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Monday
June 26, 1995

Briefing on How To Use the Federal Register
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WHEN: June 28 at 9:00 am

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

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1405

RIN 0560–AD97

Crop Insurance Requirement

AGENCY: Commodity Credit Corporation (CCC), USDA.

ACTION: Final rule.

SUMMARY: This rule implements the requirement of the Federal Crop Insurance Reform Act of 1994 that producers obtain at least the catastrophic level of crop insurance for each crop of economic significance in order to be eligible for any price support, production adjustment benefit or payment for CRP acreage under contracts entered into after October 12, 1994.

EFFECTIVE DATE: October 13, 1994.

FOR FURTHER INFORMATION CONTACT: David M. Nix, CFSA, USDA, P.O. Box 2415, Washington, DC 20013–2415, (202) 720–9883.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been determined to be a ''significant regulatory action'' and has been reviewed by the Office of Management and Budget.

Federal Assistance Programs

The titles and numbers of the Federal Assistance Programs, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies are: Commodity Loans and Purchases-10.051; Cotton Production Stabilization-10.052; Feed Grain Production Stabilization-10.055; Wheat Production Stabilization-10.058; Rice Production Program-10.065; Grain Reserve Program-10.067; and Conservation Reserve Program-10.069.

Regulatory Flexibility Act

It has been determined that this rule will not have a significant impact on a substantial number of small entities. In any event the rule simply codifies the eligibility requirement of the Federal Crop Insurance Reform Act of 1994. Therefore, the Regulatory Flexibility Act is not applicable to this final rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. To the extent State and local laws are in conflict with this rule, this rule will prevail. The provisions of this rule are retroactive to conform to the Federal Crop Insurance Reform Act of 1994. Before any judicial action may be brought concerning the provisions of this rule, administrative review under 7 CFR Part 780 or regulations of the Department of Agriculture National Appeals Division must be exhausted.

Executive Order 12372

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

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and assigned OMB control numbers 0563–0001, 0563–0003 and 0563–0029.

Discussion

The Federal Crop Insurance Reform Act of 1994 amended the Federal Crop Insurance Act to require that producers obtain at least the catastrophic level of crop insurance in order to be eligible for any price support or production adjustment program or the Conservation Reserve Program.

It has been determined that publication of this rule for notice and comment is impractical, unnecessary and contrary to legislative intent. This rule simply implements the specific mandate of the Federal Crop Insurance Reform Act of 1994 and the agency does not have discretion with respect to its implementation.

List of Subjects in 7 CFR Part 1405

Crop insurance.

Accordingly, 7 CFR Part 1405 is amended as follows:

PART 1405—LOANS, PURCHASES AND OTHER OPERATIONS

1. The authority citation for part 1405 is revised to read as follows:

Authority: 7 U.S.C. 1506(l), 15 U.S.C. 714b and 714c.

2. Section 1405.6 is added to read as follows:

§ 1405.6 Crop insurance requirement.

(a) To be eligible for any benefits or payments under 7 CFR parts 723, 729, 1413, 1421, 1427, 1435, 1443, 1446, 1464 and payments under 7 CFR parts 704 and 1410 for CRP acreage under contracts entered into after October 12, 1994, the producer must obtain at least the catastrophic level of insurance for each crop of economic significance grown on each farm in the county in which the producer has an interest, if insurance is available in the county for the crop.

(b) Crop of economic significance. The term ''crop of economic significance'' means a crop that has contributed in the previous year, or is expected to contribute in the current crop year, 10 percent or more of the total expected value of all crops grown by the producer. However, notwithstanding the preceding sentence, if the total expected liability under the catastrophic risk protection endorsement is equal to or less than the administrative fee required for the crop, such crop will not be considered a crop of economic significance.

(c) In addition to the terms defined in this subsection, terms defined in part 719 of this title shall be applicable to this section.

Signed at Washington, DC, on June 19, 1995.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95–15508 Filed 6–23–95; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–168–AD; Amendment 39–9263; AD 95–12–13]

Airworthiness Directives; Jetstream Model ATP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Jetstream Model ATP airplanes, that requires installation of modified engine de-ice timers, modification of the electrical wiring for the duct heat of the engine air intake, and installation of a time delay for the de-ice system in the air intake duct of the right engine. This amendment also requires associated revisions to the Airplane Flight Manual. This amendment is prompted by reports of ice that accreted in the engine air intake ducts and was ingested into the engine; this resulted in engine power rollback (loss of engine power). The actions specified by this AD are intended to prevent loss of multiple engine power during flight in icing conditions.

