668.51 [Amended]

28. In § 668.51, paragraph (a)(1) is amended by removing the term "Guaranteed Student Loan (GSL)" and adding, in its place, the words "Stafford Loan".

§ 668.57 [Amended]

29. In § 668.57, paragraph (d)(5) introductory text is amended by removing the term "*GSL*" and adding, in its place, the words "*Stafford Loan*".

§ 668.60 [Amended]

30. In § 668.60, paragraph (e)(2) is amended by removing the term "GSL loan application" and adding, in its place, the words "Stafford loan application".

31. In § 668.60, paragraph (e)(2) is amended by removing the term "GSL check" and adding, in its place, the words "Stafford loan check".

§ 668.83 [Amended]

32. In § 668.83, paragraph (d)(3) is amended by removing the words "Guaranteed Student Loan Programs" each place they appear and adding, in their place, the term "GSL programs".

§ 668.94 [Amended]

33. In § 668.94(c)(2), paragraph (c)(2) is amended by removing the term "Guaranteed Student Loan and PLUS" and adding, in its place, the term "GSL".

Appendix D to 34 CFR part 668 [Amended]

34. In appendix D to 34 CFR part 668, the introductory paragraph is amended by removing the term "GSL" and adding, in its place, the words "Stafford Loan".

35. In appendix D to 34 CFR part 668, remove the term "GSL" and add, in its place, the word "Stafford" in the following places:

(a) III.4

(b) III.5. (a)(3)(i)(B)

36. In appendix D to 34 CFR part 668, section III.5. (a) introductory text and (b) introductory text are amended by removing the term "GSL" and adding, in its place, the words "Stafford Loan".

37. In appendix D to 34 CFR part 668, section III.5. (a)(1) introductory text is amended by removing the term "GSL and SLS program" and adding, in its place, the term "Stafford and SLS".

38. In appendix D to 34 CFR part 668, section III.5. (a)(2) introductory text is amended by removing the term "GSL and SLS loan" and adding, in its place, the term "Stafford Loan and SLS".

39. In appendix D to 34 CFR part 668, section III.5. (a)(3)(i)(A) is amended by removing the term "GSL or SLS program" and adding, in its place, the term "Stafford Loan or SLS".

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Part V

Department of Transportation

Federal Transit Administration

FTA Fiscal Year 1992 Formula Grant Apportionments; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Fiscal Year 1992 Formula Grant Apportionments

AGENCY: Federal Transit Administration (FTA) (formerly the Urban Mass Transportation Administration), DOT.

ACTION: Notice.

SUMMARY: The Federal Transit Administration is pleased to publish in this Notice the first apportionments under the landmark reauthorization of the Federal transit program, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), signed into law by President Bush on December 18, 1991. In addition to publishing the apportionments, this Notice also explains significant changes in the Act affecting the formula programs. The legislation also renames the Urban Mass Transportation Administration (UMTA) the Federal Transit Administration (FTA), and the Urban Mass Transportation Act of 1964 (the UMT Act) the Federal Transit Act (the FT Act).

In a Notice published in the Federal Register on November 18, 1991, the FTA stated its intention to delay apportionment of funds made available under the Department of Transportation and Related Agencies Appropriations Act, 1992, until after passage of the reauthorization bill then pending. This Notice includes the apportionment of Fiscal Year 1992 formula funds, based both on the 1992 DOT Appropriations Act and relevant provisions of the ISTEA.

Limitations on the use of operating assistance are also included in this Notice, as well as other pertinent information.

FOR FURTHER INFORMATION CONTACT: The appropriate FTA Regional Administrator for grant specific information and issues; or Janet Lynn Sahaj, Chief, Resource Management and State Programs Division, Office of Capital and Formula Assistance, for general information concerning sections 3, 9, 18 or 16(b)(2) formula apportionments; or Robert F. Kirkland, Chief, Resource Management Division, Office of Planning, for general information concerning the sections 8 and 26(a)(2) planning programs, Department of Transportation, Federal Transit Administration, at 400 Seventh Street, SW., room 9301, Washington, DC 20590, (202) 366–2053.

SUPPLEMENTARY INFORMATION: As a result of the ISTEA, the trend toward delivery of FTA's program resources by formula apportionment continues. All activities are now allocated by formula with the exception of: (1) Section 3 capital grants for new systems, (2) Section 3 capital grants for bus and bus related projects, and (3) the national portion of the planning and research program (sections 6, 8, 10, 11, and 20). Approximately 76 percent of the FTA program resource is now delivered by formula apportionment. New construction of the Washington, DC area metrorail system is financed by a separate authorization not included under the ISTEA.

Under the ISTEA, section 3 funds for capital investment in rail (i.e., fixed guideway) modernization projects are apportioned to specified urbanized areas on a statutory formula basis for the first time. These apportionments are included in this Notice. Similarly, funds appropriated for planning by Metropolitan Planning Organizations (MPO's) under section 8 are apportioned by statutory formula for the first time. The apportionments are to the States for allocation by them to their urbanized areas or portions thereof. These funds were formerly apportioned by administrative formula, some to States for reallocation to MPO's and some direct to MPO's. Also published with this Notice are formula apportionments to the States under a new consolidated program under section 26(a)(2) for State planning and research, utilizing the authorities of sections 6, 8, 10, 11, and 20. States formerly received some section 8 funds by administrative formula for their own use.

Other tabulations pertain to programs for which apportionments have been published in previous years. The largest of these is the section 9 program which provides capital and operating assistance in urbanized areas. The counterpart program for nonurbanized areas is section 18 which is apportioned to the States for allocation by them. Funds appropriated for the section 16(b)(2) program are also apportioned to the States for allocation by them to private non-profit associations to provide capital assistance for transportation service for elderly persons and persons with disabilities.

Appropriations for Formula Programs

Section 3038 of the ISTEA provides that if the funds authorized from the Mass Transit Account of the Highway Trust fund exceed $1,900,000,000, then all amounts authorized must be reduced proportionately. Since the Trust Fund authorizations total $1,904,000,000, all amounts, including the section 3 and section 9B authorizations, were reduced by approximately two-tenths of one percent.

In Fiscal Year 1992, a total of $536,869,748 of Section 3 funds was made available for fixed guideway modernization projects. A total of $1,520,000,000 in General Funds was made available for the sections 9 and 18 programs. An additional $408,849,265 in Trust Funds has been made available under section 9B (the capital only formula program funded from the Mass Transit Account). $5,000,000 was made available for the Rural Transit Assistance Program (RTAP), and $54,884,454 was made available for the section 16(b)(2) program. In addition, $43,688,025 was made available for the section 8 program, and $8,961,134 was made available for the new section 26(a)(2) program.

Project Management Oversight

Section 23 of the FT Act allows the Secretary of Transportation to use not more than one-half of one percent of the funds made available for Fiscal Year 1992 under sections 3, 9, 9B, 18, the National Capital Transportation Act, as amended, and section 103(e)(4) of title 23, United States Code (Interstate Transfer), and an additional one quarter of one percent of Section 3 funds, to contract with any person to oversee the construction of any major project under such programs and to conduct safety, procurement, management and financial reviews and audits. Therefore, one-half of one percent of the funds appropriated for Fiscal Year 1992 under sections 9 (including 9B) and 18, and three quarters of one percent of section 3 funds have been reserved for this purpose before distribution of remaining funds.

Section 3 Program

Section 3 Fixed Guideway Modernization

The ISTEA made significant changes to the allocation of Section 3 rail modernization funds. These funds are now allocated by formula rather than on a discretionary basis as in past years.

The term fixed guideway modernization replaces the term rail modernization. Statutory percentages are established to allocate the first $497,700,000 to eleven legislatively specified fixed guideway areas. The next $70,000,000 is allocated one-half to these eleven urbanized areas and one-half to all other urbanized areas with fixed guideways at least 7 years old, on the basis of the Section 9 fixed guideway tier formula factors. Any remaining funds are allocated to all of these urbanized areas as one universe.

The formula is implemented for the first time in this Notice.

A total of $532,843,225 (after the three-quarter percent set-aside) is available for allocation to the specified urbanized areas for Fiscal Year 1992 under the section 3 fixed guideway modernization program. This Notice contains a table which shows these distributions.

A list of urbanized areas with fixed guideway systems at least 7 years old was developed during the legislative process and is being used for the Fiscal Year 1992 apportionment. A request for this information is being incorporated into the section 15 data reporting system and the first results will be ready for the Fiscal Year 1994 apportionments. For Fiscal Year 1993, urbanized areas over 200,000 in population which are not included in the Fiscal Year 1992 apportionment may send a statement to FTA's Office of Capital and Formula Assistance describing their fixed guideway service, the date revenue service commenced, and a request to be included in future fixed guideway modernization apportionments.

Section 3 fixed guideway modernization funds apportioned under this section must be used for capital projects related to such fixed guideway systems.

Sections 9 and 9B Programs

Section 9

Under the 1992 DOT Appropriations Act, a total of $1,520,000,000 in General Funds was appropriated for Fiscal Year 1992 for the sections 9 and 18 programs. An additional $408,849,265 has been made available under section 9B (the capital only formula program funded from the Mass Transit Account). Of this total amount ($1,928,849,265), one half of one percent, or $9,644,246, has been set aside under the provisions of section 23. Of the remaining $1,919,205,019, under the provisions of the ISTEA, 94.5 percent, or $1,813,648,743, is made available to the section 9 program (including section 9B); and 5.5 percent, or $105,556,276 is made available to the Section 18 program.

Additional Section 9 Formula Funding

In addition to the new appropriated Fiscal Year 1992 section 9 formula funds of $1,404,799,478, after the one-half percent set aside for sections 9 and 9B, the Section 9 apportionment also includes $9,887,525 in deobligated sections 5 and 9 funds and section 9 funds that were never obligated in Fiscal Year 1988 and have become available for reapportionment under the section 9 program as provided for under section 9(o).

Section 9B Program

A total of $408,849,265 has been allocated for Section 9B. In addition to these Fiscal Year 1992 appropriated funds, the section 9B apportionment also includes $13,485 in section 9B funds that were never obligated in Fiscal Year 1988 and have become available for reapportionment under the section 9B program. Thus the total amount being apportioned for section 9B is $408,862,750. These section 9B funds cannot be used for operating assistance, but are otherwise treated as section 9 funds. In grant applications, amounts applied for under Section 9B should be clearly shown.

Total Section 9 Fiscal Year 1992 Apportionments

This Notice provides tables which reflect both the amounts apportioned under the section 9 program (General Fund) and the section 9B program (Trust Fund). After the one-half percent set aside ($9,113,812), the amounts appropriated under section 9 ($1,404,799,478) and section 9B ($404,849,265) total $1,813,648,743. The funds to be reapportioned, described in the previous paragraphs, in the amount of $9,901,010 were then added. Thus, the total amount being apportioned for section 9 (including section 9B) is $1,823,549,753.

Changes to Section 9 under the ISTEA

ISTEA makes certain changes to the section 9 formula program. The formula factors do not change; however, the percentage distribution does change. Section 9 funding totals 94.5 percent of the total formula program down from 97.07 percent previously due to an increase in the previous allocation to Section 18 from 2.93 percent to 5.5 percent. Areas under 200,000 in population receive 9.32 percent of the amount appropriated for Section 9 compared to 8.90 percent under the old law. Larger areas receive 90.68 percent compared to 91.10 percent under the old law.

The following are other changes to the program: (a) Funds which cannot be used for payment of operating expenses in areas over 200,000 in population may be used for highway projects in a transportation management area if the MPO approves of such use and the Secretary determines the fund share not needed for ADA purposes, and if funds used for the State or local share of such highway projects are eligible to fund either highway to transit projects. (b) If revenue vehicle miles are reduced but the same frequency of service is provided to the same number of riders, the apportionment to the affected areas will not be reduced. (c) Recipients must spend not less than one percent of Section 9 funds on transit security, which is broadly defined, unless the recipient certifies that such expenditures are not necessary. (d) The inflation adjustment for operating assistance has been extended to all urbanized areas, not just those under 200,000 in population, except that such increase may not exceed the percentage increase in section 9 funding each year over the previous year. (e) A provision in response to a situation in Seattle permits FTA-funded ferries to be operated outside the urbanized area to permit periodic maintenance.

Changes Resulting from the 1990 Census Data

A number of changes in the Fiscal Year 1992 apportionment result from the fact that 1990 U.S. Census data has been used for the first time in these apportionments. A statutory exception was made for two areas which lost population and changed from urbanized to nonurbanized status in the 1990 census. Enid, Oklahoma, and Danville, Illinois, are retained in the section 9 program for urbanized areas in Fiscal Year 1992 but will be phased into the rural population base and eligible for section 18 beginning in Fiscal Year 1993.

Thirty-five new urbanized areas have been designated by the Census Bureau. These newly urbanized areas are included in the Governor's apportionment for urbanized areas under 200,000 in population and are no longer eligible for inclusion in Section 18 grants obligated in Fiscal Year 1992 and beyond. In three instances, two previously recognized urbanized areas merged to form one larger urbanized area. The title of an urbanized area includes the name of its largest city or place and may include additional city names. In a number of instances, the title has been modified.

The population and density figures used in calculating the section 9 formula and the population figures used in the section 18 formula are from the 1990 Census.

Section 15 Data Used for Section 9 Apportionments

Data submitted for the section 15 1990 Report Year has been used to calculate the section 9 apportionments for urbanized areas over 200,000 in population. Section 15 reports are being submitted and processed more rapidly and thus current Section 15 data can be used for the apportionments.

Section 9 Fiscal Year 1992 Apportionments to the Governors

For all urbanized areas under 200,000 in population within each State, one figure is provided for the Governor's apportionment. In accordance with section 9 of the FT Act, these apportionments are not made to individual urbanized areas but are made to the Governors for use within all urbanized areas between 50,000 and 200,000 in population, as needed. FTA has administered the section 9 program in this fashion from its inception, and it parallels FTA's procedures under the former Section 5 program.

For technical assistance purposes, and in compliance with the FT Act, this Notice also contains the amount attributable to each urbanized area above 50,000 in population within the State.

Section 9 Operating Assistance Limitations

In addition to the Fiscal Year 1992 apportionments, included in this Notice is a listing of the Fiscal Year 1992 limitations on the amount of section 9 funds that may be used for operating assistance.

The ISTEA made a number of changes in the section 9 operating assistance limitations. The operating assistance limitations for all urbanized areas have been increased, under provisions of section 9(k)(2)(B) of the FT Act, to reflect the increase in the Consumer Price Index (CPI) for all urban consumers during the most recent calendar year. The CPI Detailed Report, December 1990, published by the Department of Labor, indicates the calendar year 1990 CPI increase for all urban consumers is 6.1 percent. This 6.1 percent increase was applied against the base operating assistance limitation calculated under section 9(k)(2)(A). The increase in operating assistance for the urbanized areas of Fort Lauderdale and Miami, Florida, was made permanent in the ISTEA and is reflected in the operating assistance limitations.

A provision of the ISTEA also increases the operating assistance limitation for the Chicago, Illinois-Northwestern Indiana urbanized area by $700,000. Such funds apply to the PACE people mobilizer project, and are reflected in the limitations.

In addition, the 35 new urbanized areas designated by the 1990 Census have been given an operating assistance limitation of two-thirds of their apportionment, consistent with the provisions of section 9(k)(2)(A) of the FT Act. These increases result in an overall national Fiscal Year 1992 authorized operating assistance limitation level of $995,937,566.

However, the 1992 DOT Appropriations Act limits the nationwide availability for operating assistance to a maximum of $802,278,000 for funds under the 1992 DOT Appropriations Act. Accordingly, the operating assistance limitation published in this Notice takes into account both the 1992 DOT Appropriations Act and the ISTEA. That is, the higher operating assistance limitation of the FT Act ($995,937,566) has been reduced to the $802,278,000 required by the 1992 DOT Appropriations Act by taking a pro rata reduction across all categories of grantees.

Statewide Operating Assistance Limitations

The 1990 DOT Appropriations Act added a new provision regarding operating assistance limitations. It specifies that in any case in which a statewide agency or instrumentality is responsible under State laws for the financing, construction and operation, directly by lease, contract or otherwise, of public transportation services, and when such statewide agency or instrumentality is the designated recipient of FTA funds, and when the statewide agency or instrumentality provides service among two or more urbanized areas, the statewide agency or instrumentality shall be allowed to apply for operating assistance up to the combined total permissible amount of all urbanized areas in which it provides service, regardless of whether the amount for any particular urbanized area is exceeded. In doing so, FTA will not reduce the amount of operating assistance allowed for any other state or local transit agency or instrumentality within the urbanized area affected. In short, this permits the statewide agency to combine all of the operating assistance limitations within the State. This provision became effective with the Fiscal Year 1990 section 9 apportionments. Thus, the operating assistance limitations for each urbanized area are not constrained by the availability of general funds for any one particular urbanized area.

State Governors Apportionments Grants

FTA encourages State agencies to be the applicant for section 9 funds on behalf of urbanized areas under 200,000 in population. With the State acting as applicant, funding for several urbanized areas could be combined in a single grant.

Section 18 and RTAP Programs

Section 18 Program

The Fiscal Year 1992 section 18 apportionment totals $106,840,817. This Notice provides a table which contains the State apportionments.

In addition to the appropriated Fiscal Year 1992 formula funds of $105,556,276, after the one-half percent set aside, the Section 18 Fiscal Year 1992 apportionment also includes $961,347 in prior year deobligated funds and funds which were never obligated and therefore have lapsed to the States to which they were originally apportioned. In addition, $323,194 in unobligated funds which were originally set aside under section 23 in Fiscal Year 1988, but which have not been used, are being redistributed to the States with the Fiscal Year 1992 apportionments.

Under a provision of the ISTEA each State must spend no less than 5 percent of its Fiscal Year 1992 section 18 apportionment for the development and support of intercity bus transportation, unless the Governor certifies to the Secretary that the intercity bus service needs of the State are being adequately met. Fiscal Year 1992 Section 18 grant applications must reflect this level of programming for intercity bus or include a certification from the Governor. The percentage required to be spent on intercity bus transportation will rise to 10 percent in Fiscal Year 1993 and 15 percent in Fiscal Year 1994 and beyond.

RTAP Program

The Fiscal Year 1992 Rural Transit Assistance Program (RTAP) allocations to the States totalling $4,250,000 are also included in this Notice. Of the $5,000,000 appropriated for the RTAP program in Fiscal Year 1992, eighty-five percent, or $4,250,000 is allocated to the States to undertake research, training, technical assistance, and other support services to meet the needs of transit operators in nonurbanized areas. No prior year funds are being reallocated with the Fiscal Year 1992 funds. These funds are to be used in conjunction with the States' administration of the section 18 formula assistance program. The remainder of the RTAP funds are made available by FTA in direct contracts to carry out the RTAP National Program.

Section 16(b)(2) Program

A total of $54,934,964 is apportioned to the States for Fiscal Year 1992 under the section 16(b)(2) program. The table shows each State's apportionment. The apportionment includes $54,884,454 of the Fiscal Year 1992 appropriation, and

$50,510 in funds not obligated in Fiscal Year 1991.

Some changes were made to the section 16(b)(2) program in the ISTEA. FTA's practice of allocating the funds to the States to be administered through a program of projects has been incorporated in the Act. The funds are now statutorily apportioned to the States for capital assistance for transportation for elderly persons and persons with disabilities.

While the assistance is still intended primarily for private non-profit organizations, public bodies that coordinate services for the elderly and disabled, or any public body that certifies to the State that non-profits in the area are not readily available to carry out the services, may now receive section 16(b)(2) funds through the State. Vehicles may be leased to local public bodies for section 16(b)(2) services.

Meal delivery services are permitted under both section 16(b)(2) and Section 18, if such services do not interfere with passenger transportation.

Eligible capital expenses may include, at the option of the recipient, the acquisition of transportation services under a contract, lease, or other arrangement.

Section 16(b)(2) funds may be transferred by the Governor to supplement Section 9 or Section 18 funds during the last 90 days of availability of the funds. These and other legislative changes will be more fully described in forthcoming program guidance.

Section 16(b)(2) was previously allocated to the states based on an administrative formula. The ISTEA requires formula apportionment of the section 16(b)(2) funds to the State. The formula uses 1990 Census data for persons aged sixty-five and over. Suitable 1990 Census data regarding persons with disabilities by State is not yet available, so 1980 Census data previously used in the administrative formula has been retained.

Sections 8 and 26(a)(2) Programs

Section 8 Urbanized Area Program

The Fiscal Year 1992 Section 8 apportionment to States for Metropolitan Planning Organizations (MPO's) to be used in urbanized areas totals $43,688,025. A basic allocation of eighty percent of this amount, $34,950,420, is distributed to the States based on urbanized area population for State distribution to each urbanized area, or parts thereof, within each State. A supplemental allocation of the remaining twenty percent, $8,737,605, is also provided to the States based on a FTA administrative formula to address planning needs in the larger, more complex urbanized areas. These procedures are a change from the FTA's historical administration of this program. Formerly, Section 8 transportation planning grant funds were provided through an administratively developed formula to the States and to urbanized areas through designated MPO's.

This Notice provides a table which contains the final State apportionments for the combined basic and supplemental allocations. Each State, in cooperation with the MPO's, must develop an allocation formula for the combined apportionment which distributes these funds to MPO's representing urbanized areas, or parts thereof, within the State. This formula, to be approved by the FTA, must ensure to the maximum extent practicable, that no MPO is allocated less than the amount it received by administrative formula under section 8 in Fiscal Year 1991.

MPO costs incurred from the date of this Notice until grant award to the State for eligible section 8 planning activities (FTA C8100.1A chapter II, section 2) may be reimbursed, subject to statutory and administrative procedures and to the availability of funds.

Section 26(a)(2) State Planning and Research Program

The Fiscal Year 1992 apportionment for the State section 26(a)(2) Planning and Research program totals $8,961,134. This Notice provides a table which contains the final State apportionments. This is a new consolidated program which is apportioned to the States for purposes of sections 6, 8, 10, 11, and 20 of the ISTEA, which included such activities as planning, technical studies and assistance, demonstrations, management training, and cooperative research. In addition, a State may authorize a portion of these funds to be used to supplement Section 8 funds allocated by the State to its urbanized areas, as the respective State deems appropriate. Costs incurred by the State from the date of this Notice until grant award may be reimbursed, subject to statutory and administrative procedures and to the availability of funds.

Data Used for Sections 8 and 26(a)(2) Apportionments

Population data received from the U.S. Bureau of the Census from the 1990 Census was used in calculating sections 8 and 26(a)(2) apportionments. The Section 8 funding provided to urbanized areas in each State by administrative formula in Fiscal Year 1991 was used as a "hold harmless" base in calculating funding to each State.

Period of Availability of Funds

The funds apportioned to urbanized areas under section 9 in this Notice will remain available to be obligated by FTA to recipients for three (3) fiscal years following Fiscal Year 1992. Any of these apportioned funds unobligated at the close of business on September 30, 1995, will revert to FTA for reapportionment under section 9. Funds apportioned to nonurbanized areas under section 18, including RTAP funds, will remain available for two (2) fiscal years following Fiscal Year 1992. Any such funds remaining unoblgiated at the close of business on September 30, 1994, will revert to FTA for reapportionment among the States. Funds allocated to States under section 16(b)(2) in this Notice must be obligated by September 30, 1992. Any such funds remaining unobligated as of this date will revert to FTA for reapportionment among the States.

Quarterly Approval of Grants

The FTA has established a quarterly approval and release cycle for processing all formula grants. In previous fiscal years, only section 9, Interstate Transfer, and Federal Aid Urban Systems (FAUS) grants were processed on a quarterly basis, while sections 8, 16(b)(2) and 18 were processed on a bi-monthly basis. Beginning in Fiscal Year 1992, all sections 3 fixed guideway modernization, 8/26(a)92), 9, 16(b)(2), 18, Interstate Transfer, and Federal-Aid Urban Systems (FAUS) grants will be processed on a quarterly basis. Applicants should submit completed applications to the appropriate FTA Regional Office by the first business day of each review cycle. If the application is complete, FTA will approve and release the grant by the end of the quarterly cycle.

Given the lateness of the final apportionments this Fiscal Year, the first quarter grants will be released on January 15, 1992. The only factor which would delay FTA's approval of the project would be a failure by the Department of Labor (DOL) to issue a 13(c) certification where such certification is a prerequisite to a grant approval. Incompleted applications will not be processed, but if the missing components are supplied, will be reconsidered in the next quarter.

For an application to be considered complete, all appropriate ancillary activities such as inclusion of the project in a locally approved Transportation

Improvement Program (TIP), intergovernmental reviews, environmental reviews, all applicable civil rights, anti-drug, and clean air requirements, and submission of all requisite certifications and documentation must be in approvable form with all required documentation and submissions on hand, except for the 13(c) certification which is issued by DOL.

If completed applications are submitted to FTA no later than the first business day of the quarter, FTA will then award grants by the last business day of the quarter.

The Department of Labor (DOL) has advised FTA that the staff of the Amalgamated Transit Union (ATU), which represents approximately 85 percent of unionized mass transit employees, will be at their Triennial Convention between September 19–27, 1992 and thus will not be available to develop new 13(c) arrangements or review grant applications with previously existing 13(c) arrangements. DOL anticipates this may interfere with the processing of any section 13(c) certificates that require ATU input during that period. Grantees who normally submit applications during the fourth quarter should be aware of this situation and should seriously consider submitting their applications in an earlier quarter in order to avoid this problem. This is particularly true for those grantees with lapsing funds which must be obligated before the end of the fiscal year.

It is the policy of FTA to expedite grant application reviews and maximize program delivery by reducing the number of grant applications. To this end, FTA strongly encourages grant applicants to submit only one application per fiscal year per formula program (i.e., section 9, section 18, etc.). The single application should contain the fiscal year's capital, planning and operating elements. During recent years, most grantees have adopted the one grant per fiscal year approach; however, there are a number of grantees who still submit more than one application per fiscal year. While FTA recognizes that there may be extenuating circumstances which would necessitate an applicant to submit more than one application per year and will process these applications on a case-by-case basis, applicants are encouraged to comply with the one grant per fiscal year approach.

Formula Grant Application Procedures

Applications for section 3 fixed guideway modernization funds should be submitted to the appropriate FTA Regional Office. Applications for section 9 funds should be submitted to the appropriate FTA Regional Office in conformance with FTA Circular 9030.1A, published September 18, 1987. Applications for Section 18 funds should be submitted to the appropriate FTA Regional Office in conformance with FTA Circular 9040.1B, published July 1, 1988. Applications for section 16(b)(2) funds should be submitted to the appropriate FTA Regional Office in conformance with Circular 9070.1B, published July 1, 1988. A unified State application for sections 8 and 26(a)(2) funds should be submitted to the appropriate Regional Office. Copies of the circulars are available from each FTA Regional Office.

Issued on: December 18, 1991.

Brian W. Clymer,

Administrator.

BILLING CODE 4910-57-M

FISCAL YEAR 1992 FTA SECTION 3 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS FOR FIXED GUIDEWAY MODERNIZATION

URBANIZED AREAS	APPORTIONMENT
New York	$183,835,980
Southwestern Connecticut	28,145,360
Northeastern New Jersey	52,083,899
Chicago/Northwestern Indiana	80,800,287
Philadelphia/Southern New Jersey	60,502,662
Boston	40,236,657
San Francisco	35,427,367
Pittsburgh	13,831,761
Cleveland	9,901,635
* Baltimore	8,735,676
New Orleans	1,770,330
	$515,271,613
Los Angeles	1,243,860
**Washington D.C	5,679,067
Seattle	2,184,998
Atlanta	2,555,030
San Diego	1,057,764
San Jose	866,919
Providence	432,852
Dayton	646,111
Tacoma	95,008
Wilmington	149,658
Trenton	162,547
Lawrence-Haverhill	221,636
Chattanooga	14,669
**Baltimore	668,594
Buffalo	214,931
Miami	1,377,969
	$17,571,612
TOTAL	$532,843,225

* Apportionment is calculated based on Section 15 data attributable to commuter rail serving Baltimore and Washington, D.C. urbanized areas only.

** Apportionment does not include commuter rail serving Baltimore and Washington, D.C. urbanized areas.

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 1,000,000 IN POPULATION

URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
Atlanta, GA	19,498,640	5,635,357	25,133,997
Baltimore, MD	15,398,178	4,450,272	19,848,450
Boston, MA	41,416,988	11,970,043	53,387,031
Chicago, IL-Northwestern IN	104,960,099	30,334,821	135,294,920
Cincinnati, OH-KY	7,084,673	2,047,562	9,132,235
Cleveland, OH	13,148,459	3,800,074	16,948,533
Dallas-Fort Worth, TX	17,236,346	4,981,526	22,217,872
Denver, CO	10,566,567	3,053,874	13,620,441
Detroit, MI	19,679,422	5,687,607	25,367,029
Ft Lauderdale-Hollywood-Pompano Bch, FL	9,659,073	2,791,596	12,450,669
Houston, TX	20,165,090	5,827,969	25,993,059
Kansas City, MO-KS	5,306,439	1,533,630	6,840,069
Los Angeles, CA	87,939,314	25,415,594	113,354,908
Miami-Hialeah, FL	18,010,309	5,205,212	23,215,521
Milwaukee, WI	8,883,534	2,567,456	11,450,990
Minneapolis-St. Paul, MN	11,270,058	3,257,192	14,527,250
New Orleans, LA	8,174,554	2,362,551	10,537,105
New York, NY-Northeastern NJ	321,183,644	92,826,197	414,009,841
Norfolk-Virginia Beach-Newport News, VA	5,492,826	1,587,496	7,080,322
Philadelphia, PA-NJ	59,136,610	17,091,242	76,227,852
Phoenix, AZ	9,530,153	2,754,336	12,284,489
Pittsburgh, PA	18,035,947	5,212,621	23,248,568
Portland-Vancouver, OR-WA	10,537,537	3,045,484	13,583,021
Riverside-San Bernardino, CA	4,601,082	1,329,771	5,930,853
Sacramento, CA	6,101,081	1,763,293	7,864,374
San Antonio, TX	8,858,337	2,560,173	11,418,510
San Diego, CA	17,681,234	5,110,104	22,791,338
San Francisco-Oakland, CA	59,208,208	17,111,934	76,320,142
San Jose, CA	12,832,091	3,708,639	16,540,730
San Juan, PR	6,650,975	1,922,217	8,573,192
Seattle, WA	21,798,366	6,300,009	28,098,375
St. Louis, MO-IL	10,689,233	3,089,325	13,778,558
Tampa-St. Petersburg-Clearwater, FL	7,885,154	2,278,911	10,164,065
Washington, DC-MD-VA	43,817,177	12,663,729	56,480,906
TOTAL	$1,042,437,398	$ 301,277,817	$1,343,715,215

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
Akron, OH	2,727,312	788,229	3,515,541
Albany-Schenectady-Troy, NY	3,975,909	1,149,090	5,124,999
Albuquerque, NM	2,723,583	787,151	3,510,734
Allentown-Bethlehem-Easton, PA-NJ	2,067,701	597,593	2,665,294
Anchorage, AK	1,394,892	403,141	1,798,033
Ann Arbor, MI	1,912,274	552,672	2,464,946
Augusta, GA-SC	978,880	282,909	1,261,789
Austin, TX	5,976,242	1,727,211	7,703,453
Bakersfield, CA	1,827,245	528,097	2,355,342
Baton Rouge, LA	1,512,934	437,257	1,950,191
Birmingham, AL	2,610,542	754,481	3,365,023
Bridgeport-Milford, CT	3,053,843	882,600	3,936,443
Buffalo-Niagara Falls, NY	7,126,654	2,059,694	9,186,348
Canton, OH	983,708	284,304	1,268,012
Charleston, SC	1,536,060	443,941	1,980,001
Charlotte, NC	2,933,545	847,833	3,781,378
Chattanooga, TN-GA	1,284,021	371,098	1,655,119
Colorado Springs, CO	1,753,523	506,791	2,260,314
Columbia, SC	1,390,277	401,808	1,792,085
Columbus, GA-AL	955,196	276,064	1,231,260
Columbus, OH	5,751,032	1,662,122	7,413,154
Corpus Christi, TX	1,593,554	460,557	2,054,111
Davenport-Rock Island-Moline, IA-IL	1,439,470	416,026	1,855,496
Dayton, OH	5,837,845	1,687,213	7,525,058
Daytona Beach, FL	1,078,669	311,749	1,390,418
Des Moines, IA	1,415,136	408,993	1,824,129
Durham, NC	902,333	260,787	1,163,120
El Paso, TX-NM	3,922,031	1,133,517	5,055,548
Fayetteville, NC	768,790	222,190	990,980
Flint, MI	1,575,726	455,406	2,031,132
Fort Myers-Cape Coral, FL	1,114,144	322,002	1,436,146
Fort Wayne, IN	1,184,933	342,461	1,527,394
Fresno, CA	2,680,760	774,775	3,455,535
Grand Rapids, MI	2,071,161	598,592	2,669,753
Greenville, SC	1,085,052	313,594	1,398,646
Harrisburg, PA	1,308,187	378,083	1,686,270
Hartford-Middletown, CT	4,607,596	1,331,655	5,939,251
Honolulu, HI	11,171,062	3,228,580	14,399,642
Indianapolis, IN	4,468,697	1,291,511	5,760,208
Jackson, MS	1,018,525	294,367	1,312,892
Jacksonville, FL	3,803,294	1,099,200	4,902,494
Knoxville, TN	1,255,489	362,853	1,618,342
Lansing-East Lansing, MI	1,576,276	455,565	2,031,841
Las Vegas, NV	3,066,192	886,169	3,952,361
Lawrence-Haverhill, MA-NH	1,792,926	518,179	2,311,105
Lexington-Fayette, KY	1,109,636	320,699	1,430,335
Little Rock-North Little Rock, AR	1,360,351	393,158	1,753,509
Lorain-Elyria, OH	758,383	219,183	977,566
Louisville, KY-IN	5,374,812	1,553,390	6,928,202

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
Madison, WI	2,428,749	701,941	3,130,690
McAllen-Edinburg-Mission, TX	687,870	198,803	886,673
Melbourne-Palm Bay, FL	1,689,620	488,321	2,177,941
Memphis, TN-AR-MS	4,860,167	1,404,650	6,264,817
Mobile, AL	1,285,773	371,605	1,657,378
Modesto, CA	1,486,676	429,669	1,916,345
Montgomery, AL	813,696	235,168	1,048,864
Nashville, TN	3,005,117	868,517	3,873,634
New Haven-Meriden, CT	4,927,968	1,424,246	6,352,214
Ogden, UT	1,513,238	437,345	1,950,583
Oklahoma City, OK	2,496,047	721,390	3,217,437
Omaha, NE-IA	3,201,718	925,337	4,127,055
Orlando, FL	4,199,792	1,213,794	5,413,586
Oxnard-Ventura, CA	1,954,994	565,018	2,520,012
Pensacola, FL	909,530	262,866	1,172,396
Peoria, IL	1,188,111	343,379	1,531,490
Providence-Pawtucket, RI-MA	8,415,629	2,432,226	10,847,855
Provo-Orem, UT	1,273,147	367,956	1,641,103
Raleigh, NC	1,268,712	366,675	1,635,387
Reno, NV	1,612,686	466,087	2,078,773
Richmond, VA	3,410,889	985,790	4,396,679
Rochester, NY	4,050,923	1,170,769	5,221,692
Rockford, IL	973,580	281,377	1,254,957
Salt Lake City, UT	6,791,668	1,962,880	8,754,548
Sarasota-Bradenton, FL	1,823,971	527,151	2,351,122
Scranton-Wilkes-Barre, PA	1,868,432	540,001	2,408,433
Shreveport, LA	1,251,340	361,653	1,612,993
South Bend-Mishawaka, IN-MI	1,241,014	358,669	1,599,683
Spokane, WA	2,817,964	814,428	3,632,392
Springfield, MA-CT	3,490,943	1,008,927	4,499,870
Stockton, CA	1,597,245	461,625	2,058,870
Syracuse, NY	3,030,141	875,750	3,905,891
Tacoma, WA	4,216,198	1,218,536	5,434,734
Toledo, OH-MI	3,307,838	956,008	4,263,846
Trenton, NJ-PA	2,170,483	627,297	2,797,780
Tucson, AZ	4,020,872	1,162,085	5,182,957
Tulsa, OK	2,296,558	663,735	2,960,293
West Palm Bch-Boca Raton-Delray Bch, FL	6,461,215	1,867,374	8,328,589
Wichita, KS	1,645,997	475,715	2,121,712
Wilmington, DE-NJ-MD-PA	2,827,321	817,133	3,644,454
Worcester, MA-CT	2,287,257	661,046	2,948,303
Youngstown-Warren, OH	1,306,874	377,703	1,684,577
TOTAL	$ 235,924,366	$ 68,185,185	$ 304,109,551

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
ALABAMA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,549,017	$ 736,699	$ 3,285,716
Anniston, AL	245,863	71,058	316,921
Auburn-Opelika, AL	197,252	57,008	254,260
Decatur, AL	225,127	65,065	290,192
Dothan, AL	189,076	54,646	243,722
Florence, AL	263,443	76,138	339,581
Gadsden, AL	232,815	67,287	300,102
Huntsville, AL	739,166	213,628	952,794
Tuscaloosa, AL	456,275	131,869	588,144
ALASKA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$	$	$
ARIZONA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 404,819	$ 116,997	$ 521,816
Yuma, AZ-CA (AZ)	404,819	116,997	521,816
ARKANSAS:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 973,922	$ 281,476	$ 1,255,398
Fayetteville-Springdale, AR	268,773	77,679	346,452
Fort Smith, AR-OK (AR)	365,895	105,748	471,643
Pine Bluff, AR	247,265	71,463	318,728
Texarkana, TX-AR (AR)	91,989	26,586	118,575
CALIFORNIA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 14,921,016	$ 4,312,368	$ 19,233,384
Antioch-Pittsburg, CA	843,811	243,872	1,087,683
Chico, CA	368,414	106,477	474,891
Davis, CA	447,310	129,279	576,589
Fairfield, CA	543,192	156,990	700,182
Hemet-San Jacinto, CA	453,166	130,971	584,137
Hesperia-Apple Valley-Victorville, CA.	578,023	167,056	745,079
Indio-Coachella, CA	274,015	79,194	353,209
Lancaster-Palmdale, CA	972,411	281,039	1,253,450
Lodi, CA	380,735	110,037	490,772
Lompoc, CA	233,779	67,565	301,344
Merced, CA	415,695	120,141	535,836

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
CALIFORNIA:			
Napa, CA	434,355	125,534	559,889
Palm Springs, CA	541,032	156,365	697,397
Redding, CA	312,825	90,411	403,236
Salinas, CA	823,399	237,973	1,061,372
San Luis Obispo, CA	389,949	112,701	502,650
Santa Barbara, CA	1,273,853	368,160	1,642,013
Santa Cruz, CA	658,561	190,333	848,894
Santa Maria, CA	599,280	173,199	772,479
Santa Rosa, CA	1,161,886	335,800	1,497,686
Seaside-Monterey, CA	780,758	225,649	1,006,407
Simi Valley, CA	739,038	213,592	952,630
Vacaville, CA	448,665	129,670	578,335
Visalia, CA	512,469	148,110	660,579
Watsonville, CA	282,316	81,593	363,909
Yuba City, CA	450,476	130,193	580,669
Yuma, AZ-CA (CA)	1,603	464	2,067
COLORADO:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,749,304	$ 794,583	$ 3,543,887
Boulder, CO	611,793	176,816	788,609
Fort Collins, CO	509,512	147,255	656,767
Grand Junction, CO	290,069	83,834	373,903
Greeley, CO	407,545	117,786	525,331
Longmont, CO	371,422	107,345	478,767
Pueblo, CO	558,963	161,547	720,510
CONNECTICUT:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 9,336,714	$ 2,698,430	$ 12,035,144
Bristol, CT	433,304	125,230	558,534
Danbury, CT-NY (CT)	1,590,860	459,780	2,050,640
New Britain, CT	811,426	234,512	1,045,938
New London-Norwich, CT	652,865	188,687	841,552
Norwalk, CT	1,679,664	485,445	2,165,109
Stamford, CT-NY (CT)	2,113,531	610,836	2,724,367
Waterbury, CT	2,055,064	593,940	2,649,004
DELAWARE:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 207,386	$ 59,937	$ 267,323
Dover, DE	207,386	59,937	267,323