DATES: Effective July 26, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 26, 1995.

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

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Jetstream Model ATP airplanes was published in the **Federal Register** on December 20, 1994 (59 FR 65516). That action proposed to require installation of new de-ice timers and an associated revision to the AFM; installation of a system that automates a 20-second delay between turning on the left engine intake de-ice system and turning on the right engine intake de-ice system; and installation of modified electrical wiring for the flexible ducts and lips of the engine air intake.

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

The commenter supports the proposed rule.

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

The FAA estimates that 10 airplanes of U.S. registry will be affected by this AD, that it will take approximately 72 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $43,200, or $4,320 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

95–12–13 Jetstream Aircraft Limited (Formerly British Aerospace Commerical Aircraft, Limited): Amendment 39–9263. Docket 94–NM–168–AD.

Applicability: Model ATP airplanes having constructor numbers 2002 through 2063 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent engine power rollback during flight in icing conditions, due to ingestion of accreted ice, accomplish the following:

(a) For airplanes having constructor numbers 2002 through 2056 inclusive:

Within 90 days after the effective date of this AD, install modified de-ice timers for the left and right engines (Modification 30146A), in accordance with Jetstream Aircraft Limited Service Bulletin ATP–30–39–30146A, dated July 29, 1994; and revise the FAA-approved Airplane Flight Manual (AFM) to include the information specified in Temporary Revision T/41, Issue 1, dated November 15, 1994.

Note 2: The revision of the AFM required by this paragraph may be accomplished by inserting a copy of Temporary Revision T/41 in the AFM. When this temporary revision has been incorporated into general revisions of the AFM, the general revisions may be inserted in the AFM, provided that the information contained in the general revisions is identical to that specified in Temporary Revision T/41.

(b) For airplanes having constructor numbers 2002 through 2063 inclusive: Within 90 days after the effective date of this AD, accomplish paragraphs (b)(1) and (b)(2) of this AD:

(1) Install the modified electrical wiring for the flexible ducts and lips of the engine air intake (Modification 30143A) in accordance with Jetstream Aircraft Limited Service Bulletin ATP–30–37–30143A, dated August 1, 1994, or Revision 1, dated September 5, 1994.

(2) Install the automated 20-second delay system (Modification 35285A) to ensure that the left engine de-ice systems are turned on prior to turning on the right engine de-ice systems, in accordance with Jetstream Aircraft Limited Service Bulletin ATP–30–30–35285A, dated July 15, 1994; and revise the FAA-approved AFM to include the information specified in Temporary Revision T/40, Issue 1, dated August 3, 1994.

Note 3: The revision of the AFM required by this paragraph may be accomplished by inserting a copy of Temporary Revision T/40 in the AFM. When this temporary revision has been incorporated into general revisions of the AFM, the general revisions may be inserted in the AFM, provided that the information contained in the general revisions is identical to that specified in Temporary Revision T/40.

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

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

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

(e) The installation shall be done in accordance with the following Jetstream service bulletins, as applicable, which contain the specified effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
ATP–30–39–30146A, Original Issue, July 29, 1994	1–7	Original	July 29, 1994.
ATP–30–37–30143A, Original Issue August 1, 1994	1–15	Original	August 1, 1994.
ATP–30–37–30143A, Revision 1, September 5, 1994	1–3, 5–10, 14–17	1	September 5, 1994.
	4, 11–13	Original	August 1, 1994.
ATP–30–30–35285A, Original Issue, July 15, 1994	1–19	Original	July 15, 1994.

The amendment of the AFM shall be done in accordance with Temporary Revision T/41, Issue 1, dated November 15, 1994; or Temporary Revision T/40, Issue 1, dated August 3, 1994; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on July 26, 1995.