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
FLORIDA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 6,320,890	$ 1,826,821	$ 8,147,711
Deltona, FL	210,144	60,735	270,879
Fort Pierce, FL	503,426	145,497	648,923
Fort Walton Beach, FL	488,028	141,047	629,075
Gainesville, FL	625,481	180,772	806,253
Kissimmee, FL	291,338	84,200	375,538
Lakeland, FL	639,389	184,792	824,181
Naples, FL	420,812	121,620	542,432
Ocala, FL	282,668	81,695	364,363
Panama City, FL	424,204	122,600	546,804
Punta Gorda, FL	277,405	80,174	357,579
Spring Hill, FL	212,060	61,288	273,348
Stuart, FL	370,033	106,944	476,977
Tallahassee, FL	712,990	206,063	919,053
Titusville, FL	204,083	58,983	263,066
Vero Beach, FL	258,465	74,700	333,165
Winter Haven, FL	400,364	115,711	516,075
GEORGIA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,767,408	$ 799,817	$ 3,567,225
Albany, GA	342,763	99,063	441,826
Athens, GA	328,655	94,985	423,640
Brunswick, GA	189,111	54,656	243,767
Macon, GA	614,411	177,573	791,984
Rome, GA	192,788	55,718	248,506
Savannah, GA	803,825	232,316	1,036,141
Warner Robins, GA	295,855	85,506	381,361
HAWAII:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 735,638	$ 212,609	$ 948,247
Kailua, HI	735,638	212,609	948,247
IDAHO:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,455,842	$ 420,757	$ 1,876,599
Boise City, ID	890,855	257,469	1,148,324
Idaho Falls, ID	319,363	92,300	411,663
Pocatello, ID	245,624	70,988	316,612

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
ILLINOIS:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 6,891,416	$ 1,991,708	$ 8,883,124
Alton, IL	360,346	104,144	464,490
Aurora, IL	1,009,335	291,711	1,301,046
Beloit, WI-IL (IL)	46,056	13,311	59,367
Bloomington-Normal, IL	580,620	167,807	748,427
Champaign-Urbana, IL	819,408	236,819	1,056,227
Crystal Lake, IL	328,942	95,068	424,010
Danville, IL	222,895	64,420	287,315
Decatur, IL	461,176	133,286	594,462
Dubuque, IA-IL (IL)	10,743	3,105	13,848
Elgin, IL	728,118	210,436	938,554
Joliet, IL	841,854	243,306	1,085,160
Kankakee, IL	330,420	95,496	425,916
Round Lake Beach-McHenry, IL-WI (IL)	479,411	138,556	617,967
Springfield, IL	672,092	194,243	866,335
INDIANA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 3,889,387	$ 1,124,084	$ 5,013,471
Anderson, IN	314,338	90,848	405,186
Bloomington, IN	469,159	135,593	604,752
Elkhart-Goshen, IN	470,154	135,881	606,035
Evansville, IN-KY (IN)	871,009	251,732	1,122,741
Kokomo, IN	316,589	91,499	408,088
Lafayette-West Lafayette, IN	629,430	181,913	811,343
Muncie, IN	462,677	133,720	596,397
Terre Haute, IN	356,031	102,898	458,929
IOWA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,117,193	$ 611,896	$ 2,729,089
Cedar Rapids, IA	657,968	190,161	848,129
Dubuque, IA-IL (IA)	320,268	92,562	412,830
Iowa City, IA	379,120	109,571	488,691
Sioux City, IA-NE-SD (IA)	350,119	101,189	451,308
Waterloo-Cedar Falls, IA	409,718	118,413	528,131
KANSAS:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,028,017	$ 297,111	$ 1,325,128
Lawrence, KS	389,311	112,516	501,827
St. Joseph, MO-KS (KS)	3,213	929	4,142
Topeka, KS	635,493	183,666	819,159

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
KENTUCKY:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 810,242	$ 234,170	$ 1,044,412
Clarksville, TN-KY (KY)	98,852	28,569	127,421
Evansville, IN-KY (KY)	121,408	35,089	156,497
Huntington-Ashland, WV-KY-OH (KY)	242,096	69,969	312,065
Owensboro, KY	347,886	100,543	448,429
LOUISIANA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,399,388	$ 693,454	$ 3,092,842
Alexandria, LA	350,131	101,192	451,323
Houma, LA	246,269	71,175	317,444
Lafayette, LA	605,856	175,100	780,956
Lake Charles, LA	486,639	140,645	627,284
Monroe, LA	462,725	133,734	596,459
Slidell, LA	247,768	71,608	319,376
MAINE:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,044,211	$ 301,790	$ 1,346,001
Bangor, ME	214,553	62,008	276,561
Lewiston-Auburn, ME	249,306	72,053	321,359
Portland, ME	533,149	154,087	687,236
Portsmouth-Dover-Rochester, NH-ME (ME)	47,203	13,642	60,845
MARYLAND:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,161,302	$ 335,630	$ 1,496,932
Annapolis, MD	378,250	109,319	487,569
Cumberland, MD-WV (MD)	201,151	58,134	259,285
Frederick, MD	272,922	78,878	351,800
Hagerstown, MD-PA-WV (MD)	308,979	89,299	398,278
MASSACHUSETTS:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 4,599,617	$ 1,329,348	$ 5,928,965
Brockton, MA	840,211	242,832	1,083,043
Fall River, MA-RI (MA)	819,538	236,857	1,056,395
Fitchburg-Leominster, MA	332,046	95,966	428,012
Hyannis, MA	237,099	68,524	305,623
Lowell, MA-NH (MA)	1,040,091	300,599	1,340,690
New Bedford, MA	901,330	260,496	1,161,826
Pittsfield, MA	214,641	62,034	276,675

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
MASSACHUSETTS:			
Taunton, MA	214,661	62,040	276,701
MICHIGAN:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 3,924,953	$ 1,134,361	$ 5,059,314
Battle Creek, MI	327,786	94,735	422,521
Bay City, MI	366,220	105,842	472,062
Benton Harbor, MI	264,887	76,556	341,443
Holland, MI	297,293	85,921	383,214
Jackson, MI	366,010	105,781	471,791
Kalamazoo, MI	790,390	228,433	1,018,823
Muskegon, MI	482,092	139,331	621,423
Port Huron, MI	317,291	91,701	408,992
Saginaw, MI	712,984	206,061	919,045
MINNESOTA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,398,738	$ 404,253	$ 1,802,991
Duluth, MN-WI (MN)	340,313	98,355	438,668
Fargo-Moorhead, ND-MN (MN)	196,817	56,882	253,699
Grand Forks, ND-MN (MN)	43,138	12,467	55,605
La Crosse, WI-MN (MN)	21,130	6,107	27,237
Rochester, MN	383,922	110,959	494,881
St. Cloud, MN	413,418	119,483	532,901
MISSISSIPPI:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,200,737	$ 347,029	$ 1,547,766
Biloxi-Gulfport, MS	743,424	214,859	958,283
Hattiesburg, MS	231,694	66,963	298,657
Pascagoula, MS	225,619	65,207	290,826
MISSOURI:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,654,728	$ 478,239	$ 2,132,967
Columbia, MO	326,679	94,415	421,094
Joplin, MO	229,403	66,301	295,704
Springfield, MO	770,718	222,748	993,466
St. Joseph, MO-KS (MO)	327,928	94,775	422,703

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
MONTANA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,101,642	$ 318,388	$ 1,420,030
Billings, MT	424,841	122,785	547,626
Great Falls, MT	396,216	114,511	510,727
Missoula, MT	280,585	81,092	361,677
NEBRASKA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,224,749	$ 353,968	$ 1,578,717
Lincoln, NE	1,171,777	338,658	1,510,435
Sioux City, IA-NE-SD (NE)	52,972	15,310	68,282
NEVADA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$	$	$
NEW HAMPSHIRE:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,487,138	$ 429,802	$ 1,916,940
Lowell, MA-NH (NH)	3,044	880	3,924
Manchester, NH	623,470	180,191	803,661
Nashua, NH	498,558	144,089	642,647
Portsmouth-Dover-Rochester, NH-ME (NH)	362,066	104,642	466,708
NEW JERSEY:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,126,721	$ 325,637	$ 1,452,358
Atlantic City, NJ	812,154	234,723	1,046,877
Vineland-Millville, NJ	314,567	90,914	405,481
NEW MEXICO:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 613,559	$ 177,327	$ 790,886
Las Cruces, NM	340,832	98,505	439,337
Santa Fe, NM	272,727	78,822	351,549
NEW YORK:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 3,404,424	$ 983,923	$ 4,388,347
Binghamton, NY	854,571	246,982	1,101,553

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
NEW YORK:			
Danbury, CT-NY (NY)	11,582	3,347	14,929
Elmira, NY	350,910	101,418	452,328
Glens Falls, NY	241,291	69,736	311,027
Ithaca, NY	243,545	70,388	313,933
Newburgh, NY	316,237	91,396	407,633
Poughkeepsie, NY	664,301	191,992	856,293
Stamford, CT-NY (NY)	78	23	101
Utica-Rome, NY	721,909	208,641	930,550
NORTH CAROLINA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 5,526,423	$ 1,597,207	$ 7,123,630
Asheville, NC	426,547	123,278	549,825
Burlington, NC	309,438	89,431	398,869
Gastonia, NC	453,078	130,946	584,024
Goldsboro, NC	235,292	68,002	303,294
Greensboro, NC	974,597	281,671	1,256,268
Greenville,NC	270,944	78,306	349,250
Hickory, NC	258,368	74,672	333,040
High Point, NC	435,726	125,930	561,656
Jacksonville, NC	420,684	121,583	542,267
Kannapolis, NC	303,686	87,769	391,455
Rocky Mount, NC	242,786	70,169	312,955
Wilmington, NC	397,070	114,758	511,828
Winston-Salem, NC	798,207	230,692	1,028,899
NORTH DAKOTA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,073,892	$ 310,370	$ 1,384,262
Bismarck, ND	309,646	89,492	399,138
Fargo-Moorhead, ND-MN (ND)	447,855	129,436	577,291
Grand Forks, ND-MN (ND)	316,391	91,442	407,833
OHIO:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,952,563	$ 853,330	$ 3,805,893
Hamilton, OH	610,290	176,382	786,672
Huntington-Ashland, WV-KY-OH (OH)	155,408	44,915	200,323
Lima, OH	333,534	96,396	429,930
Mansfield, OH	321,991	93,059	415,050
Middletown, OH	419,568	121,260	540,828
Newark, OH	255,651	73,887	329,538
Parkersburg, WV-OH (OH)	37,858	10,942	48,800
Sharon, PA-OH (OH)	24,961	7,214	32,175
Springfield, OH	485,385	140,283	625,668

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
OHIO:			
Steubenville-Weirton, OH-WV-PA (OH)...	174,603	50,462	225,065
Wheeling, WV-OH (OH).....	133,314	38,530	171,844
OKLAHOMA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 629,459	$ 181,922	$ 811,381
Enid, OK.....	169,905	49,105	219,010
Fort Smith, AR-OK (OK).....	8,061	2,330	10,391
Lawton, OK.....	451,493	130,487	581,980
OREGON:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,396,743	$ 692,690	$ 3,089,433
Eugene-Springfield, OR.....	1,128,214	326,068	1,454,282
Longview, WA-OR (OR).....	7,502	2,168	9,670
Medford, OR.....	348,650	100,765	449,415
Salem, OR.....	912,377	263,689	1,176,066
PENNSYLVANIA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 6,265,387	$ 1,810,779	$ 8,076,166
Altoona, PA.....	428,016	123,702	551,718
Erie, PA.....	1,101,106	318,234	1,419,340
Hagerstown, MD-PA-WV (PA).....	3,772	1,090	4,862
Johnstown, PA.....	394,681	114,068	508,749
Lancaster, PA.....	995,466	287,703	1,283,169
Monessen, PA.....	270,878	78,287	349,165
Pottstown, PA.....	257,067	74,296	331,363
Reading, PA.....	1,162,124	335,869	1,497,993
Sharon, PA-OH (PA).....	179,950	52,008	231,958
State College, PA.....	374,601	108,265	482,866
Steubenville-Weirton, OH-WV-PA (PA)...	1,308	378	1,686
Williamsport, PA.....	314,002	90,751	404,753
York, PA.....	782,416	226,128	1,008,544
PUERTO RICO:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 5,788,239	$ 1,672,864	$ 7,461,103
Aguadilla, PR.....	506,345	146,340	652,685
Arecibo, PR.....	473,126	136,739	609,865
Caguas, PR.....	1,239,146	358,129	1,597,275
Cayey, PR.....	366,375	105,887	472,262
Humacao, PR.....	317,067	91,636	408,703
Mayaguez, PR.....	681,245	196,888	878,133

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
PUERTO RICO:			
Ponce, PR	1,516,109	438,165	1,954,274
Vega Baja-Manati, PR	688,826	199,080	887,906
RHODE ISLAND:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 368,415	$ 106,477	$ 474,892
Fall River, MA-RI (RI)	84,461	24,410	108,871
Newport, RI	283,954	82,067	366,021
SOUTH CAROLINA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,559,963	$ 450,850	$ 2,010,813
Anderson, SC	209,802	60,635	270,437
Florence, SC	215,795	62,368	278,163
Myrtle Beach, SC	226,299	65,404	291,703
Rock Hill, SC	240,289	69,447	309,736
Spartanburg, SC	418,872	121,059	539,931
Sumter, SC	248,906	71,937	320,843
SOUTH DAKOTA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 774,633	$ 223,879	$ 998,512
Rapid City, SD	246,688	71,296	317,984
Sioux City, IA-NE-SD (SD)	6,917	1,999	8,916
Sioux Falls, SD	521,028	150,584	671,612
TENNESSEE:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,198,728	$ 346,448	$ 1,545,176
Bristol, TN-VA (TN)	112,043	32,382	144,425
Clarksville, TN-KY (TN)	273,188	78,955	352,143
Jackson, TN	206,781	59,762	266,543
Johnson City, TN	315,197	91,096	406,293
Kingsport, TN-VA (TN)	291,519	84,253	375,772
TEXAS:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 11,100,232	$ 3,208,111	$ 14,308,343
Abilene, TX	393,773	113,806	507,579
Amarillo, TX	730,458	211,112	941,570
Beaumont, TX	502,363	145,190	647,553
Brownsville, TX	730,308	211,068	941,376
Bryan-College Station, TX	489,122	141,363	630,485

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
TEXAS:			
Denton, TX	264,191	76,355	340,546
Galveston, TX	280,275	81,003	361,278
Harlingen, TX	358,877	103,720	462,597
Killeen, TX	686,465	198,397	884,862
Laredo, TX	867,096	250,602	1,117,698
Lewisville, TX	304,980	88,143	393,123
Longview, TX	300,066	86,723	386,789
Lubbock, TX	854,639	247,002	1,101,641
Midland, TX	374,439	108,217	482,656
Odessa, TX	415,361	120,045	535,406
Port Arthur, TX	453,129	130,960	584,089
San Angelo, TX	389,392	112,540	501,932
Sherman-Denison, TX	194,887	56,325	251,212
Temple, TX	221,261	63,947	285,208
Texarkana, TX-AR (TX)	178,550	51,603	230,153
Texas City, TX	474,587	137,162	611,749
Tyler, TX	371,161	107,270	478,431
Victoria, TX	257,298	74,362	331,660
Waco, TX	560,475	161,984	722,459
Wichita Falls, TX	447,079	129,212	576,291
UTAH:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 221,857	$ 64,120	$ 285,977
Logan, UT	221,857	64,120	285,977
VERMONT:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 389,297	$ 112,512	$ 501,809
Burlington, VT	389,297	112,512	501,809
VIRGINIA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,584,117	$ 746,843	$ 3,330,960
Bristol, TN-VA (VA)	79,767	23,054	102,821
Charlottesville, VA	371,608	107,399	479,007
Danville, VA	210,992	60,979	271,971
Fredericksburg, VA	247,726	71,596	319,322
Kingsport, TN-VA (VA)	15,060	4,352	19,412
Lynchburg, VA	353,452	102,152	455,604
Petersburg, VA	448,127	129,515	577,642
Roanoke, VA	857,385	247,796	1,105,181

FISCAL YEAR 1992 FTA SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
WASHINGTON:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,442,093	$ 705,797	$ 3,147,890
Bellingham, WA	287,732	83,159	370,891
Bremerton, WA	557,397	161,095	718,492
Longview, WA-OR (WA)	243,457	70,362	313,819
Olympia, WA	433,642	125,328	558,970
Richland-Kennewick-Pasco, WA	452,347	130,734	583,081
Yakima, WA	467,518	135,119	602,637
WEST VIRGINIA:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,876,903	$ 542,448	$ 2,419,351
Charleston, WV	755,031	218,214	973,245
Cumberland, MD-WV (WV)	9,029	2,610	11,639
Hagerstown, MD-PA-WV (WV)	2,281	659	2,940
Huntington-Ashland, WV-KY-OH (WV)	423,915	122,517	546,432
Parkersburg, WV-OH (WV)	272,643	78,797	351,440
Steubenville-Weirton, OH-WV-PA (WV)	117,291	33,898	151,189
Wheeling, WV-OH (WV)	296,713	85,753	382,466
WISCONSIN:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 5,138,273	$ 1,485,028	$ 6,623,301
Appleton-Neenah, WI	940,957	271,949	1,212,906
Beloit, WI-IL (WI)	201,671	58,285	259,956
Duluth, MN-WI (WI)	88,325	25,527	113,852
Eau Claire, WI	368,522	106,507	475,029
Green Bay, WI	714,572	206,521	921,093
Janesville, WI	271,225	78,387	349,612
Kenosha, WI	493,852	142,730	636,582
La Crosse, WI-MN (WI)	392,061	113,311	505,372
Oshkosh, WI	342,174	98,893	441,067
Racine, WI	762,810	220,462	983,272
Round Lake Beach-McHenry, IL-WI (WI)	286	83	369
Sheboygan, WI	322,378	93,171	415,549
Wausau, WI	239,440	69,202	308,642
WYOMING:			
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 537,904	$ 155,461	$ 693,365
Casper, WY	246,750	71,314	318,064
Cheyenne, WY	291,154	84,147	375,301
TOTAL	$ 136,325,239	$ 39,399,748	$ 175,724,987

	GENERAL FUND	TRUST FUND	TOTAL APPORTIONMENT
OVER 1,000,000 IN POPULATION	1,042,437,398	301,277,817	1,343,715,215
200,000-1,000,000 IN POPULATION	235,924,366	68,185,185	304,109,551
50,000-200,000 IN POPULATION	136,325,239	39,399,748	175,724,987
NATIONAL TOTALS	$ 1,414,687,003	$ 408,862,750	$ 1,823,549,753

FISCAL YEAR 1992 FTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS

LIMITATION FOR URBANIZED AREAS OVER 1,000,000 IN POPULATION

URBANIZED AREA	LIMITATION
Atlanta, GA	$6,068,717
Baltimore, MD	9,713,473
Boston, MA	18,236,994
Chicago, Il-Northwestern IN	51,072,503
Cincinnati, OH-KY	5,261,537
Cleveland, OH	9,626,869
Dallas-Fort Worth, TX	8,632,845
Denver, CO	5,893,578
Detroit, MI	21,372,219
Ft Lauderdale-Hollywood-Pompano Bch, FL	7,329,916
Houston, TX	9,071,304
Kansas City, MO-KS	4,458,217
Los Angeles, CA	57,003,726
Miami-Hialeah, FL	8,373,127
Milwaukee, WI	5,455,492
Minneapolis-St. Paul, MN	7,274,074
New Orleans, LA	6,598,631
New York, N.Y.-Northeastern NJ	132,016,635
Norfolk-Virginia Beach-Newport News, VA	4,191,482
Philadelphia, PA-NJ	31,779,915
Phoenix, AZ	4,699,894
Pittsburgh, PA	9,486,262
Portland-Vancouver, OR-WA	4,395,482
Riverside-San Bernardino, CA	2,512,253
Sacramento, CA	3,474,423
San Antonio, TX	4,571,722
San Diego, CA	7,294,770
San Francisco-Oakland, CA	19,423,183
San Jose, CA	6,599,096
San Juan, PR	7,500,377
Seattle, WA	6,163,460
St. Louis, MO-IL	9,576,609
Tampa-St. Petersburg-Clearwater, FL	5,214,118
Washington, DC-MD-VA	16,861,201
TOTAL	$517,204,104

LIMITATION FOR URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREA	LIMITATION
Akron, OH	2,300,829
Albany-Schenectady-Troy, NY	2,231,552
Albuquerque, NM	1,542,143
Allentown-Bethlehem-Easton, PA-NJ	2,333,162
Anchorage, AK	761,428
Ann Arbor, MI	978,304
Augusta, GA-SC	779,322
Austin, TX	1,467,602
Bakersfield, CA	956,927
Baton Rouge, LA	1,278,744
Birmingham, AL	2,348,959
Bridgeport-Milford, CT	2,039,329
Buffalo-Niagara Falls, NY	5,986,068
Canton, OH	1,126,738
Charleston, SC	1,068,262
Charlotte, NC	1,287,810
Chattanooga, TN-GA	970,831
Colorado Springs, CO	963,753
Columbia, SC	1,090,583
Columbus, GA-AL	817,138
Columbus, OH	4,341,578
Corpus Christi, TX	857,543
Davenport-Rock Island-Moline, IA-IL	1,115,797
Dayton, OH	2,888,980
Daytona Beach, FL	774,828
Des Moines, IA	1,086,724
Durham, NC	798,635
El Paso, TX-NM	1,777,440
Fayetteville, NC	734,953
Flint, MI	1,511,678
Fort Myers-Cape Coral, FL	564,420
Fort Wayne, IN	1,077,905
Fresno, CA	1,450,577
Grand Rapids, MI	1,533,201

FISCAL YEAR 1992 FTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS

LIMITATION FOR URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION--(CONTINUED)

URBANIZED AREA	LIMITATION	URBANIZED AREA	LIMITATION
Greenville, SC	741,073	Pensacola, FL	750,824
Harrisburg, PA	1,119,212	Peoria, IL	1,046,128
Hartford-Middletown, CT	2,271,262	Providence-Pawtucket, RI-MA	4,702,822
Honolulu, HI	2,812,907	Provo-Orem, UT	806,260
Indianapolis, IN	3,779,508	Raleigh, NC	723,494
Jackson, MS	893,465	Reno, NV	834,054
Jacksonville, FL	2,002,549	Richmond, VA	1,916,324
Knoxville, TN	890,675	Rochester, NY	3,071,916
Lansing-East Lansing, MI	1,149,752	Rockford, IL	962,688
Las Vegas, NV	1,364,829	Salt Lake City, UT	2,429,649
Lawrence-Haverhill, MA-NH	844,882	Sarasota-Bradenton, FL	1,254,210
Lexington-Fayette, KY	1,281,638	Scranton-Wilkes-Barre, PA	1,723,617
Little Rock-North Little Rock, AR	1,024,814	Shreveport, LA	1,044,602
Lorain-Elyria, OH	773,072	South Bend-Mishawaka, IN-MI	1,141,132
Louisville, KY-IN	3,860,036	Spokane, WA	1,107,307
Madison, WI	986,035	Springfield, MA-CT	2,011,783
McAllen-Edinburg-Mission, TX	819,189	Stockton, CA	1,328,383
Melbourne-Palm Bay, FL	696,481	Syracuse, NY	1,886,065
Memphis, TN-AR-MS	3,577,439	Tacoma, WA	1,541,657
Mobile, AL	996,903	Toledo, OH-MI	2,227,342
Modesto, CA	981,150	Trenton, NJ-PA	1,966,571
Montgomery, AL	1,014,393	Tucson, Arizona	1,647,689
Nashville, TN	1,658,643	Tulsa, OK	1,560,057
New Haven-Meriden, CT	2,291,605	West Palm Bch-Boca Raton-Delray Bch, FL	1,641,982
Ogden, UT	692,618	Wichita, KS	1,349,633
Oklahoma City, OK	2,295,641	Wilmington, DE-NJ-MD-PA	1,996,096
Omaha, NE-IA	2,354,334	Worcester, MA-CT	1,152,188
Orlando, FL	1,732,371	Youngstown-Warren, OH	1,775,000
Oxnard-Ventura, CA	1,343,521		

TOTAL			$144,693,213

FISCAL YEAR 1992 FTA SECTION 9 OPERATING ASSISTANCE LIMITATIONS

STATE LIMITATION FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE	LIMITATION	STATE	LIMITATION
ALABAMA	2,964,920	NEBRASKA	1,179,022
ALASKA	0	NEVADA	0
ARIZONA	311,402	NEW HAMPSHIRE	1,400,623
ARKANSAS	1,201,691	NEW JERSEY	1,748,582
CALIFORNIA	10,233,214	NEW MEXICO	521,152
COLORADO	2,767,320	NEW YORK	4,344,399
CONNECTICUT	6,835,774	NORTH CAROLINA	5,728,620
DELAWARE	143,562	NORTH DAKOTA	1,045,613
FLORIDA	4,743,988	OHIO	3,693,749
GEORGIA	3,264,633	OKLAHOMA	815,521
HAWAII	715,971	OREGON	2,144,227
IDAHO	1,218,369	PENNSYLVANIA	7,718,210
ILLINOIS	8,375,491	PUERTO RICO	4,983,455
INDIANA	4,609,728	RHODE ISLAND	370,566
IOWA	2,674,914	SOUTH CAROLINA	1,524,392
KANSAS	1,143,457	SOUTH DAKOTA	787,429
KENTUCKY	956,278	TENNESSEE	1,335,888
LOUISIANA	2,811,994	TEXAS	11,566,010
MAINE	1,216,421	UTAH	153,579
MARYLAND	1,130,734	VERMONT	367,704
MASSACHUSETTS	6,034,947	VIRGINIA	3,024,952
MICHIGAN	4,940,774	WASHINGTON	2,169,515
MINNESOTA	1,641,423	WEST VIRGINIA	2,725,455
MISSISSIPPI	1,364,197	WISCONSIN	5,920,763
MISSOURI	1,813,411	WYOMING	693,923
MONTANA	1,302,721		
		TOTAL	$140,380,683

OVER 1,000,000 IN POPULATION	$517,204,104
200,000-1,000,000 IN POPULATION	144,693,213
50,000-200,000 IN POPULATION	140,380,683
NATIONAL TOTALS	$802,278,000

FISCAL YEAR 1992

FTA SECTION 18 FORMULA APPORTIONMENTS AND

RURAL TRANSIT ASSISTANCE PROGRAM (RTAP) ALLOCATIONS

TO THE STATES FOR NONURBANIZED AREAS

STATE	SECTION 18 APPORTIONMENT	RTAP ALLOCATION	STATE	SECTION 18 APPORTIONMENT	RTAP ALLOCATION
ALABAMA	2,553,387	89,672	NEBRASKA	1,033,261	66,054
ALASKA	380,765	55,916	NEVADA	337,344	55,241
AMERICAN SAMOA	54,271	10,843	NEW HAMPSHIRE	893,199	63,878
ARIZONA	1,171,014	68,194	NEW JERSEY	1,277,085	69,842
ARKANSAS	2,041,327	81,716	NEW MEXICO	1,003,982	65,599
CALIFORNIA	4,982,213	127,409	NEW YORK	4,495,492	119,847
COLORADO	1,063,503	66,524	NORTH CAROLINA	4,775,541	124,198
CONNECTICUT	964,698	64,989	NORTH DAKOTA	506,433	57,869
DELAWARE	240,669	53,739	NORTHERN MARIANAS	50,293	10,781
FLORIDA	3,202,786	99,762	OHIO	4,861,832	125,539
GEORGIA	3,733,323	108,005	OKLAHOMA	2,025,160	81,465
GUAM	154,497	12,400	OREGON	1,650,255	75,640
HAWAII	419,009	56,510	PENNSYLVANIA	5,423,425	134,264
IDAHO	845,337	63,134	PUERTO RICO	1,620,690	75,181
ILLINOIS	3,370,732	102,372	RHODE ISLAND	207,613	53,226
INDIANA	3,308,584	101,406	SOUTH CAROLINA	2,390,182	87,137
IOWA	2,128,114	83,065	SOUTH DAKOTA	617,302	59,591
KANSAS	1,692,847	76,302	TENNESSEE	3,085,452	97,939
KENTUCKY	2,794,521	93,419	TEXAS	6,514,245	151,214
LOUISIANA	2,311,271	85,911	UTAH	467,949	57,271
MAINE	1,115,278	67,328	VERMONT	551,921	58,575
MARYLAND	1,392,371	71,633	VIRGIN ISLANDS	118,129	11,835
MASSACHUSETTS	1,492,199	73,184	VIRGINIA	2,735,552	92,503
MICHIGAN	4,041,130	112,788	WASHINGTON	1,916,767	79,781
MINNESOTA	2,325,437	86,131	WEST VIRGINIA	1,629,804	75,322
MISSISSIPPI	2,269,325	85,259	WISCONSIN	2,816,111	93,754
MISSOURI	2,708,535	92,083	WYOMING	393,865	56,120
MONTANA	684,790	60,640			
TOTAL				$ 106,840,817	$ 4,250,000

FISCAL YEAR 1992 FTA SECTION 16(b)(2) APPORTIONMENTS

AMOUNTS APPORTIONED TO THE STATES

STATE	APPORTIONMENT	STATE	APPORTIONMENT
ALABAMA	$952,765	NEBRASKA	454,113
ALASKA	159,608	NEVADA	313,419
AMERICAN SAMOA	52,024	NEW HAMPSHIRE	309,899
ARIZONA	842,461	NEW JERSEY	1,697,032
ARKANSAS	677,785	NEW MEXICO	373,323
CALIFORNIA	4,906,464	NEW YORK	3,767,489
COLORADO	620,672	NORTH CAROLINA	1,373,830
CONNECTICUT	787,723	NORTH DAKOTA	257,779
DELAWARE	247,098	NORTHERN MARIANAS	51,828
DISTRICT OF COLUMBIA	248,540	OHIO	2,278,768
FLORIDA	3,631,894	OKLAHOMA	771,611
GEORGIA	1,156,198	OREGON	704,383
GUAM	130,613	PENNSYLVANIA	2,876,080
HAWAII	312,067	PUERTO RICO	642,782
IDAHO	304,640	RHODE ISLAND	353,111
ILLINOIS	2,324,001	SOUTH CAROLINA	745,811
INDIANA	1,167,030	SOUTH DAKOTA	274,997
IOWA	753,786	TENNESSEE	1,101,368
KANSAS	630,413	TEXAS	2,752,388
KENTUCKY	870,975	UTAH	348,591
LOUISIANA	866,634	VERMONT	224,797
MAINE	369,909	VIRGIN ISLANDS	132,142
MARYLAND	920,158	VIRGINIA	1,137,292
MASSACHUSETTS	1,370,817	WASHINGTON	981,289
MICHIGAN	1,835,812	WEST VIRGINIA	540,283
MINNESOTA	930,906	WISCONSIN	1,081,970
MISSISSIPPI	635,746	WYOMING	194,355
MISSOURI	1,206,197		
MONTANA	281,298	TOTAL	$54,934,964

FISCAL YEAR 1992 FTA SECTION 8 AND SECTION 26(a)(2) APPORTIONMENTS

STATE	SECTION 8 APPORTIONMENT FOR MPOs	SECTION 26(a)(2) APPORTIONMENT FOR STATE PLAN/RESEARCH
Alabama	$382,550	$98,113
Alaska	174,752	44,806
Arizona	695,544	141,626
Arkansas	174,752	44,806
California	7,444,988	1,357,932
Colorado	568,302	126,793
Connecticut	510,412	130,945
Delaware	174,752	44,806
District/Col	235,531	44,806
Florida	2,380,768	542,702
Georgia	842,954	173,869
Hawaii	174,752	44,806
Idaho	174,752	44,806
Illinois	2,552,313	452,110
Indiana	619,648	143,582
Iowa	196,010	50,265
Kansas	226,547	54,315
Kentucky	271,412	68,086
Louisiana	469,052	118,805
Maine	174,752	44,806
Maryland	1,014,122	190,974
Massachusetts	1,236,847	252,238
Michigan	1,593,518	309,939
Minnesota	647,016	126,426
Mississippi	174,752	44,806
Missouri	715,481	148,384
Montana	174,752	44,806
Nebraska	174,752	44,806
Nevada	189,457	48,582
New Hampshire	174,752	44,806
New Jersey	2,165,294	353,507
New Mexico	174,752	44,806
New York	4,397,094	752,711
North Carolina	522,287	133,994
North Dakota	174,752	44,806
Ohio	1,505,319	354,970
Oklahoma	281,548	72,218
Oregon	316,326	75,722
Pennsylvania	1,952,600	384,326
Rhode Island	174,752	44,806
South Carolina	296,538	76,078
South Dakota	174,752	44,806
Tennessee	461,112	118,271
Texas	2,967,402	606,403
Utah	274,262	70,362
Vermont	174,752	44,806
Virginia	975,887	204,213
Washington	777,960	171,420
West Virginia	174,752	44,806
Wisconsin	557,791	131,426
Wyoming	174,752	44,806
Puerto Rico	473,347	113,325
TOTAL:	$43,688,025	$8,961,134

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Monday
December 23, 1991

Part VI

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Notice; Grants and Cooperative Agreements; Availability, etc.: Comprehensive Program Plan for 1992 FY

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Final Comprehensive Plan for Fiscal Year 1992

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice of Final Comprehensive Plan for Fiscal Year 1992.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is publishing this Notice of its Final Comprehensive Plan for Fiscal Year 1992.

FOR FURTHER INFORMATION CONTACT: Marilyn Silver, Information Dissemination Unit (202) 307–0751. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of section 204(b)(5)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, (hereinafter called the JJDP Act), 42 U.S.C. 5614(b)(5)(A), the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing a final plan describing the funding activities which OJJDP intends to carry out during Federal Fiscal Year 1992. The final plan includes activities specified in part C (42 U.S.C. 5651–54, 5659–62, and 5665–65(a)) and part D (42 U.S.C. 5667–67a) of title II of the JJDP Act. The final plan takes into consideration comments received during the 45-day period beginning with the publication of the proposed plan, in the **Federal Register** on September 26, 1991. This publication concludes with a summary of the substantive comments received and the responses of OJJDP to those comments.

The 1984 Amendments to the JJDP Act established in OJJDP a Missing and Exploited Children's Program (title IV of the JJDP Act, also called the Missing Children's Assistance Act). Programs and activities proposed for funding under the Missing and Exploited Children's Program are not included in this Final Comprehensive Plan for Fiscal Year 1992. A statement of Missing Children's Program priorities will be published in the **Federal Register** for public comment as required by Section 406(a) of the JJDP Act, 42 U.S.C. 5776(a).

The actual solicitations of grant applications will be published separately, at a later date, in the **Federal Register**. No proposals, concept papers, or other forms of application should be submitted at this time.

Introduction

Juvenile justice professionals face tough challenges in the 1990s. Based on an analysis of 1990 FBI arrest statistics, it is estimated that last year police made 2.2 million arrests of youth under the age of 18. Between 1986 and 1990 the number of juveniles arrested for violent crime increased nearly 38 percent. (Arrest of Youth 1990, OJJDP, forthcoming.) Offenders are younger, more violent and more often than not, involved with drugs. Gangs terrorize communities large and small with little sign of abatement on the horizon. During the past decade, our youth population declined by 11 percent, while the number of juvenile custody admissions climbed 19.2 percent. (National Juvenile Custody Trends: 1978–1989, OJJDP, forthcoming.) The National Crime Survey report on teenage victimization indicates an alarming increase. The family unit continues to falter, while the institutions that have served to sustain order and tranquility in society, e.g., the school, the church, and the home, have been unable to slow the rising ride of lawlessness.

Despite these alarming statistics, the war on drugs is being waged effectively. We see refreshing evidence of a decline in adolescent cocaine use by 49 percent over the past two years, and an overall reduction of drug use by 11 percent during the same period of time. (See pages 5 and 11 of the National Drug Control Strategy, published in February, 1991, by the Federal Office of National Drug Control Policy.)

The primary responsibility for law enforcement rests with State and local governments. Federal responsibility is necessarily limited by the Constitution, yet, there is an appropriate Federal role as defined by Congress in the JJDP Act of 1974. The juvenile justice system can be strengthened, special projects or innovative solutions to problems advanced, training and technical assistance provided and research undertaken.

It is with this limited role in mind that the 1992 Program Plan is proposed. We deliberately focus our resources on a wide variety of program objectives including schools, youth services, community-based programs, law enforcement, courts, prosecution, alternative sanctions, corrections, detention, and probation, with the purpose of strengthening and improving the juvenile justice system.

But whatever improvements we make in the system, the tide of delinquency will not abate until the American family is rebuilt and restored. To do this will require the dedicated efforts of everyone. It is only when we make progress as a society in this area that we will make progress in diminishing juvenile delinquency and the victimization of our children.

The basic premise of the juvenile justice system remains sound. When the first juvenile court was established in 1899, its founders were clear in its purpose. "The care, trust, custody and discipline of a child shall approximate as nearly as may be that which should be given by its parents," a tall order for the 1990s. The OJJDP Program Plan seeks to help professionals in every part of the juvenile justice system to improve their methods, techniques and theories while at the same time encouraging Americans everywhere to come together as families and communities in a united effort to instill principles of right and wrong, discipline and character. As President Bush stated on September 12, 1991 in his remarks at the Veterans Administration Hospital,

> People think the problem in our world is crack or suicide or babies having babies; and those are symptoms. The disease is a kind of moral emptiness, though. And we cannot continue producing generations born numbly into despair, finding solace in a needle or a vile. If, as President, I had the power to give just one thing to this great country, it would be the return of an inner moral compass nurtured by the family and valued by society.

Fiscal Year 1992 Program Planning Activities

The OJJDP program planning process for Fiscal Year 1992 is closely coordinated with the Assistant Attorney General and the Bureau components of the Office of Justice Programs (OJP). In addition, the following steps are taken:

- Internal review of existing programs by OJJDP staff;
- Review of information and data from OJJDP grantees and contractors;
- Review of information contained in State comprehensive plans;
- Review of comments made by youth services providers, juvenile justice practitioners, and researchers.
- Consideration of suggestions made by juvenile justice policymakers concerning State and local needs; and
- Consideration of all comments received during the period of public comment on the Proposed Comprehensive Plan.

Discretionary Program Activities

Discretionary Grant Continuation Policy

OJJDP has listed those part C and part D projects currently funded and eligible for continuation funding in Fiscal Year 1992. Continuation funding

consideration for new projects for previously funded discretionary grant programs will be based upon several factors. These include: Availability of funds, the extent to which the project responds to the applicable requirements of the JJDP Act, responsiveness to OJJDP and OJP Fiscal Year 1992 program priorities, compliance with performance requirements of prior grant years, compliance with OJP fiscal and regulatory requirements, and any special conditions of award. Continuation funding for a new budget period within an existing project period depends upon grantee compliance with established conditions of eligibility for additional budget period funding, and achievement of the prior year's objectives.

With the exception of part D of the JJDP Act (42 U.S.C. 5667-5667a) and training programs funded under section 244 of the JJDP Act (42 U.S.C. 5654), all programs recommended for continuation funding for a new project period must be found to be of outstanding merit through a peer review process in order to be eligible for an award without competition. Training programs otherwise eligible for continuation award without competition will require a written determination by the Administrator that the applicant is uniquely qualified to provide the proposed training services and that other qualified sources are not as capable of providing such services.

Proposed Programs

The programs listed below are arranged in accordance with the OJP priorities:

—Gangs and Violent Offenders
—Victims
—Community Policing and Police Effectiveness
—Intermediate Sanctions and User Accountability
—Drug Prevention
—Evaluations
—Intensive Prosecution and Adjudication
—Money Laundering and Financial Investigation (Asset Forfeiture) [1]
—Information Systems, Support and Statistics

The following are brief summaries of each of the new and continuation programs planned for Fiscal Year 1992. The specific programs to be funded within each category are subject to change without notice.

[1] No programs are listed herein under this priority, inasmuch as it does not pertain to juvenile justice issues.

Gangs and Violent Offenders

$3,242,139

New Programs

Juvenile Justice System Handling of Sex Offenses and Offenders

$200,000

Research with adult sex offenders has shown that many began their offending behavior as juveniles. Within the past decade, the juvenile justice system has begun to address the problem of juvenile sex offenders. To understand and improve the system's ability to address such offenses effectively, OJJDP will begin a study of the juvenile justice system's response to juvenile sex offenders. This grant will assess the type and nature of these responses. This assessment will examine the flow of sex offenders through the system from initial contact to adjudication and disposition. In this regard, there is little known about the relationship between various types of sex offenses and the sanctions or treatment approaches employed by the justice system. The project will also assess the justice system's response to different types of offenses from voyeurism and exhibitionism to violent assault and rape. The results from this study will indicate the direction of future efforts to improve the juvenile justice system's response to the problem. Applications will be solicited competitively.

Gang Prevention and Intervention

$800,000

The objective of this program is to reduce gang violence in a selected number of cities through legal suppression, community mobilization and early intervention with gangs. It is anticipated that awards would be made for programs in the selected cities. Each city would choose the particular model that best fits its needs from among the promising program models which OJJDP identifies. The specific models will represent an integration of the best approaches identified in the OJJDP sponsored programs: the Gang Suppression and Intervention program; Boys and Girls Clubs of America's Targeted Outreach with a Gang Component and the Serious Habitual Offender Comprehensive Action Program. Applications will be solicited competitively.