Issued in Renton, Washington, on June 2, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–14051 Filed 6–23–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 94–NM–218–AD; Amendment 39–9265; AD 94–14–07 R1]

Airworthiness Directives; Jetstream Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to all Jetstream Model 4101 airplanes, that currently requires modification of the mounting structure of the elevator controls on the rear pressure bulkhead. That AD was prompted by results of a structural analysis which indicate that certain structure in the elevator control system may be subject to deformation when maximum load is exerted by the pilot(s) in the event of a jam in the elevator control cables. The actions specified in that AD are intended to prevent reduced controllability of the airplane due to structural deformation in the elevator control system. This amendment limits the applicability of the rule.

DATES: Effective July 26, 1995.

The incorporation by reference of Jetstream Service Bulletin J41–53–012–41262A, Revision 1, dated October 3, 1994, as listed in the regulations, is approved by the Director of the Federal Register as of July 26, 1995.

The incorporation by reference of Jetstream Service Bulletin J41–53–012, dated November 30, 1993, as listed in the regulations, was approved previously by the Director of the Federal Register as of August 10, 1994 (59 FR 35247, July 11, 1994).

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal

Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Jetstream Model 4101 series airplanes was published in the **Federal Register** on February 15, 1995 (60 FR 8593). That action proposed to revise AD 94–14–07, amendment 39–8959 (59 FR 35247, July 11, 1994), to continue to require modification of the mounting structure of the elevator controls on the rear pressure bulkhead. That action proposed to limit the applicability of the AD to include only those airplanes that had not been previously modified in accordance with the requirements of the AD.

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

The commenter supports the proposed rule.

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

Since this amendment only limits (reduces) the applicability of an existing AD, it will not add any new additional economic burden on affected operators, other than the costs that are already associated with the requirements of the existing AD. These current costs are reiterated in their entirety, as follows, for the convenience of affected operators:

The FAA estimates that 8 airplanes of U.S. registry will be affected by this AD, that it will take approximately 17 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $8,160, or $1,020 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8959 (59 FR 35247, July 11, 1994), and by adding a new airworthiness directive (AD), amendment 39–9265, to read as follows:

94–14–07 R1 Jetstream Aircraft Limited: Amendment 39–9265. Docket 94–NM–218–AD. Revises AD 94–14–07, Amendment 39–8959.

Applicability: Model 4101 airplanes; as listed in Jetstream Service Bulletin J41–53–012–41262A, Revision 1, dated October 3, 1994; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced controllability of the airplane due to structural deformation in the elevator control system, accomplish the following:

(a) Within 6 months after August 10, 1994 (the effective date of AD 94–14–07, amendment 39–8959), modify the mounting structure of the elevator controls on the rear pressure bulkhead, in accordance with Jetstream Service Bulletin J41–53–012, dated November 30, 1993, or Jetstream Service Bulletin J41–53–012–41262A, Revision 1, dated October 3, 1994.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

(d) The modification shall be done in accordance with either of the following Jetstream service bulletins, which contain the specified effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
J41–53–012–41262A, Revision 1, October 3, 1994	1–4	1	October 3, 1994.
	5–18	Original	November 30, 1993.
J41–53–012, November 30, 1993	1–18	Original	November 30, 1993.

This incorporation by reference of Jetstream Service Bulletin J41–53–012–41262A, Revision 1, dated October 3, 1994, was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The incorporation by reference of Jetstream Service Bulletin J41–53–012, dated November 30, 1993, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of August 10, 1994 (59 FR 35247, July 11, 1994). Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on July 26, 1995.

Issued in Renton, Washington, on June 2, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–14053 Filed 6–23–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 81F–0105]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Epoxidized Soybean Oil

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of epoxidized soybean oil as a halogen stabilizer in brominated soybean oil. This action is in response to a petition filed by Unitech Chemical, Inc.

DATES: Effective June 26, 1995; written objections and requests for a hearing by July 26, 1995. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications in new § 172.723, effective June 26, 1995.