Continuations

Youth Gang Intervention Training

$400,000

This is a collaborative interagency program between OJJDP and the Federal Law Enforcement Training Center. The objectives of this training program are: (1) To provide a process for community leaders to recognize the benefits of cooperatively developing strategies to address the problems resulting from gang and drug activities; (2) to promote an awareness and recognition of (a) the problems of gangs and drugs, (b) justice system practices, (c) behavior patterns of gangs and gang members, and (d) current system practices and demonstration projects; (3) to provide strategies and techniques for public and private interagency partnerships dealing dynamically with community gang and drug related problems; (4) to clarify and document the legal roles, responsibilities and issues relating to an interagency approach to the prevention, intervention and suppression of these illegal activities of youth gangs; (5) to encourage leadership and innovation in the management and resolution of gang and drug problems; and (6) to develop or improve the response capacity to issues involving gangs and drugs through an effective interagency model which matches resources to demands.

National Youth Gang Clearinghouse

$225,139

The contract to Digital Systems Research, Inc., provides funding for OJJDP's National Youth Gang Clearinghouse. The Gang Clearinghouse will (1) gather and disseminate current information on model programs for combating violent juvenile gangs; (2) gather and disseminate current statistical and descriptive information on violent juvenile gangs; and (3) assist in the coordination of Federal, State and local gang program development, and training and technical assistance efforts through providing information to the field on relevant programs and activities. Applications will not be solicited competitively. This program will be administered by the current contractor.

Private Sector Options for Juvenile Corrections

$300,000

The American Correctional Association is currently implementing this private sector options program which is designed to help improve the quality of juvenile correctional services by providing technical assistance to corrections administrators in analyzing existing services, redesigning service delivery, and developing a competitive process for delivering services to private providers. Supplemental funds will be used to expand the number of sites receiving technical assistance from six

to ten. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

School Safety

$250,000

This is a collaborative interagency program between OJJDP and Department of Education. The purpose of this program is to provide training and technical assistance on school safety to elementary and secondary schools, as well as to identify methods to diminish crime, violence, and illegal drug use in schools and on school campuses, with special emphasis on outreach to ethnic minorities and gang-related crime. The National School Safety Center (NSSC) maintains a library and clearinghouse with specialized information; provides research on school safety issues; and develops publications and training programs. OJJDP will work with NSSC over the next year to facilitate transition of the Center toward self-sufficiency. The Department of Education is supporting this transition with a transfer of $400,000 of Fiscal Year 1991 funds for expenditure in Fiscal Year 1992. These funds will strengthen the focus on prevention of drug abuse and violence in schools. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Targeted Outreach With a Gang Prevention and Intervention Component

$400,000

This program is designed to enable local Boys and Girls Clubs to prevent youth from entering gangs and to intervene with gang members who are very early in their careers in an effort to divert them away from gangs toward more constructive programs. The National Office of Boys and Girls Clubs will provide training and technical assistance to the 33 existing sites, and add six to eight new gang prevention and intervention sites throughout the country. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Schools and Jobs Are Winners

$150,000

This gang prevention program in Philadelphia focuses on high school students in grades 10 and 11 who are in gangs; have family members who belong to gangs; are involved with drugs or alcohol use; were abused or neglected; or were arrested by police. The project will also include funding by the Private Industry Council of Philadelphia. The goals of the project are to prevent high school students from dropping out of school and joining gangs by providing educational, recreational and social services, and by providing supportive services to families of at-risk youth and extremely disadvantaged youth. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Serious Habitual Offender Comprehensive Action Program (SHOCAP)

$517,000

SHOCAP is an information and case management program on the part of police, probation, prosecution, social service, school, and corrections authorities that which the juvenile justice system to focus additional attention on juveniles who repeatedly commit serious crimes, with particular attention given to providing relevant case information for more informed sentencing dispositions. The training and technical assistance provider is assisting 20 jurisdictions with the implementation of this model by providing intensive training and follow-up technical assistance. In addition four new sites will be developed.

The provider also serves as a clearinghouse for information on the model, to which non-participating jurisdictions may have access. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Victims

$1,225,000

Continuations

*Permanent Families for Abused and Neglected Children**

$225,000

This is a national project to prevent unnecessary foster care placement of abused and neglected children, to reunify the families of children already in care, and to ensure permanent adoptive homes when reunification is impossible. The purpose of this project is to ensure that foster care is utilized only as a last resort and temporary solution for children. Accordingly, the project is designed to ensure that government's responsibility to children in foster care is duly acknowledged by all appropriate disciplines. The project will continue to call upon judges, social service personnel, citizen volunteers, attorneys, and others to recognize and resolve the problems of children in foster care. Project activities include national training programs for judges, social service personnel, citizen volunteers and others in the Reasonable Efforts Provision of 42 U.S.C. 671(a)(15); training in selected Lead States; and development of model questions to guide risk assessment. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

*Advocacy for Abused and Neglected Children**

$1,000,000

The National Court Appointed Special Advocates Association (NCASAA) provides training and technical assistance to local and statewide programs. It assists in program development; advocates for the best interest of abused and neglected children; publicizes the Court Appointed Special Advocate (CASA) concept which helps recruit volunteers; develops management systems and standards to improve local CASA operations; provides a resource library and resource services; gathers and publishes information about the needs of the CASA network and operation; develops cooperative relationships with other national and regional organizations; and performs a variety of related services in furtherance of its goal of assuring that every child who needs one has a CASA. There are now 412 CASA programs in 47 States, with 15,000 volunteers. There are 12 statewide programs mandated and State-funded, and 23 State associations and networks offering support services to their State's program. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

The Investigation and Prosecution of Child Abuse

$300,000

This is a collaborative intra-agency program between OJJDP and the Office for Victims of Crime (OVC) in which OVC is providing all of the funding. This program is designed to provide training and technical assistance to prosecutors and related professionals on the issue of child abuse prosecution. The project also serves as a clearinghouse for child abuse prosecution information. The trial manual entitled "The Investigation and

Prosecution of Child Abuse" will be updated and republished. Case law on issues of child abuse prosecution will also be updated and made available through the clearinghouse. At least one National training event will be held, and the recipient will also participate in several State-level training sessions during the supplemental grant period. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Community Policing and Police Effectiveness

$447,000

Continuations

Juvenile Justice Training for Law Enforcement Personnel (Glynco)

$447,000

This project provides technical assistance and training to promote a better understanding of the juvenile justice system to Federal, State and local law enforcement agencies. Five training programs are offered through this project, namely: Police Operations Leading to Improved Children and Youth Services (POLICY) which has two components: POLICY I introduces law enforcement executives to management strategies in order to integrate juvenile services into the mainstream of their operations, while POLICY II helps mid-level managers build on these strategies and demonstrates step-by-step methods to improve police productivity in the juvenile justice area. The Child Abuse and Exploitation Investigative Techniques program provides law enforcement officers with state-of-the-art approaches for building a case against those individuals charged with child abuse, sexual exploitation, or the abduction of children. Managing Juvenile Operations provides a series of training programs for police executives who demonstrate simple, yet effective methods to increase departmental efficiency and effectiveness by integrating juvenile services into the mainstream of police activity. School Administrators for Effective Police, Probation, and Prosecutors Operations Leading to Improved Children and Youth Services (SAFE POLICY) brings together the chief executives of schools, law enforcement, prosecution, and probation to promote interagency cooperation and coordination in dealing with youth-related problems. This program will be implemented under the current interagency agreement.

Intermediate Sanctions and User Accountability

$750,000

New Programs

Juvenile Restitution

$200,000

OJJDP plans to support a juvenile restitution training and technical assistance program. The project design will be based on practitioner recommendations regarding the current needs in the field. A survey is being initiated by the Office to determine how best to expand and institutionalize restitution as a viable juvenile justice disposition. In addition to the survey, it is anticipated that a "working group" will be convened to map out the future course of OJJDP's support for optimum development of the various components of restitution. These components will include community service, victim reparation (also victim-offender mediation), offender employment and supervision, employment development, and possible new program elements designed to establish restitution as a major aspect in our efforts to improve the juvenile justice system. Applications will be solicited competitively.

Enhancing Enforcement Strategies for Juvenile Impaired Driving Due to Drug and Alcohol Abuse

$100,000

This is a collaborative interagency program between OJJDP and the National Highway Traffic Safety Administration. NHTSA's funding level commitment for this program is not yet final. The dollar amount of this program represents only OJJDP's portion. The purpose of this program is to enhance the juvenile justice system's coordination and responsiveness to delinquent youth involved in drinking and driving. Based on documentation of low arrest and citation problems as they pertain to youth impaired driving, as well as information about enforcement obstacles and effective enforcement strategies, an award is being made to develop training and technical assistance materials for the various juvenile justice system components (i.e., police officers, judges, prosecutors, probation officers, etc.). The materials will address the issues related to effective enforcement of impaired driving laws as they pertain to juveniles and the juvenile justice system. The materials will be tested in five jurisdictions across the country. Based on practical use, they will then be edited and prepared for replication and dissemination. Applications will not be solicited competitively.

Continuations

Demonstration of Post Adjudication: Non-Residential Intensive Supervision Program

$150,000

The National Council on Crime and Delinquency (NCCD) was funded to implement the Intensive Supervision Program which was designed to identify and assess effective intensive supervision programs; provide the capability of select jurisdictions to implement an effective program model; and to disseminate information about the initiative. The assessment report has been completed and the training and technical assistance materials have been completed in draft. Support for this program will supplement NCCD's current award and provide funds for technical assistance and training for six to eight jurisdictions that are interested in implementing the intensive supervision programs model developed by NCCD. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Drug Testing Guidelines

$150,000

The primary purpose of this project is to develop a comprehensive curriculum in close coordination with the National Institute of Justice, consisting of drug identification, screening and testing which will assist juvenile justice systems in educating policymakers and training managers through training and technical assistance. This program, "Training and Technical Assistance Curriculum for Drug Identification, Screening and Testing in the juvenile justice system," offers a plan for providing training and technical assistance to selected juvenile justice systems throughout the country. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Testing Juvenile Detainees for Illegal Drug Use

$150,000

The intent of this program is to assess, develop, test, and disseminate information on new and innovative approaches to test for illegal drug use among juvenile detainees. The purpose of the program is to improve resource allocation and treatment services for youth in detention by developing more

accurate and complete information on the use of illegal drugs. The world of drug testing is technical and complex, as are the issues revolving around the decision to test juveniles for illegal drug use. OJJDP has recognized the complexity of the situation and embarked on this initiative, among others, to provide guidance and leadership to the field in this area.

This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Drug Prevention

$7,885,000

New Programs

Professional Development for Youth Workers

$200,000

The primary purpose of this initiative is to establish and promote professional development of youth and juvenile justice system providers through a formal and continued training program. The program will be designed to include an inventory of existing training programs and their effectiveness, a needs assessment survey of training, the development of several curricula areas, the design of a dissemination strategy, and finally, an implementation plan for the second year of a two-year program. The end product is an expertly designed set of curricula which can be adapted for use in a broad range of juvenile justice and youth care training programs. The overall goals of the program will be to enhance professionalism for those persons to whom society has delegated responsibility in treating and caring for our nation's troubled youth. Such individuals include foster parents for "acting-out" adolescents, staff in a range of community based residential care facilities, juvenile correctional officers, probation officers, truant officers, and security personnel in youth facilities. Applications will be solicited competitively.

Native American Alternative Community-Based Program

$300,000

This is a collaborative interagency program between OJJDP and the Administration on Native Americans in the Department of Health and Human Services. The purpose of this program is to develop community-based alternative programs for Native American youth who have been adjudicated delinquent, and to develop a reentry program for Native American delinquent returning from institutional placement. The program will use the information being gathered by the American Indian Law Center in its study of Native American juvenile justice systems to develop this initiative. A multi-component design will be developed which will integrate the critical elements of the OJJDP Intensive Supervision and Aftercare programs with cultural elements that have traditionally been utilized by the Native Americans to control and rehabilitate offending youth. As planned, the program would be tested in up to two sites. Applications will be solicited competitively.

Program for Chronic Status Offenders

$140,000

The grant will underwrite the replication in Philadelphia of the program for chronic status offenders conducted in West Milton, Pennsylvania. That program seeks to effect change in juvenile delinquent behavior (including addressing possible family dysfunction), stabilizing the offender's behavior at home and in the community, promoting positive substitutes for antisocial acts, and implementing individualized educational plans for those needing more than mainstream education can afford.

This program offers an efficient and effective alternative to the "too-little"/"too-much" syndrome as it applies to chronic status offenders and emergent delinquents. In lieu of probation alone or residential treatment, the day care program employs a broad spectrum of counseling techniques to enhance life skills and employment opportunities, while providing intensive treatment for pre- and post-adjudicatory delinquents and status offenders. Applications will not be solicited competitively.

Continuations

Drug Abuse Prevention—Technical Assistance Voucher Project

$200,000

This project will provide technical assistance to 15–25 neighborhood-based organizations which have established anti-drug abuse projects, and will enhance their capacity to serve high-risk youth and serious juvenile offenders. Neighborhood groups will apply to the grantee for vouchers ranging from $1,000 to $10,000, depending on their needs. They will present their own plans and designs for the requested technical assistance, which will be evaluated and refined by the grantee. This method of delivery will allow these neighborhood groups to secure technical assistance inexpensively from sources which are compatible with both their programs and their specific community characteristics. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Intensive Community-Based Aftercare Program

$200,000

This program is designed to develop a juvenile aftercare model which can be tested in the juvenile justice system. Under this program, an assessment has been completed and a final draft assessment report has been submitted to OJJDP. A model juvenile aftercare program, which builds on the assessment material, has been developed and related policies and procedures have been completed in draft. This next stage of funding will provide training and technical assistance for up to four sites in the aftercare model. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Research on the Causes and Correlates of Delinquency and Non-Delinquency

$1,680,000

This longitudinal cohort study by three coordinated projects, has been directed toward improving the knowledge base of positive, delinquent, or drug using behaviors of juveniles in the context of the family, school and the individual. Factors are being identified that promote, as well as inhibit, involvement in delinquency, leading to the effective design of intervention activities. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Reaching At-Risk Youth in Public Housing

$300,000

This is a collaborative interagency program between OJJDP and the Department of Housing and Urban Development. Boys and Girls Clubs of America have established seven Boys and Girls Clubs in public housing across the nation under the existing cooperative agreement with OJJDP. HUD's funding level commitment for this program is not yet final. The dollar amount of this program represents only OJJDP's portion. These programs are designed to provide needed services to the high-risk youth who live in public housing, thereby preventing their involvement in delinquency, drug and alcohol abuse and gang involvement. During Fiscal Year 1992 additional sites will be established and training and

technical assistance will be made available to other Boys and Girls Clubs and public housing authorities who wish to establish Clubs. Also, as part of this program, the Boys and Girls Clubs developed a curriculum on their targeted public housing outreach program for the Federal Bureau of Investigation's Drug Reduction Coordinators. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

The Congress of National Black Churches: National Anti-Drug Abuse Program

$150,000

The overall plan for this program calls for the development and implementation of a national public awareness and mobilization strategy to address the problem of drug abuse and drug abuse prevention in targeted communities across the United States. The goals of the national mobilization strategy are to summon, focus and coordinate the leadership of the Black religious community in cooperation with the Department of Justice, other federal agencies and organizations to help mobilize groups of community residents to combat effectively drug abuse and drug-related criminal and antisocial activities. The program is currently operating in 10 cities. This award will provide funding to extend the program in from 10 to 15 additional cities. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Effective Strategies in the Extension Service Network, Phase II

$75,000

This is a collaborative interagency program between the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Department of Justice; the National Highway Traffic Safety Administration (NHTSA), Department of Transportation; and the Extension Service, Department of Agriculture in which OJJDP and NHTSA are providing the funding. NHTSA's funding level commitment for this program is not yet final. The dollar amount of this program represents only OJJDP's portion. The purpose of this program is to establish worthwhile community collaborations through a defined, established training program and technical assistance provided by the U.S. Department of Agriculture's Extension Service Network. These collaborations will focus on youth substance abuse, impaired driving and other delinquent behavior. Training and technical assistance will be based on the Community Systemwide Response (CSR) planning process, a training curriculum that presents a planning and organization strategy which communities can use to assess and respond to their current juvenile drug and alcohol abuse and impaired driving programs. The CSR also provides information about the most promising systemwide technologies in drug abuse prevention and treatment. Applications will not be solicited competitively.

Field-Initiated Programs

$550,000

OJJDP is proposing continuation of its program designed to increase the capacity of State and local governments, public and private youth-serving agencies, and neighborhood organizations or community groups to prevent delinquency, develop and use alternatives to the juvenile justice system, and improve the administration of juvenile justice. This program will provide competitive awards to practitioners, policymakers and researchers who have innovative ideas which address areas that do not fall within the scope of other proposed programs. The award of these grants will be closely coordinated with the priorities of the Office of Justice Programs. Any grant funded under this program will follow a regular cycle of application, peer review and competitive selection. Additional applications will be solicited to implement new activities in this continuation program in Fiscal Year 1992.

Law-Related Education (LRE) [2]

$3,200,000

OJJDP has funded since 1979 a national law-related education (LRE) effort. The Law-Related Education National Training and Dissemination Program involves five national LRE projects and programs which operate in 47 States. The purpose of this program is to provide training and materials to State and local school jurisdictions to encourage and guide them in establishing LRE delinquency prevention programs in the curricula of grades kindergarten through 12 and in juvenile justice settings. Grantees will be encouraged to place emphasis on drug abuse prevention programs in primary, middle and secondary schools in minority communities. The major components of the program are: Coordination and management, training and technical assistance, preliminary assistance to future sites, public information, program development, and assessment. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Satellite Prep School Program and Early Elementary Schools for Privatized Public Housing

$400,000

This is a collaborative interagency program between OJJDP and the Department of Housing and Urban Development and is being coordinated with the Department of Education. The purpose of this program is to establish an early elementary school program to help prevent and deter children who reside in public housing developments from participation in delinquent acts and to reduce the potential for their involvement in lives of crime, especially drug related crime, gang activities, alcohol and/or drug abuse. The Prep-School Program's mission is the establishment of preparatory elementary schools for kindergarten to fourth grade children living in public housing developments. The Prep-School Program will begin with one demonstration site in the Ida B. Wells Housing Development, Chicago, Illinois. The Prep-School will be established and operated as an early intervention educational model based upon the Marva Collins Westside Preparatory School educational philosophy, curriculum and teaching techniques. The other partner in this effort is the Chicago Housing Authority. The fiscal year 1992 funds awarded to the Chicago Housing Authority will be used for the Prep-School operational expenses and continued training and technical assistance. The U.S. Department of Housing and Urban Development funds will be used for renovations to create the space for school. This program will be implemented by the current grantees. No additional applications will be solicited in Fiscal Year 1992.

Career Development

$90,000

This is a collaborative interagency program between OJJDP and the U.S. Department of the Interior. This program gives high-risk youths an opportunity to assess their interest in and potential for careers in the Criminal Justice System or the National Park Service. The purpose

[2] Selected programs contained in this document are being funded at the direction of Congress either as amendments to the JJDP Act legislation or directions contained in the Office's appropriation documents. An asterisk identifies this and other congressionally mandated programs contained in this document.

of Law Enforcement Exploring is to educate and involve youth in police or other justice system operations, to interest them in possible law enforcement careers, and to build understanding between youth and law enforcement personnel. An added program component in Fiscal Year 1990 was the introduction of youths to career opportunities in the National Park Service. The youths participating in the Exploring Program render hands-on assistance to their host agencies or organizations (State and local police departments, U.S. Park Service, U.S. Customs, etc.). The youths also receive hands-on training from their host agencies. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Partnership Plan, Phase V (Cities in Schools)

$400,000

This is a collaborative interagency program between OJJDP, the U.S. Department of Labor, and the U.S. Departments of Health and Human Services and Commerce. The dollar amount of this program represents only OJJDP's portion. The funding level commitment for the other agencies are not yet final. This program is a continuation of a national school dropout prevention model that is being implemented by Cities In Schools, Inc. (CIS). CIS provides training and technical assistance to States and local communities to enable them to adapt and implement the CIS dropout prevention model. The model focuses social, employment, mental health and other resources on high-risk youths and their families at the school level. Individualized plans are developed for each youth, and needed remedial education, social and other services are provided to the youths and their families. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Evaluations

$790,000

New Programs

Effectiveness of Juvenile Offender Treatment: What Works Best and for Whom?

$50,000

OJJDP seeks to determine what forms of treatment are most effective for individual juvenile offenders. The initial project will determine the feasibility of a program of collection and review of data, previous studies, and current literature. Treatment, in this context, could range from release, restitution, community service, and probation to incarceration. The aim is to determine, insofar as possible, what forms of treatment and sanctions are most effective, and for which types of juvenile offenders. The resulting findings would be made available to the juvenile courts in order to provide officials with the necessary data to assist them in selecting treatment options for juvenile offenders. Applications will be solicited competitively.

Continuations

Independent Evaluations

$640,000

The Office awarded a contract to conduct independent evaluations of selected OJJDP-funded programs. This will establish a concerted, continuous effort to learn, in the following order of priority: Efficacy, cost-effectiveness, and impact of the discretionary programs. Reported findings, including strengths, weaknesses and other assessment data, will be made available to all concerned. The following criteria will determine the priority of programs selected for evaluation: (1) Continuations in order of number of years of funding and total expenditures; (2) new action programs being tested to serve as possible models, and (3) new and continuing programs requiring decisions regarding continuation. This program will be implemented by the current contractor. No additional applications will be solicited in Fiscal Year 1992.

Fellowship Program

$100,000

Acting through the National Institute for Juvenile Justice and Delinquency Prevention, OJJDP will continue a Fellowship Program which will provide grants of varying amounts to individuals for independent scholarly study in the field of juvenile delinquency. The Fellowship Program includes the Graduate Research Fellowship and the Summer (short term) Research Fellowship. Each fellowship program selection will be based on a competitive review and evaluation of proposals for independent study on policy-relevant issues in the juvenile justice field which are closely coordinated with the Office of Justice Programs priority areas. (See OJP priorities under *Proposed Programs* in earlier sections of this notice.) The OJJDP fellowships are open to juvenile justice practitioners, new Ph.D.s, graduate students, and senior researchers. Each fellowship application will be expected to meet the criteria specified in the procedures and requirements of the OJJDP Fellowship Program. Fellowships will vary in length and amount. Additional applications will be solicited competitively to implement new activities in this continuation program in Fiscal Year 1992.

Intensive Prosecution and Adjudication

$3,528,263

New Programs

Improvement in Correctional Education for Juvenile Offenders

$100,000

This is a collaborative interagency program between OJJDP and the U.S. Department of Education. The primary purpose of this program is to assist juvenile corrections administrators in planning and implementing educational services for detained and incarcerated juvenile offenders. This will be accomplished by the development of minimum educational standards and specific approaches to improving correctional education. OJJDP will seek joint funding for the program from the Department of Education. Applications will be solicited competitively.

A Study To Examine the Delay in Juvenile Sanctions

$75,000

The problems created by delays in juvenile treatment and sanctions are not well documented because of the lack of research. Since the Supreme Court decision in *In Re Gault*, 387 U.S. 1 (1969), procedural requirements in juvenile hearings have become more formal. Crowded civil and criminal calendars often delay juvenile hearings. The decision in *United States v. Furey*, 500 F.2d 338 (2d Cir. 1974), and a number of State cases have held that juveniles have a constitutional right to a speedy trial. In line with this right, the Institute of Judicial Administration and the American Bar Association published *Standards for Juvenile Justice* in 1977 that recommended ideal time limits for juvenile systems to function appropriately and effectively. Delays, directly and many times adversely, affect juveniles and are also wasteful of judicial resources. OJJDP will fund a study to determine the extent of unnecessary delays and whether they are excessive; the cause of the delays; and their effect on the juveniles and system administration. As a result, recommendations will be offered for improvement. Applications will be solicited competitively.

Juvenile Justice Personnel Improvement

$100,000

The propose of this applied research program is to raise the quality of the key juvenile justice personnel, such as probation officers and detention and corrections counselors, who have direct one-on-one contact with juveniles on an on-going basis. Juvenile justice succeeds or fails as a result of the highly interpersonal relations that are established by these professionals. Unfortunately, turnover rates among these professionals are excessively high. The obvious effects of such turnover are disruption on administration and increasing costs of recruitment and training. However, of possibly greater seriousness are the effects of the juveniles who are confused by a succession of youth workers. Many of these youth have begun to form meaningful relationships with a juvenile justice professional only to be abruptly placed with a different person. Despite the high turnover rates, there are capable and experienced staff professionals who stay, are satisfied, and do excellent work. The object of this program is to learn how to increase the number of professionals who achieve such stability and longevity in their careers.

The initial project will include an assessment of the descriptions of the functions, knowledge, and skill requirements of these personnel. A study of turnover rates in a representative sample of jurisdictions and agencies will be initiated. The goal of the overall program, which will be completed in a continuation, will be the development of guides for the implementation of personnel programs that will result in the recruitment and retention of competent and satisfied personnel. Applications will be solicited competitively.

Juvenile Court Technical Assistance and Training on Child Abuse and Neglect Cases

$500,000

The purpose of this program is to design and implement model national standards and to develop a national training curriculum to improve the handling of child abuse and neglect cases in juvenile court. Training and Technical Assistance will be the primary method of transferring the model material to local and state court systems. This program is authorized under a specific congressional provision in Section 223 of Public Law 101–647 (104 Stat. 4791). The grantee is the National Council of Juvenile and Family Court Judges. No additional applications will be solicited in Fiscal Year 1992.

Continuations

*Juvenile Court Training**

$1,100,270

The primary purpose of this project is to allow the National Council of Juvenile and Family Court Judges to continue to refine the training presently offered and to provide technical assistance. The training objectives are to supplement law school curricula, provide judges with current information on developments in juvenile and family case law and make available options for sentencing and treatment. Specifically, emphasis will be placed on the areas of drug testing, gangs and violence, intermediate sanctions, as well as responding to the problems of unemployability, illiteracy and family dysfunction. This project will provide foundation training both to newly elected or appointed judges and to experienced judges who have been recently assigned to the juvenile or family court bench. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Court Management Training

$35,000

The purpose of this training is to develop and enhance skills of juvenile court personnel who manage the day-to-day operations of juvenile court intake, detention facilities, juvenile court processing, and juvenile court data systems. The focus will be upon improved development and functioning of these systems within the juvenile court through upgrading skills of management staff. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

*Technical Assistance to the Juvenile Courts**

$392,993

The National Center for Juvenile Justice (NCJJ), the current grantee, is the research division of the National Council of Juvenile and Family Court Judges. The general areas in which assistance will be provided include: Court administration and management, program development, court decision making, legal opinions, due process, and case law. Emphasis will be placed on intermediate sanctions such as boot camps, and on appropriate dispositional alternatives for handling juveniles involved in gang activity. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Improving Literacy Skills of Institutionalized Juvenile Delinquents

$100,000

This is a collaborative interagency program between OJJDP and the Department of Education. Many juvenile delinquents in correctional institutions have a serious need to develop basic reading and writing skills. This program will improve the literacy levels of juvenile residents in these facilities while creating a national network of trained reading teachers and volunteers available to juvenile correctional facilities. The program will include training, technical assistance, and development of curricula for use by staff of detention and corrections facilities. The program should improve correctional education and the delivery of appropriate services to incarcerated juveniles. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Improving Conditions of Confinement: Training for Juvenile Corrections Staff

$600,000

This is a collaborative interagency program between OJJDP and NIC. OJJDP will continue the development of a comprehensive training program for juvenile corrections and detention staff through an interagency agreement (IAA) with the National Institute of Corrections (NIC). The program is being designed to develop a core curriculum to provide training for juvenile corrections and detention administrators and mid-level management personnel in such areas as drug testing and gang activity and overcrowding. It is anticipated that the juvenile corrections core training will be conducted at the NIC Academy and that the more issue-oriented training will be done regionally. This program will be implemented under the existing interagency agreement.

Juvenile Justice Training for Prosecutors

$125,000

This project's activities include designing and implementing policy development workshops for chief prosecutors, and for juvenile unit chiefs in prosecutor's offices, to support their role in the juvenile court processing of delinquents, including offenders. Materials will be collected for the preparation of a training manual on policy issues pertaining to the prosecution of juvenile offenders. The project will also continue to issue a

newsletter. To date, the National District Attorneys Association has presented five highly rated workshops designed to expand prosecutor involvement in juvenile justice. The training provided by the project addresses organizational leadership, management, and change. A major goal of the project is to make juvenile matters a priority concern in prosecutors' offices. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Training and Technical Assistance for Juvenile Detention and Corrections Agencies

$250,000

This project will continue to provide technical assistance and training to juvenile correctional and detention agencies. It will also provide a national forum on juvenile corrections to include representatives from the juvenile court judges and juvenile probation offices; develop a juvenile facility construction handbook; develop a behavior management training package; and complete the development of standards for all juvenile justice facilities. Emphasis will be placed on intermediate sanctions for handling juveniles involved in drug-related offenses and gang activities. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Juvenile Corrections Industries Venture Program

$150,000

The purpose of this program is to assist juvenile corrections agencies in establishing joint ventures with private businesses and industries in order to provide new opportunities for the vocational training of juvenile offenders. The grantee has performed an assessment of corrections industries ventures programs, developed a policies procedures manual, and produced training technical assistance materials. It is now in the process of selecting four to eight juvenile corrections agencies to participate in the training and technical assistance on the corrections venture models. The Fiscal Year 1992 funding will increase the number of sites receiving training and technical assistance. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Information Systems, Support and Statistics

$4,375,299

New Program

Telecommunications Technology for Training and Information Dissemination

$100,000

The purpose of this program is to take advantage of the newly developed technology of satellite communications by examining the feasibility of using this medium for the training and dissemination activities of OJJDP. Funds under this program would support a feasibility study to determine: (1) What programs currently being implemented by OJJDP would best land themselves to satellite technology; (2) what modes of the technology (e.g., teleconferencing, closed circuit satellite television, etc.) would best suit the needs of our target audiences and the government; and (3) what cost benefits could the agency realize through application of satellite communications. Additionally, the program would fund one pilot project as a demonstration effort to gather additional information on implementation issues, reaction of the field, and assessment of the medium for training and dissemination activities of OJJDP. Application will be solicited competitively.

Continuations

National Juvenile Court Data Archive

$611,998

This program collects, processes, analyzes, and disseminates available data concerning the nation's juvenile courts. The Archive collects automated data and published reports from juvenile courts throughout the nation. Using the automated data, the Archive produces comprehensive reports on the activities of the juvenile courts. These reports examine resources expended, referral, offenses, intake, and disposition. These reports also examine specialized topics such as minorities in juvenile courts, gang-related offenses, or specific offense categories. The Archive also provides direct assistance to jurisdictions in analyzing their juvenile court data, yielding better case flow management and more effective allocation of resources. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Juvenile Justice Data Resources

$55,000

This is an interagency agreement between OJJDP and the University of Michigan. This program addresses the need to enhance the availability of juvenile justice data sets and to improve OJJDP's analytic capability. In order to make the data more widely available, this project assures that data are understandable and accurate, or "clean." This project also ensures that the data are fully documented to be of use to researchers and others. OJJDP will conduct cross analyses of data sets to add to the knowledge and understanding necessary for improved policy decisions. Improved computer capabilities will give OJJDP access to past data sets thus permitting the study of trends. This program will be implemented under the current interagency agreement.

Research Program on Juveniles Taken Into Custody

$450,000

This continuing statistical program produces an annual report to OJJDP and the Congress containing a detailed summary and analysis of the most recent data available regarding the numbers and characteristics of juveniles taken into custody. A major objective of this program is to develop individual-based data collection systems which are more responsive to the statutory requirements and the needs of the field. There are two projects under this program: One with the U.S. Census Bureau and the other with the National Council on Crime and Delinquency (NCCD). NCCD's role in this program is to refine the data collection design and procedures; develop, in concert with the Census Bureau, technical assistance and training materials; continue the feasibility testing; and analyze juvenile corrections data and prepare reports. No additional application will be solicited in Fiscal Year 1992.

Juveniles Taken Into Custody

$150,000

This is an interagency agreement with the U.S. Bureau of the Census in which OJJDP is providing all of the funds. The Juveniles Taken into Custody (JTIC) program is conducted in collaboration with the National Council on Crime and Delinquency (NCCD). The Census Bureau contributes to the refinement of the program design, provides training and technical assistance, and is responsible for all aspects of data collection and processing. Automated data tapes containing detailed, case-level data on juveniles admitted to and released from State juvenile correctional custody during a given year are submitted to the Census Bureau for

processing. The data are analyzed by NCCD.

Children in Custody Census

$300,000

This is a collaborative interagency program between the U.S. Bureau of the Census and OJJDP in which OJJDP is providing all or a major portion of the funds. This biennial census of public and private juvenile detention and correctional facilities is conducted by the Census Bureau to describe the subject facilities in terms of their resident populations as well as their programs and physical characteristics. This program will be implemented with the existing interagency agreement. No additional applications will be solicited in Fiscal Year 1992.

Juvenile Justice Statistics and Systems Development

$550,000

The purpose of this program is to improve national and sub-national (State and local) statistics on juvenile justice as well as decision making and management information systems (MIS) within the juvenile justice system. The project is divided into two tracks, the National Statistics Track (NST) and Systems Development Track (SDT). The NST is helping to formulate a comprehensive National Juvenile Justice Statistics program which will include a series of regular reports on the extent and nature of juvenile offending and victimization and the justice system's response. A major product will be a *Report to the Nation on Juvenile Crime and Victimization.* The SDT will assess juvenile justice agencies' decision making, needs, and capabilities to generate and use information; develop models for decision making and related MIS; and develop and provide training and technical assistance to promote the adoption of model systems in test sites. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Study to Evaluate Conditions in Juvenile Detention and Correctional Facilities

$250,000

This national study of conditions of confinement in juvenile facilities will give facility administrators, agency directors, State policymakers and Congress a systematic overview of the field. The study has involved a review and assessment of secure juvenile detention centers, reception and diagnostic centers, training schools, farms, ranches, and camps operated by public and private agencies in all fifty States. State and local officials will be able to use the information from the study to refine their programs, services, facilities and policies and to provide better information on conditions of confinement and quality of life linked to overcrowding. A major product of this study will be a summary of the results and a report to Congress on the conditions existing within juvenile detention and correctional facilities, including recommendations for the improvement of those conditions. This program will be implemented by the current grantee. No additional applications will be solicited in Fiscal Year 1992.

Juvenile Justice Clearinghouse

$780,301

The Clearinghouse provides support services to OJJDP in preparing the Office's publications; collecting, synthesizing, and disseminating information on all aspects of juvenile delinquency; and preparing specialized responses to information requests from the juvenile justice field. A toll-free number is maintained for information requests. This program will be implemented by the current contractor. No additional applications will be solicited in Fiscal Year 1992.

*National Coalition of State Juvenile Justice Advisory Groups**

$500,000

The National Coalition of State Juvenile Justice and Delinquency Prevention Advisory Groups was established in 1983 as an organization that would support and facilitate the purposes and functions of state juvenile justice and delinquency prevention groups. In 1984 Congress also required the National Coalition to prepare and submit an Annual Report to the President, the Congress, and the OJJDP Administrator which reviews Federal policies regarding juvenile justice and delinquency prevention. The Coalition is also authorized to disseminate information, data, standards, and advanced techniques. Applications will not be solicited competitively.

OJJDP Technical Assistance Support Contract

$628,000

The purpose of this project is to provide technical assistance and support to OJJDP, the National Institute for Juvenile Justice and Delinquency Prevention, OJJDP grantees, and the Coordinating Council on Juvenile Justice and Delinquency Prevention on all research, program development, evaluation, training, and research activities. This program will be implemented by the current contractor. No additional applications will be solicited in Fiscal Year 1992.

Discussion of Comments

OJJDP published its proposed Comprehensive Plan for Fiscal Year 1992 in the **Federal Register** on September 26, 1991, for a 45-day period of public comment. The Office received 52 letters commenting on the proposed plan. All comments have been considered in the development of this Final Comprehensive Plan for Fiscal Year 1992.

The majority of the letters OJJDP received provided positive comments about the overall plan or its programs. Among the program areas that received the most interest and support was the juvenile justice system's handling of sex offenses and offenders.

The following is a summary of the substantive comments and the responses by OJJDP. Unless otherwise indicated, each comment was made by a single respondent.

1. *Comment:* While 22 comments were received in support of the Juvenile Sexual Offenders Program, one respondent asserted that the facts concerning the juvenile justice system handling of juvenile sexual offenders are already known and therefore no further research is needed.

Response: Our review of recent literature on the subject indicates that information on the juvenile justice system's response to these offenses is not complete. Funding cannot be allocated to correct weaknesses in the system's response until these weaknesses can be clearly identified. Professionals working in the system often indicate that these offenses are under-reported.

2. *Comment:* OJJDP should examine not only efficiency issues, but should focus on alternatives such as mediation and that too often programs such as the Study to Examine Delays in Juvenile Sanctions merely suggest more funding rather than recommended ways of making the system more efficient.

Response: This program is designed to assess delays from the time the juvenile first enters the system, is arrested or taken into custody, to the adjudication and disposition segments of the process. This program is not intended to make recommendations regarding the types of dispositions that should be used. Moreover, through the Restitution Education, Specialized Training and Technical Assistance Program (RESTTA) OJJDP has supported victim-offender mediation for several years.

3. *Comment:* OJJDP should make use of personality profiling techniques, in several aspects of the Program Plan, maintaining that delinquency prevention must include proactive responses and that personality profiling will get to the root of the problem.

Response: The idea of personality profiling may have some merit. OJJDP may look into this approach in the future. However, limited budget resources for Fiscal Year 1992 prevent OJJDP from including this suggestion in the plan.

4. *Comment:* OJJDP received comments with regard to the proposed program on the Effectiveness of Juvenile Offender Treatment. One respondent suggested that each State should compile information on its treatment programs, as the circumstances will vary, partly due to the area and environment in which the individual offender lives.

Response: This initial program will basically be a feasibility study for conducting a meta-analytical survey on the various treatment programs at a later date.

5. *Comment:* Some noted the study should evaluate the application of programs so that information on costs, efficiency, effectiveness, and other management issues can be distributed to professionals in the field.

Response: We agree with these comments and will make every effort to ensure that these components are included in both stages of this program.

6. *Comment:* While the Office received supportive comments on its planned Juvenile Justice Personnel Improvement initiative, one respondent suggested the study should relate the effectiveness and innovativeness of personnel to their length of service.

Response: OJJDP will take these recommendations under consideration as we develop the Personnel Improvement program.

7. *Comment:* Two comments recommended specific types of treatment responses to juvenile sexual offenses.

Response: The announced program is to assess the juvenile justice system's response to the problem. The development of new treatment responses is beyond its scope.

8. *Comment:* In two cases respondents urged a long-term approach to juvenile sexual offender research.

Response: Longitudinal studies are beyond the scope, both in terms of time and funding, of this project. However, the need for future research, including longitudinal studies, will be explored.

9. *Comment:* Two respondents spoke of the need to assist victims of juvenile sexual offenses.

Response: The purpose of this program is to provide a concentrated focus on juvenile sexual offenders. We feel that it would reduce this concentrated focus to include the additional subject of services to victims of sexual offenses. The Office of Victims of Crime has recently funded a project titled: "Looking Back, Moving Forward: A Multidisciplinary Approach to Law Enforcement and Sexual Assault" which specifically addresses child sexual assault victims.

10. *Comment:* OJJDP funds should be more readily available to Indian Tribes. The respondent suggested that funding should be calculated by a formula similar to that used for calculating assistance for U.S. Territories.

Response: The OJJDP Act requires the Administrator to provide funds for programs of Indian Tribes which perform law enforcement functions according to a mandated formula based upon the proportion of the State youth population under 18 years of age which resides in geographical areas where tribes perform law enforcement functions. This is a statutorily mandated pass-through program and the Office cannot institute an alternative procedure.

Recognizing the need to provide ways to improve the juvenile justice system for Native American youth, the Office is providing technical assistance to the Bureau of Indian Affairs on juvenile justice issues. In addition, OJJDP is undertaking a program to develop community-based alternative programs for Native American youth who have been adjudicated delinquent. The Office is also supporting research on the juvenile justice systems in American Indian and Alaskan native communities. Culturally relevant alternatives to incarceration are under development. The information gained in these efforts will assist the Office in developing and implementing future programs to prevent delinquency and improve the juvenile justice system in Native American communities.

11. *Comment:* A respondent representing State interests commented that OJJDP must, as a first priority, continue to assist States to come into compliance or maintain compliance with the following mandates of the JJDP Act: (1) Deinstitutionalization of status offenders; (2) separation of incarcerated adults and juveniles; (3) removal of juveniles from adult jails and lockups; (4) reduction of minority overrepresentation; and, pass-through of funds of Indian Tribes having law enforcement functions. This respondent further suggested that OJJDP discretionary funds should be redirected to program focused on these mandates.