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

FOR FURTHER INFORMATION CONTACT: Martha D. Peiperl, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3077.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of April 28, 1981 (46 FR 23811), FDA announced that a food additive petition (FAP 7A3329) had been filed by Unitech Chemical, Inc., 115 West Jackson Blvd., Chicago, IL 60604. Subsequently, all rights to this petition were sold to American Chemical Service, Inc., P.O. Box 190, Griffith, IN 46319. The petition proposes that the food additive regulations be amended to provide for the safe use of epoxidized soybean oil as a halogen stabilizer at a level not to exceed 1 percent in brominated soybean oil intended for use in foods for human consumption. Brominated soybean oil is permitted in food on an interim basis under 21 CFR 180.30 (brominated vegetable oil), for use only as a stabilizer for flavoring oils used in fruit-flavored beverages in an amount not to exceed 15 parts per million in the finished beverage.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive is safe, and that the food additive regulations should be amended by adding new § 172.723 as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this action as announced in the notice of filing for FAP 7A3329 (46 FR 23811, April 28, 1981). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required. In addition, based on information in a letter from the petitioner dated February 15, 1990, FDA prepared a new finding of no significant impact. Both the letter of February 15, 1990, and the new finding of no significant impact may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before July 26, 1995, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 172

Food additives, Incorporation by reference, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: Secs. 201, 401, 402, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 348, 371, 379e).

2. New § 172.723 is added to subpart H to read as follows.

§ 172.723 Epoxidized soybean oil.

Epoxidized soybean oil may be safely used in accordance with the following prescribed conditions:

(a) The additive is prepared by reacting soybean oil in toluene with hydrogen peroxide and formic acid.

(b) It meets the following specifications:

(1) Epoxidized soybean oil contains oxirane oxygen, between 7.0 and 8.0 percent, as determined by the American Oil Chemists' Society (A.O.C.S.) method Cd 9–57, ''Oxirane Oxygen,'' reapproved 1989, which is incorporated by reference in accordance with 5 U.S.C 552(a) and 1 CFR part 51. Copies are available from the American Oil Chemists' Society, P. O. Box 3489, Champaign, IL 61826–3489, or may be examined at the Division of Petition Control (HFS–215), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 1110 Vermont Ave. NW., suite 1200, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(2) The maximum iodine value is 3.0, as determined by A.O.C.S. method Cd 1–25, ''Iodine Value of Fats and Oils Wijs Method,'' revised 1993, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The availability of this incorporation by reference is given in paragraph (b)(1) of this section.

(3) The heavy metals (as Pb) content can not be more than 10 parts per million, as determined by the ''Heavy Metals Test,'' Food Chemicals Codex, 3d ed. (1981), p. 512, Method II (with a 2-gram sample and 20 microgram of lead ion in the control), which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Box 285, Washington, DC 20055, or may be examined at the Division of Petition Control (HFS–215), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 1110 Vermont Ave. NW., suite 1200, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(c) The additive is used as a halogen stabilizer in brominated soybean oil at a level not to exceed 1 percent.

Dated: June 14, 1995.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–15349 Filed 6–23–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR PART 184

[Docket No. 84G–0257]

Enzyme Preparations From Animal and Plant Sources; Affirmation of Gras Status as Direct Food Ingredients

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that certain enzyme preparations derived from animal and plant sources are generally recognized as safe (GRAS) for use as direct food ingredients. This action is a partial response to a petition filed by the Ad Hoc Enzyme Technical Committee (now the Enzyme Technical Association). The following enzyme preparations derived from animal sources are affirmed as GRAS in this final rule: Catalase (bovine liver), animal lipase, pepsin, trypsin, and pancreatin (as a source of protease activity). The following enzyme preparations derived from plant sources are affirmed as GRAS in this final rule: Bromelain, ficin, and malt.

DATES: Effective June 26, 1995. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication listed in 21 CFR 184.1024(b), 184.1034(b), 184.1316(b), 184.1415(b), 184.1443a(b), 184.1583(b), 184.1595(b), and 184.1914(b), effective June 26, 1995.

FOR FURTHER INFORMATION CONTACT: Laura M. Tarantino, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3090.

SUPPLEMENTARY INFORMATION:

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I. Introduction

In accordance with the procedures described in § 170.35 (21 CFR 170.35), the Ad Hoc Enzyme Technical Committee (now the Enzyme Technical Association), c/o Miles Laboratories, Inc., 1127 Myrtle St., Elkhart, IN 46514, submitted a petition (GRASP 3G0016) requesting that the following enzyme preparations be affirmed as GRAS for use in food:

(1) Animal-derived enzyme preparations: Catalase (bovine liver); lipase, animal; pepsin; rennet; rennet, bovine; and trypsin.

(2) Plant-derived enzyme preparations: Bromelain; malt; and papain.