Response: As a result of the OJJDP Formula Grants Program, there has been a continued reduction in the confinement of juveniles in adult jails and lockups and in the secure detention of status offenders. There now exists a strong consensus that juveniles should not be confined in adult jails and lockups and that status offenders should not be held in secure detention. In most participating States, the jailing of juveniles and secure detention of status offenders are no longer widespread practices with violations having been reduced to specific jurisdictions or geographic areas.

As required by the JJDP Act, each participating State and Territory is developing a plan to reduce the proportion of juveniles detained or confined in secure facilities who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population. The State efforts are being supported by several OJJDP discretionary grants which focus on assisting communities to identify the extent and nature of overrepresentation of minorities and develop guidelines for responding to the problem. In addition, the Office is providing training for law enforcement personnel relative to racial, cultural and ethnic issues. Implementation of the Indian Tribe pass-through requirement is being enhanced by discretionary grant programs such as the proposed Native American Alternative Community-Based Program.

While OJJDP recognizes the importance of providing discretionary funds to enhance achievements made by the States through the Formula Grant Program, the Office is constrained by a limited budget and is required to address all of the specific programmatic requirements of the JJDP Act by funding research, special emphasis, and training and technical assistance grants in a wide variety of mandated areas ranging from prevention to treatment.

12. *Comment:* OJJDP has provided no promise of research on status offenders or the processes and effects of law on the processes of legal socialization and inculcation of democratic ideals. This respondent also commented that OJJDP's proposed priorities offer little or no promise of assistance in development of service models, training or technical assistance in these areas. The respondent also suggested that it would be useful for OJJDP to support the

development of a structure to enhance interjurisdictional studies of law impact, as related to children and families, and to promote related research, training, and public service.

Response: OJJDP appreciates the concern about the needs of status offenders and calls attention to the research project entitled Deinstitutionalization of Status Offenders II, initially funded in 1987, and not yet completed. The University of Southern California at Los Angeles is currently completing the final report of this study, which is expected in March 1992. This study should provide some direction to OJJDP in determining the kind of focus needed in relation to the status offender problem. Similarly, the respondent's comments did not account for OJJDP funding of over 26 million dollars for Law Related Education programs over the past 13 years in response to Congressional earmarks. An additional $3.2 million dollars will be made available to Law Related Education Programs in Fiscal Year 1992. This program, which focuses upon the processes of legal socialization and inculcation of democratic ideals, provides training, education to juveniles, and technical assistance. It also developed a new service model in Fiscal Year 1991, which made law related education programs available to youth in a selected number of correctional institutions. With respect to evaluation, the law Related Education program has had a process evaluation in place for a number of years, and an impact evaluation is projected.

While increased information regarding the impact of laws on children and families from an interjurisdictional perspective would be potentially useful, given a very limited amount of resources for research and discretionary programs, OJJDP has opted to focus these very limited funds upon issues and problems which affect problems related to the juvenile justice system, as they affect care and custody issues and the delivery of services to juveniles and their families.

13. *Comment:* In OJJDP's development of drug related initiatives and satellite technology, the Agency should take care to build upon existing projects funded by the U.S. Department of Education, the Department of Housing and Urban Development, the Office of Substance Abuse Prevention, and other Federal agencies; and use resources available through these agencies and coordinate planning and implementation with them as well.

Response: We agree with the respondent. As a matter of standard practice, OJJDP coordinates its planning with other Federal agencies involved in areas such as drug prevention programs, drug testing, gang intervention and prevention and other similar programs and projects, as a requirement of the Concentration of Federal Effort provisions of the JJDP Act, as well as in the interest of maximizing the use of limited Federal resources.

14. *Comment:* One respondent urged more focus on preventive programs, identified programs which improve academic performance as critical to prevention of school dropouts, and expressed the concern that the proposed discretionary program activities should allow for local discretion for innovation in approaches to reducing and preventing juvenile delinquency.

Response: OJJDP appreciates the respondent's concerns regarding investment in innovative approaches to preventing delinquency, and the need for flexibility and local discretion in identifying these approaches. The Office shares this concern, and the respondent's attention is directed to the second round of Field Initiated Programs in the area of Prevention. The program was developed for the express purpose of stimulating local initiative, and innovation in programming. The program seeks good ideas and innovative concepts.

15. *Comment:* Several respondents emphasized the need for support of substance abuse control, and of drug testing programs for juveniles.

Response: OJJDP agrees that treatment of substance abuse problems is a priority need area for Federal support and that drug testing programs can facilitate treatment. Treatment of substance abusers is funded under a number of OJJDP programs, including support for intensive supervision, innovative treatment approaches of restitution and special training opportunities for youth work professionals. With regard to drug testing, OJJDP's Fiscal Year 1992 plan will provide continuation funding to develop a training curriculum which builds upon previous efforts in testing programs funded in previous years.

16. *Comment:* Several respondents expressed support for continuation funding in the area of juvenile restitution.

Response: OJJDP will fund a juvenile restitution training and technical assistance project, which will incorporate the most advanced approaches in restitution programing, including victim-offender mediation, community service, accountability-based treatment, innovative use of sanctions, offender supervision, and work involvement.

17. *Comment:* Two respondents noted the need for cultural/ethnic differences and sensitivity training.

Response: OJJDP will support a three year training development and implementation project in the area of cultural differences. The training curriculum will be made available to juvenile justice agencies nationwide.

18. *Comment:* One respondent expressed particular interest in OJJDP's program support for youth career development.

Response: The respondent's comments will be forwarded to the Exploring Division of the Boy Scouts of America and to the National Park Service, the two OJJDP supported service providers for career development in law enforcement and conservation, respectively.

19. *Comment:* Training programs should be on-going and done with the development of independent training modules to include court personnel, law enforcement officers, and prosecutors, and should promote system-wide participation.

Response: The OJJDP agrees with this recommendation and it corresponds with the Office's training mission. The OJJDP provides ongoing court personnel training through the National Council of Juvenile and Family Court Judges at the Reno College. In addition the Office provides ongoing training for juvenile corrections and detention through the American Correctional Association. The OJJDP also provides a law enforcement training program which includes courses on Police Operations Leading to Improved Children and Youth Services (POLICY I and POLICY II), Safe Policy, Child Abuse, Gangs and Drugs, and Managing Juvenile Operations. For the past several years, the Office has also supported the training of prosecutors through a grant with the National District Attorney's Association entitled "Juvenile Justice Training for Prosecutors." Each of these efforts has independent training modules and conducts interdisciplinary training sessions.

20. *Comment:* Law Enforcement training and technical assistance should have more money and should be of higher priority; and that a new program area entitled "Community-Based Policing Teams" should be established to work in high risk areas.

Response: The law enforcement training program has been highly successful as well as cost effective. In Fiscal Year 1991, 1,882 law enforcement personnel were involved in training and technical assistance. As the quality of the program largely relies upon the

instructors, all of whom are practicing law enforcement officials, expansion would not be possible without sacrificing quality since they each have only a measured amount of time to devote to instruction in this program. While we appreciate the concern to train increased numbers, we believe that it is important to safeguard the quality of the program by maintaining a group of highly skilled law enforcement officials as the instructors for this program. While OJJDP's law enforcement training program, hopefully, improves the quality of community based policing, the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, provides no statutory authority for the use of funds for tactical law enforcement activities.

21. *Comment:* Two respondents raised the issue of the omission in the plan of any programs that relate specifically to the role of the public defenders or legal advocates for delinquent youth in the juvenile justice system.

Response: Limited resources have not enabled OJJDP to cover all areas of the juvenile justice system. OJJDP will consider including programs related to defense services in future program plans.

22. *Comment:* Some respondents also urged the expansion of programs noted in the plan to include defense services, e.g.: The Field Initiated Program should be expanded to include public defender offices which have innovative programs on sentencing advocacy.

Response: There is nothing in the Field Initiated Program that excludes a public defender service from applying. Such a program would fall under the OJP priority Prosecution and Adjudication.

24. *Comment:* A respondent noted the substantial training and technical assistance resources that are available and funded through various Federal agencies. This respondent pointed out that "more can be done to avail OJJDP professionals of the multitude of national resources for training, technical assistance, research and evaluation on program effectiveness on drug issues by requiring that funded activities demonstrate a capacity to access and collaborate with existing Federally and State funded programs for the prevention and intervention of alcohol and other drug use."

Response: OJJDP supports the idea that there should be greater coordination of the utilization of existing technical assistance and training resources and evaluation results by the recipients of its awards. We also agree with the idea of requiring the recipients to demonstrate a capacity to access these resources from Federal or State programs. However, we do not feel that all of the responsibility should fall only on the recipients of awards. Federal and State agencies need to increase their efforts to disseminate this critical information about resources, evaluation results and training and technical assistance.

24. (a). *Comment:* The Office of Juvenile Justice and Delinquency Prevention should, to the extent possible, utilize the public schools, public school programs and public school personnel to initiate and implement programs designed to further its objectives.

Response: OJJDP recognizes the importance of public schools and their personnel in working with youth who encounter the juvenile justice system. Several past and present OJJDP programs have been implemented through the public schools, e.g.: The Alternative School Program in the early 1980s, the Cities in Schools dropout prevention program and the Cities in Schools/Burger King Academy alternative school program have all been based in public schools.

25. *Comment:* Proposed programs with regard to gangs and drug prevention should use the schools.

Response: The programs that OJJDP has developed in the gang and drug areas call for comprehensive community-wide approaches that include close coordination between the various systems and a key role for the schools in serving the children in these programs.

26. *Comment:* Alternative Education should be a priority for the 1992 fiscal year.

Response: Although OJJDP is not allocating its limited resources to alternative education in Fiscal Year 1992, it has devoted substantial resources to support an expanding alternative education network through the Cities in Schools/Burger King Academy program. Seventeen alternative schools were established under this program with OJJDP funds, and the Burger King Corporation may continue to support this effort.

27. *Comment:* Health education issues are not addressed in the plan.

Response: While health education may not be specifically addressed in the plan, programs such as Cities in Schools are dealing with teen pregnancy, AIDS and drug related problems. OJJDP has also funded the Prevention and Intervention of Illegal Drug Use and AIDS program which is currently completing an assessment report and training materials.

28. *Comment:* The above respondent addressed several important design issues with regard to the Enhancing Enforcement Strategies for Juvenile Impaired Driving Due to Drug and Alcohol Abuse, e.g.: Effectuating close coordination with schools, developing a curriculum that emphasizes volunteers.

Response: The suggestions in this comment were all accepted and will be considered in the design of the Enforcement Strategies program.

29. *Comment:* The above respondent provided several comments on the nature and scope of the proposed gang intervention and suppression program, suggesting such things as: the models should be available to medium-sized and smaller cities and rural areas; comprehensive approaches should be utilized; and the suppression component (law enforcement activities which impact on gangs) ought to be focused on information systems management.

Response: The primary focus of the work that OJJDP has been doing with gangs over the past several years has been on intervention with or suppression of criminal activity by gangs. The multi-component model that has been developed by the University of Chicago under an award from OJJDP is primarily focused on intervention and such suppression. However, the model also addresses community mobilization and community involvement in this process. In addition, the model addresses programs for chronic as well as emerging gang communities. Consequently it can be adapted to smaller cities and rural areas. The suppression approach which OJJDP intends to combine with the above noted model is called Serious Habitual Offender Community Action Program (SHOCAP). It relies heavily on an organizational development approach and information systems management and sharing of information between system organizations.

30. *Comment:* "The group was curious as to why a new program is listed with a grantee already designated."

Response: The Pennsylvania group that is designated to receive this award has developed a very innovative approach to dealing with chronic status offenders. This award will permit the determination as to whether this model is transferable to another jurisdiction; however, the proposal will be required to undergo a peer review and must be found to be of outstanding merit before being funded.

31. *Comment:* The respondent identifies the crucial need for improved correctional education in short term detention facilities and makes several suggestions with regard to curriculum and teaching materials.

Response: OJJDP intends to address both detention and training school educational programs under this effort. The suggestions as to the nature and scope of the program for detention facilities are very helpful and OJJDP will take them under consideration as it develops this program.

32. *Comment:* A respondent notes that someone in his local sheriff's office is seeking local funds to establish a "Children's Safety Village," and comments that "OJJDP's School Safety Program has a clearinghouse of information she would be happy to develop into the curriculum being established at the present time."

Response: OJJDP is pleased that the respondent feels that materials available from the National School Safety Center would be helpful to her in developing a local program. The National School Safety Center's purpose is to aid local officials attempting to improve safety of the schools.

33. *Comment:* The law-related education (LRE) program should provide training and technical assistance to agencies who handle juveniles who are adjudicated delinquent and committed to correctional facilities.

Response: OJJDP has required the LRE grantees to provide training and technical assistance resources to this population for the past two years. In fact, at the present time, 16 pilot sites are using LRE in a variety of juvenile justice settings. From the positive experiences learned from these pilot sites, OJJDP intends to disseminate the results so that State Offices of LRE will expend resources for this population of youth.

34. *Comment:* Another respondent, recently out of high school, indicated that law-related education was the most informative and factual class taken in his schooling and recommended continued funding of the program.

Response: OJJDP will invest a major portion of its Fiscal Year 1992 discretionary budget, $3.2 million, in LRE.

35. *Comment:* Two respondents recommended that OJJDP give added focus in its programs to the role of the family and the community. Specifically, the respondents asked that OJJDP place a stronger emphasis on family and community involvement in our LRE program rather than emphasize the curricula of grades K–12 by considering the funding of the National Student/Parent Mock Election project.

Response: OJJDP will give close and careful consideration to funding the mock election project in this funding cycle.

36. *Comment:* One respondent commented favorably on OJJDP's plans to conduct a feasibility study of telecommunications usage for the Office. The respondent also recommended that a newsletter be developed and associated with a teleconference system once it has been established.

Response: OJJDP will consider the use of a newsletter should the feasibility study indicate that telecommunications technology be employed by the Office.

37. *Comment:* There is no need for a program addressing professional development of youth workers and it appears to be an effort to evaluate youth workers in higher positions.

Response: OJJDP has heard from numerous sources that there is a need for the program. The aim of the effort is not to evaluate youth workers in higher positions but to provide training opportunities for youth workers at all levels.

38. *Comment:* A respondent endorsed OJJDP plans for the program on professional development of youth workers and stressed that the need is serious. Additionally, the respondent enumerated six types of training programs that should be considered by a grantee assessing the field including these examples: Community development strategies, dealing with diversity, and handling aggression.

Response: OJJDP will pass along the recommendation to the grantee selected to conduct an assessment of training needs of youth workers.

39. *Comment:* Concern was expressed that OJJDP had not placed any emphasis on discretionary programs in the area of overrepresentation of minority youth in secure facilities in the 1992 program plan; and that program funding for research, technical assistance, and pilot programs is needed by States, if progress is to be made in this area.

Response: In September 1991, OJJDP funded five pilot sites and a technical assistance provider under the incarceration of Minorities Program to address the overrepresentation of minority youth in secure facilities. This discretionary grant program is a 36-month initiative and was designed to build upon the current work being performed by States participating in the OJJDP Formula Grants Program regarding the overrepresentation of minority youth in secure facilities. In addition, the Special Emphasis Division is currently sponsoring a Native American Alternative Community-Based Program for Fiscal Year 1992.

The OJJDP will continue to provide support, leadership, and technical assistance to assist States in complying with the mandates of the Act, as it has done with deinstitutionalization of status offenders in secure facilities, separation of juveniles from adults in adult serving facilities, and removal of juveniles from adult lockups and adult jails.

40. *Comment:* One respondent expressed concern that OJJDP program priorities appear to be driven by the Office of Justice Program (OJP) priorities rather than the priorities of the JJDP Act. Further, the concern included the almost exclusive attention devoted to gangs and drugs.

Response: The priorities of the JJDP Act were not ignored in the development of the program plan. The planning process is coordinated with the Assistant Attorney General and the Bureau components of the OJP. It is also based on input from juvenile justice practitioners representing all areas of the juvenile justice system. In addition, priorities were established and have traditionally been established by the initiatives proposed by the Attorney General and President. It is the intention of OJJDP to encompass the concerns and priorities of the Juvenile Justice Practitioners and the President of the United States, while maintaining the integrity of the mandates of the JJDP Act.

41. *Comment:* OJJDP should provide financial support to Private Non-Profit Victim Service Agencies to support their efforts to assist victims, families, law enforcement and communities in the prevention and recovery of missing children.

Response: OJJDP's concern for the issues related to missing and exploited children can best be expressed by the fact that prior to the legislative enactment of title IV, The Missing Children's Act, OJJDP had embarked on an ambitious effort to establish a national resource center and clearinghouse on missing and exploited children issues to aid and assist parents and public and private agencies to better understand and address this problem. OJJDP's Missing and Exploited Children Comprehensive Action Program (MCAP), is a program designed to train and prepare non-profit agencies in ways to improve services to jurisdictions that wish to address the issue of missing and exploited children in their community.

42. *Comment:* The OJJDP program proposal for Information System, Support and Statistics does not go far enough. Two of the major initiatives of this category (the Juvenile Court Data Archive and Juvenile Justice Data Resources) are heavily dependent on the States for information. Most States are

not in a position to respond adequately to the national need for data. OJJDP needs to direct funding toward the development of prototypical juvenile information management systems for use by juvenile courts and correctional agencies.

Response: One of our initiatives for this fiscal year, the Juvenile Justice Statistics System Development Programs, is designed to address the concern. The purpose of the program is to improve national, State and local statistics on juvenile justice as well as decision making and management information systems within the juvenile justice system. Several of the approaches will be to assess juvenile justice agencies' decision making, needs and capabilities to generate and use information. Models will be developed for decision making and Management Information Systems (MIS). Training and technical assistance to promote the adoption of the model systems in test sites will be available.

43. *Comment:* The OJJDP activities being addressed under this program plan appear to be mostly restorative as opposed to preventive approaches. If OJJDP intends to improve the system and the tide of delinquency, OJJDP needs to begin by taking new and innovative approaches to *preventing* juvenile delinquency. OJJDP should address issues that *cause* youth to take the wrong path.

Response: OJJDP agrees that more new and innovative approaches to preventing juvenile delinquency need to be initiated to improve the system and reverse the tide of delinquency. To this end, OJJDP has funded the Satellite Prep-School Program to assist children who are raised in public housing development environments and may be in need of preventive intervention. These children face a disproportionate rate of school failure, poverty, gang and other related violence, delinquency, incarceration, and premature death. The Satellite Program seeks to establish an early elementary school program to help prevent and deter children who reside in public housing developments from participation in delinquent acts and to reduce the potential for their involvement in lives of crime, especially drug related crime, gang activities, alcohol and/or drug abuse. The Satellite Prep-School Program will establish an early elementary Pre-School on the premises of housing developments for kindergarten to fourth grade children. The program will improve the education and lives of the children, parents and residents of public housing developments. OJJDP also funds the Cities in Schools dropout prevention program which fosters disadvantaged youths' improved development, thereby tending to prevent delinquency.

44. *Comment:* One respondent observed on page 48995 that among the ten top priority areas listed by the OJP to be funded in Fiscal Year 1992; "Gangs" would launch three new programs, "Evaluation" will have one new program; Drug Prevention will have three new programs and Prosecution and Adjudication will initiate four new programs. The respondent found this approach "inconsistent" citing that no new programs are planned in the other priority areas.

Response: The list does not rank priorities for OJJDP. The list represents priorities for the entire Office of Justice Programs whereas the programs being considered for funding reflect Office of Juvenile Justice and Delinquency Prevention (OJJDP) determinations. These determinations are predicated on OJJDP's assessment of system needs and the limited availability of funds to support new programs. The program selections also take into account programs being supported from other sources and programs to be continued by OJJDP.

45. *Comment:* One commentator suggested a rewording on page 48998 on the "Congress of National Black Churches: National Anti-Drug Abuse Program."

Response: That suggestion has been adopted. The sentence which indicated that the program would "combat the supply problem of drug abuse" has been deleted. The language has been changed to "combat the problems of drug abuse and related criminal and anti-social activities."

46. *Comment:* The view that the number of youth commitments for drug selling and trafficking will continue to rise and that such offenders are a part of America's drug problem. The respondent recommends that the proposed comprehensive plan for Fiscal Year 1992 include plans for the development of treatment models designed to rehabilitate drug sellers and traffickers.

Response: While the Office has several initiatives that address substance abuse and juveniles there is no program that specifically addresses the treatment of sellers and traffickers. Budgetary constraints make it impossible for the Office to focus as sharply as may be desirable on various categories of treatment. However, the Department of Health and Human Services has established an Office of Treatment Improvement with which the OJJDP works closely. The possibility of having that Office consider such a program will be pursued.

47. *Comment:* There are three areas of concern that have had particularly adverse effects in Suffolk County, as well as numerous other jurisdictions, where the respondent would like to see discretionary funding made available in fiscal year 1992 for a multi-disciplinary program. These three areas involve violent adolescent offenders, juvenile substance abusers and juvenile sex abusers.

Response: Two of the three areas of concern, violent adolescent offenders and juvenile substance abusers, are listed as OJP priority areas and are included in the OJJDP program plan for Fiscal Year 1992. These inclusions may be found under Gangs and Violent Offenders, which lists five programs focusing in these areas; Drug Prevention, which includes four programs; and Drug Testing, which includes two programs.

Juvenile sex abusers will be addressed under a new program entitled, Juvenile Justice System Handling of Sex Offenses and Offenders.

48. *Comment:* Community Based Policing and Police Effectiveness and Victims programs should receive higher priority ratings.

Response: The OJP priorities reflect critical issues that this agency has identified to concentrate its resources and coordinate the efforts of the component Bureaus. Being priorities, all are considered for program development within OJP.

49. *Comment:* The program "Teens, Crime and the Community," which hopes to "reduce teen victimization by actively engaging teens in helping improve their school environment" should be combined with the "National School Center," which provides training and technical assistance on school safety to elementary and secondary schools and performs related functions.

Response: While it would seem that there might be some merit to this suggestion, a closer examination of both programs results in OJJDP's conclusion that this would not be feasible. The "Teens, Crime and the Community Program" deals with school children, while the National School Safety Center is very different and provides training and technical assistance to schools, law enforcement personnel, judges, and other professionals. NSSC maintains a clearinghouse of information for its constituency, some of which might be used by the "Teens, Crime and the

Community" program. The focus of these two programs is very different.

Robert W. Sweet, Jr.,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

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Monday
December 23, 1991

Part VII

Department of the Interior

Bureau of Indian Affairs

Notice; Grants and Cooperative Agreements; Availability, etc.: Small Tribes Program

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Small Tribes Grant Program

December 16, 1991.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability of discretionary grant funds for small federally recognized Indian tribes.

SUMMARY: The Bureau of Indian Affairs invites applications from small Indian tribes within the contiguous 48 United States and Alaska, population 1500 or less Indian people residing on or near the applicant tribe's reservation or community, for a grant program. The purpose of this grant program is to permit small tribes to improve their capabilities to manage and administer tribal governmental affairs as well as federal and tribal programs. Grant awards will be made on a competitive basis under criteria, terms, and conditions set forth in this announcement. Grants awarded under this announcement are authorized by section 103 of the Indian Self-Determination and Education Assistance Act of 1975, Public Law 93-638, as amended by Public Law 100-472, Public Law 101-301 and Public Law 101-644. This notice is published in exercise of the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

DATES: The closing date for submission of applications under this announcement is February 21, 1992.

FOR FURTHER INFORMATION CONTACT: George Clark, (202) 208-1708 or Denise Homer, (202) 208-5727, Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, room 4627, 1849 C Street, NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION:

A. Purpose of the Grant Program

The purpose of this grant program is to provide financial support to enable small Indian tribes to meet the administrative needs necessary to develop, improve, and/or maintain tribal government functions as well as tribal service delivery systems. To accomplish this purpose, the Bureau of Indian Affairs announces the availability of a $2.599 Million small tribes grant program which is more responsive to the needs of small Indian tribes. The program is designed to meet the needs of three (3) categories of small tribes, as follows:

(1) Development Component

This program component is for small Indian tribes without basic management systems and without experience operating under such systems; small Indian tribes not heretofore contracting or applying for grants; tribes of villages in consortia which want to contract or receive grants on their own;

(2) Basic Small Tribes Component

This program component is for small Indian tribes experiencing problems operating programs and operating properly under basic management systems (this is the basic Core Management type program component);

(3) Expansion/Enhancement Component

This program component is for small Indian tribes which, for the most part, have eliminated their administrative and management problems and want to plan for the expansion or the enhancement of governmental functions as well as for the expansion or enhancement of service delivery systems but do not have the capability or the resources to do so.

B. Eligibility Criteria

(1) Developmental Component

Small tribes applying for a grant under this component shall meet the following criteria:

(a) Only the governing body of a small Indian tribe may apply for, or authorize a multi-tribal organization to apply for, a grant under this announcement;

(b) Only a Federally recognized Indian tribe with a population of 1500 or less who resides on or near the applicant tribe's reservation or community and has a leadership empowered under the tribe's system of government to act on behalf of the tribe may apply for a grant under this announcement.

(c) In addition to the basic eligibility criteria in (a) and (b), above, to be eligible for a grant under this component a tribe must satisfy at least three (3) of the following:

(i) Have an active tribal government;

(ii) Have a tribal office;

(iii) Lack financial resources to meet its core administrative or management needs;

(iv) Have inadequate or ineffective management systems.

(2) Basic Small Tribes Component

Small tribes applying for a grant under this component shall meet all of the following criteria:

(a) Only the governing body of a small Indian tribe may apply for, or authorize a multi-tribal organization to apply for, a grant under this announcement;

(b) Only a Federally recognized Indian tribe with a population of 1500 or less who resides on or near the applicant tribe's reservation or community and has a leadership empowered under the tribe's system of government to act on behalf of the tribe may apply for a grant under this announcement.

(c) The tribe must lack financial resources to meet its core administrative or management needs.

(d) The tribe must have inadequate management systems, or problems operating thereunder.

(3) Expansion/Enhancement Component

Small tribes applying for a grant under this component shall meet all of the following criteria:

(a) Only the governing body of a small Indian tribe may apply for, or authorize a multi-tribal organization to apply for, a grant under this announcement;

(b) Only a Federally recognized Indian tribe with a population of 1500 or less who resides on or near the applicant tribe's reservation or community and has a leadership empowered under the tribe's system of government to act on behalf of the tribe may apply for a grant under this announcement.

(c) In addition to the basic eligibility criteria in (a) and (b), above, tribes applying for a grant under this component must provide a copy of their current organization-wide Single Audit Report prepared in accordance with the Single Audit Act of 1984 (Pub. L. 98-502), as implemented through OMB Circular A-128. Such audit report must be free of any significant or material weaknesses.

C. Content of Application.

(1) Applications for a grant in response to this announcement shall follow the application requirements set forth in Office of Management and Budget Circular A-102, Uniform Requirements for Assistance to State and Local Governments (The Common Rule), and as implemented within the Department of the Interior in 43 CFR part 12. Under part IV of Standard Form 424, Program Narrative Statement, applicants shall provide the following:

(a) Developmental Component

(i) In addition to the basic eligibility criteria in Section B(1), above, tribal applicants must provide a statement of specific needs or problems to be addressed under the proposed grants which may include, but not be limited to, the following:

(A) Staff

—Tribal Administrator

—Clerical/Bookkeeper
(B) Training of Tribal Officials and Staff
(C) Management Systems/Includes Certification
(D) Funds to cover office costs, such as:
—Supplies
—Equipment/Furniture
—Telephone
—Utilities
—Space
Postage

(ii) A description of how the grant funds will be used to overcome the problems or meet the needs which have been identified.

(iii) A schedule for the start and projected completion dates for actions or efforts to be taken to resolve problems or meet needs identified under the proposed grants.

(iv) A description of the personnel required, if any, to carry out grant activities and/or objectives; also provide position descriptions which include qualifications for education and experience.

(v) A detailed description of how grant funds will be used, if applicable, in coordination with, or to supplement, grants and/or contracts or funds from other agencies.

(vi) A budget justification which indicates how grant funds will be used to carry out the actions or efforts and achieve the goals and objectives of the proposed grant.

(b) Basic Small Tribes Component

(i) In addition to the basic eligibility criteria in section B(2), above, to be eligible to receive a grant under this component tribes must furnish documents such as audits, reports, and correspondence which indicate difficulties in performance of Federal and State grants, programs and contracts, examples include, but are not limited to, the following:

(A) Current audit report indicates serious financial management problems;

(B) Delinquency in making progress or financial status reports;

(C) Failure to close-out program grants or contracts which are no longer in operation;

(D) Problems in achieving current or past grant or contract program goals or objectives.

(ii) Tribal applicants may propose to meet their respective core administrative or management needs in a variety of ways. Tribes must provide a statement of specific needs or problems to be addressed under the proposed grant which may include, but not be limited to, the following:

(A) Employ an administrator and/or necessary support staff;

(B) Employ a bookkeeper;

(C) Hire a "Circuit Rider" accountant, administrator; planner and/or key staff position to meet the needs of a multi-tribal consortium;

(D) Employ staff to address specific managerial problems under a one-time only grant;

(E) Retain an accountant to prepare for the conduct of annual independent audits and/or to correct current or past audit deficiencies.

(iii) A statement of specific needs and/or problems to be addressed under the proposed grants.

(iv) A description of how the grant funds will be used to overcome the problems or meet the needs which have been identified.

(v) A schedule for the start and projected completion dates for actions or efforts to be taken to resolve problems or meet needs identified under the proposed grants.

(vi) A description of the personnel required, if any, to carry out grant activities and/or objectives; also provide position descriptions which include qualifications for education and experience.

(vii) A detailed description of how grant funds will be used, if applicable, in coordination with, or to supplement, grants and/or contracts or funds from other agencies.

(viii) A budget justification which indicates how grant funds will be used to carry out the actions or efforts and achieve the goals and objectives of the proposed grant.

(c) Expansion/Enhancement Component

(i) Tribal applicants may propose to meet their respective expansion or enhancement needs in a variety of ways. Such grants may be used by a tribe to centralize or consolidate all of its administrative functions, to consolidate or integrate Federal programs serving the tribe as well as formulate short and long range plans for tribal governmental development including enhancing a tribes' ability to exercise it's authority.

(ii) Expansion/enhancement grants permit, but are not limited to, the following:

(A) Monitor, evaluate, plan and design or redesign Federal programs serving the tribe;

(B) Assume more control over programs designed to serve tribal populations, diminishing Federal domination over programs serving Indians;

(C) To assist tribes in their efforts to reduce dependence on Federal grants or contracts for services, income, and employment opportunities.

(iii) A work statement of how the applicant will accomplish the goals and objectives under the proposed grant.

(iv) A description of how the grant funds will be used to meet the goals and objectives identified under the proposed grant.

(v) A schedule for the start and projected completion dates for actions or efforts to be taken to meet the goals and objectives identified under the proposed grant.

(vi) A description of the personnel required, if any, to carry out grant activities and/or objectives; also provide position descriptions which include qualifications for education and experience.

(vii) A detailed description of how grant funds will be used, if applicable, in coordination with, or to supplement, grants and/or contracts or funds from other agencies.

(viii) A budget justification which indicates how grant funds will be used to carry out the actions or efforts and achieve the goals and objectives of the proposed grant.

(2) The applicant must indicate how other available resources such as tribal income, other Bureau grants or capacity building grants from other agencies will be committed to complement or support this effort.

(3) The applicant must make a written commitment to incorporate and maintain the positive results expected from the grant and to maintain sound management systems.

(4) The applicant must certify that no elected tribal official will receive a salary or any other form of compensation from a grant under this announcement.

(5) If a tribe's application is prepared by an outside consultant, the application must indicate the role of the grant preparer to the tribe during the grant period; e.g., will the preparer be funded through the proceeds of the grant as a consultant, full time employee, part time employee, etc.

(6) The grantee must agree in its application to submit quarterly financial status and progress reports;

(7) Progress and accomplishment reports for a prior year grant must be submitted with an application for a continuation grant. Reports will be used in the rating of continuation grant applications, appropriations permitting, since subsequent grants will include performance as a criteria for grant renewal.

(8) The applicant must complete a Certificate Regarding Drug-Free Workplace Requirements.

(9) The grant funds awarded under this announcement may be used as matching shares for any other Federal or non-Federal grant programs which contribute to the purposes for which these grants are made.

D. Application Review and Rating

Applications submitted in response to this announcement will be received and rated as follows:

(1) Agency Office Responsibility

Applications shall initially be submitted to the appropriate Agency Superintendent for review and comment, with a recommendation to approve or disapprove the application to insure that the application is consistent with the conditions set forth in sections A, B, and C of this announcement. The Superintendent upon receipt of the application shall:

(a) Acknowledge in writing receipt of the application within five (5) calendar days of its arrival at the Agency office.

(b) Review the application for completeness of information and, within ten (10) calendar days, request any additional information which may be required to conduct a review of the application.

(c) If the application is sufficiently complete, forward it to the Area Director with comments and recommendations to approve or disapprove within fifteen (15) calendar days.

(d) In instances where disapproval of an application is recommended, the Superintendent shall provide detailed reasons for the recommendation.

(2) Area Office Responsibility

Upon receipt of the application the Area Director shall:

(a) Within fifteen (15) calendar days, conduct a review of each application for consistency with sections A, B, and C of this announcement, in this review the Area Director shall utilize the comments and recommendations from the Agency Superintendent.

(b) Upon completion of the application review process the Area Director shall rate each application based on the criteria set forth in sections A, B, and C of this announcement in accordance with the following guidelines:

	Points
(i) *Developmental component.* (A) Criteria—the applicant can document or demonstrate it satisfies 3 or more of the needs contained in Section B(1).	_____ (0–35)
(B) Work statement—the application work plan describes in detail how it will satisfy the goals and objectives of the proposed grant. The work plan contains a schedule of activities, which if executed properly will accomplish the goals and objectives of the proposed grant.	_____ (0–35)
(C) Budget justification—the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable.	_____ (0–10)
(D) Management or Self-Monitoring System—the application indicates how the grantee will monitor progress in achieving grant objectives and how corrective action will be taken, if necessary.	_____ (0–20)
(ii) *Basic small tribes component.* (A) Purpose—applications most consistent with the purpose of this component of the program will receive higher ratings than those which are for the purpose of purchasing professional expertise or equipment. An application for staff with a sound position description would rate higher than one used to hire a consultant since a good staff person will enable the grantee to meet the grant objectives on a more permanent basis.	_____ (0–10)
(B) Need/Problem statement—the applicant can document or demonstrate it satisfies all of the criteria contained in section B(2).	_____ (0–30)
(C) Work statement—the application work plan describes in detail how it will meet the needs or overcome problems cited in (B), above. The work plan contains a schedule of activities, which if executed properly will accomplish the objectives and goals of the proposed grant.	_____ (0–35)
(D) Budget justification—the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable.	_____ (0–10)
(E) Management or Self-Monitoring system—the application indicates how the grantee will monitor progress in achieving grant objectives and how corrective action will be taken, if necessary.	_____ (0–15)
(iii) *Expansion/Enhancement component.* (A) Purpose—applications most consistent with the purpose of this component of the program will receive higher ratings than those which are for the purpose of purchasing professional expertise or equipment.	_____ (0–20)
(B) Rationale or Justification statement—the applicant can document or demonstrate it satisfies all of the criteria contained in section B(3).	_____ (0–25)
(C) Work statement—the application work plan describes in detail how it will meet the needs or overcome problems cited in (B), above. The work plan contains a schedule of activities which if executed properly will accomplish the objectives and goals of the proposed grant.	_____ (0–30)
(D) Budget justification—the application contains a line item budget with a separate narrative explaining each cost item and how such costs are reasonable.	_____ (0–15)
(E) Management or Self-Monitoring system—the application indicates how grantee will monitor progress in achieving grant objectives and how corrective action will be taken, if necessary.	_____ (0–10)

(c) Upon completion of the application review and rating process the Area Director shall, within fifteen (15) calendar days, initiate one of the following actions:

(i) Approve the application for funding based on the Superintendent's recommendation and the Area Office review and rating process.

(ii) Disapprove the application based on the Area Office review and rating process. Notify the applicant by explanatory letter of the decision to disapprove the application, advising the applicant of its appeal rights.

E. Other Conditions

(1) Appeals from administrative decisions made by the Bureau of Indian Affairs shall be made under provisions as set forth in 25 CFR, part 2.

(2) Unresponsive applications will not be reviewed or rated, and there shall be no appeal rights for non-funding of such applications. An unresponsive application is an application without a current tribal council or governing body resolution; an application requesting a grant where the anticipated grant outcomes have no relationship to the purposes of these grants; e.g., to fund and/or augment the funding of a wildlife and parks program grant, etc.

(3) Applicants should submit an original and two copies of their applications.

(4) No indirect cost funds shall be provided for grants under this announcement.

G. *Submission of Applications.* Applications submitted in response to this announcement must be:

(1) Postmarked no later than midnight February 21, 1992, if mailed;

(2) Received in the Agency office no later than the close of business February 21, 1992, if hand delivered.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-013-00001-3)	$12.00	Jan. 1, 1991
3 (1990 Compilation and Parts 100 and 101)	(869-013-00002-1)	14.00	[1] Jan. 1, 1991
4	(869-013-00003-0)	15.00	Jan. 1, 1991
5 Parts:			
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1200-End, 6 (6 Reserved)	(869-013-00006-4)	18.00	Jan. 1, 1991
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8	(869-013-00026-9)	14.00	Jan. 1, 1991
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11	(869-013-00034-0)	12.00	Jan. 1, 1991
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300–399	(869–013–00148–6)	13.00	July 1, 1991
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700–789	(869–013–00151–6)	20.00	July 1, 1991
790–End	(869–013–00152–4)	22.00	July 1, 1991

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7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
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18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
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CFR Index and Findings Aids	(869–013–00053–6)	30.00	Jan. 1, 1991

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1990. The CFR volume issued January 1, 1987, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1991. The CFR volume issued July 1, 1989, should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1990 to June 30, 1991. The CFR volume issued July 1, 1990, should be retained.

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102d Congress, 2nd Session, 1992

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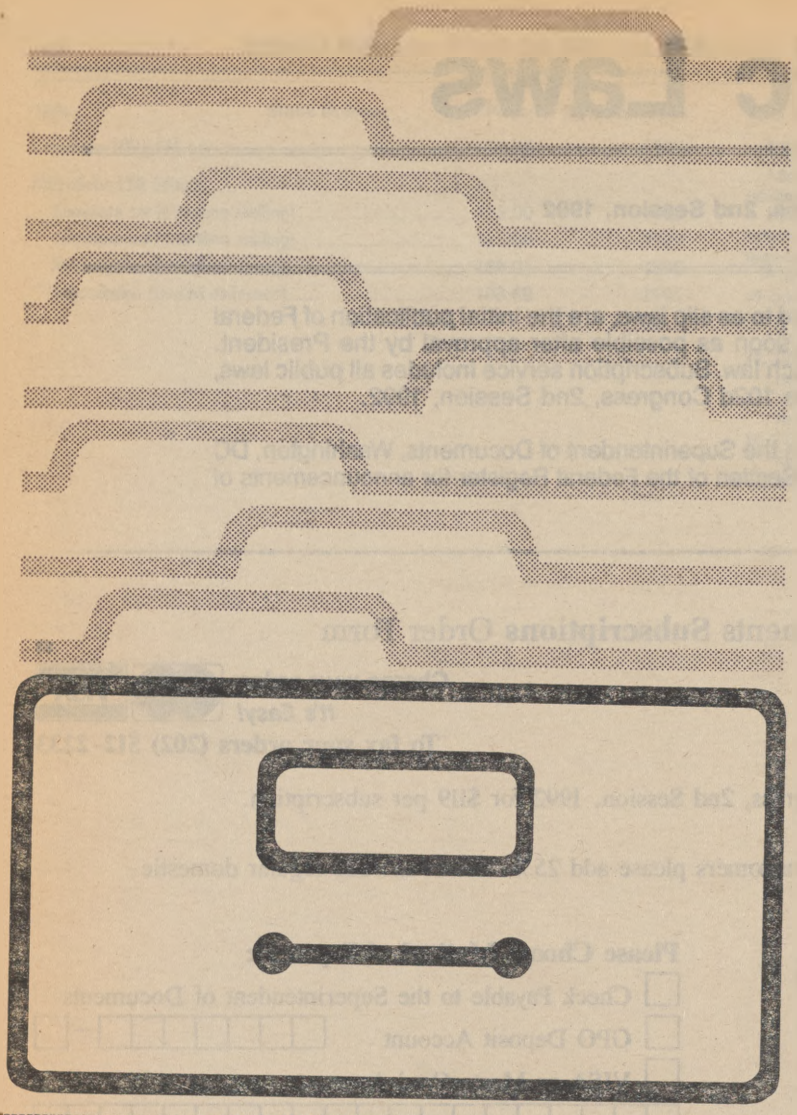

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