(3) Microbially-derived enzyme preparations: *Aspergillus niger*, var. (lipase, catalase, glucose oxidase, and carbohydrase); *Bacillus subtilis*, var. (carbohydrase and protease mixtures); *Rhizopus oryzae* (carbohydrase); and *Saccharomyces* species (carbohydrase).

FDA published a notice of filing of this petition in the **Federal Register** of April 12, 1973 (38 FR 9256), and gave interested persons an opportunity to submit comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. The petition was amended by notices published in the **Federal Register** of June 12, 1973 (38 FR 15471), proposing affirmation that microbially derived enzyme preparations (carbohydrase, lipase, and protease) from *A. oryzae* are GRAS for use in food; in the **Federal Register** of August 29, 1984 (49 FR 34305), proposing affirmation that the enzyme preparations ficin, obtained from species of the genus *Ficus* (fig tree), and pancreatin, obtained from bovine and porcine pancreas, are GRAS for use in food; and in the **Federal Register** of June 23, 1987 (52 FR 23607), proposing affirmation that the enzyme preparation protease from *A. niger* is GRAS for use in food. In the June 23, 1987, notice, FDA also noted the petitioner's assertion that pectinase enzyme preparation from *A. niger* and lactase enzyme preparation from *A. niger* are included under carbohydrase enzyme preparation from *A. niger*, and that invertase enzyme preparation from *Saccharomyces cerevisiae* and lactase enzyme preparation from *Kluyveromyces marxianus* are both included under carbohydrase enzyme preparation from species of the genus *Saccharomyces*. The agency further noted that, therefore, pectinase enzyme preparation from *A. niger*, lactase enzyme preparation from *A. niger*,

invertase enzyme preparation from *S. cerevisiae*, and lactase enzyme preparation from *K. marxianus* were to be considered part of the petition. Interested persons were given an opportunity to submit comments to the Dockets Management Branch (address above) on each amendment.

After the petition was filed, the agency published, as part of its comprehensive safety review of GRAS substances, two GRAS affirmation regulations that covered three of the enzyme preparations from animal and plant sources included in the petition. These two regulations are: (1) § 184.1685 *Rennet (animal derived)* (21 CFR 184.1685), which was published in the **Federal Register** of November 7, 1983 (48 FR 51151) and includes the petitioned enzyme preparations rennet and bovine rennet; and (2) § 184.1585 *Papain* (21 CFR 184.1585), which was published in the **Federal Register** of October 21, 1983 (48 FR 48805). The agency concludes that rennet, bovine rennet, and papain are already affirmed as GRAS and listed in existing regulations and need not be addressed further.

In letters to FDA (Refs. 1 and 2), the petitioner asserted that the enzyme preparation malt (amylase) includes extracts from germinated (malted) barley or ungerminated (unmalted) barley. In addition, certain published references (Refs. 3 and 4) submitted by the petitioner describe the enzyme preparation pancreatin as a substance containing the enzymes amylase, lipase, and protease.

In a notice published in the **Federal Register** of September 20, 1993 (58 FR 48889), the agency announced that the petitioner had requested that the following enzyme preparations be withdrawn from the petition without prejudice to the filing of a future petition: (1) Pancreatin used for its lipase activity, (2) pancreatin used for its amylase activity, and (3) amylase derived from unmalted barley extract. In that notice, the agency stated that, in light of the petitioner's request, any future action by FDA on the petition would not include a determination of the GRAS status of these three enzyme preparations.

This final rule is a partial response to the petition and addresses only enzyme preparations from animal and plant sources. Microbial enzyme preparations will be dealt with separately in a future issue of the **Federal Register**. Furthermore, in accordance with the September 20, 1993, **Federal Register** notice, FDA's determination of the GRAS status of the enzyme preparation malt includes only the enzyme preparation derived from malted barley extracts. Likewise, FDA's determination of the GRAS status of the enzyme preparation pancreatin includes only the use of pancreatin as a protease.

II. Standards for GRAS Affirmation

Pursuant to § 170.30 (21 CFR 170.30) and 21 U.S.C. 321(s), general recognition of safety may be based only on the views of experts qualified by scientific training and experience to evaluate the safety of substances directly or indirectly added to food. The basis of such views may be either scientific procedures or, in the case of a substance used in food prior to January 1, 1958, experience based on common use in food. General recognition of safety based upon scientific procedures requires the same quantity and quality of scientific evidence as is required to obtain approval of a food additive and ordinarily is based upon published studies, which may be corroborated by unpublished studies and other data and information (§ 170.30(b)). General recognition of safety through experience based on common use in food prior to January 1, 1958, may be determined without the quantity or quality of scientific evidence required for approval of a food additive regulation, and ordinarily is based upon generally available data and information.

For the enzyme preparations from animal and plant sources that are the subject of this document, the Enzyme Technical Association based its request for affirmation of GRAS status on a history of safe food use prior to 1958. In the preamble to a proposed rule amending § 170.30, which was published in the **Federal Register** of July 2, 1985 (50 FR 27294) (final rule published in the **Federal Register** of May 10, 1988 (53 FR 16544)), FDA stated that general recognition of safety through experience based on common use in food requires a consensus on the safety of the substance among the community of experts who are qualified to evaluate the safety of food ingredients.

III. Background

A. Enzymes

Enzymes are proteins or conjugated proteins,[1] produced by plants, animals, and microorganisms, that function as biochemical catalysts (Ref. 5). Further, most enzymes are very specific in their ability to catalyze only certain chemical reactions; this high degree of specificity and strong catalytic activity are the most important functional properties of enzymes (Ref. 6). The practical applications of enzymes used in food processing include the conversion of starch to sugars in brewing, the tenderizing of sausage casings and meat, and the partial hydrolysis (breakdown) of proteins that would otherwise form a haze when beer is chilled (Ref. 7).

B. Enzyme Nomenclature

Enzymes were originally known principally by their trivial (common or historical) names. These trivial names typically were based on one of two methods of nomenclature: (1) By the addition of ''-in'' or ''-ain'' as a suffix to a root indicating the source of the enzyme (e.g., papain from papaya or pancreatin from pancreas); or (2) by the addition of the suffix ''-ase'' to a root indicating the substrate (specific reactant) for the enzyme (e.g., lactase, which acts on the substrate lactose) (Ref. 8). Some proteases, however, have trivial names that are not based on either of these two methods (e.g., trypsin).

In 1956, the Third International Congress of the International Union of Biochemistry (IUB) organized a Commission on Enzymes to devise a systematic strategy for naming enzymes. The system developed by the Commission on Enzymes combined a naming system and a numbering system (Ref. 8). With the exception of most proteases, the systematic name is derived from the names of the substrate, product, and type of reaction.[2] The systematic number is based on the class and subclasses to which the enzyme belongs. The two classes of enzymes in the numbering system relevant to this document are class 1, oxidoreductases (e.g., catalase), which are active in biological oxidation and reduction; and class 3, hydrolases (e.g., glycosidases (carbohydrases), lipases, and proteases), which catalyze the splitting of chemical bonds by the addition of water.

The following examples illustrate the trivial name, functions, and Enzyme Commission (EC) name and number of enzymes that are components of some of the enzyme preparations that are the subject of this document (Refs. 9 through 11).

α-amylase. Hydrolysis of α-1,4-glucan bonds in polysaccharides (starch, glycogen, etc.), yielding dextrins and oligo- and monosaccharides (1,4-α-D-glucan glucanohydrolase, EC 3.2.1.1).

Catalase. Decomposition of hydrogen peroxide (H_2O_2), yielding water and

[1] A conjugated protein is a protein that contains a nonamino acid moiety such as a carbohydrate.

[2] In general, proteolytic enzymes are not sufficiently defined to apply short systematic names.

molecular oxygen (H_2O_2:H_2O_2 oxidoreductase, EC 1.11.1.6).

C. Enzyme Preparations That Are the Subject of This Document

1. Introduction

The enzyme preparations that are the subject of this document are derived from animal or plant sources. They contain one or more active enzymes and may also contain diluents, preservatives, antioxidants, and other substances. Table 1 includes characterizing enzyme activities [3] of the animal- and plant-derived enzyme preparations that are the subject of this document, as well as their Chemical Abstracts Service Registry Numbers (CAS Reg. Nos.) and EC numbers as appropriate (Refs. 3, 4, and 9 through 11).

TABLE 1.—ENZYME ACTIVITIES, CAS REG. NOS., AND EC NUMBERS ASSOCIATED WITH SOME ENZYME PREPARATIONS

Enzyme preparation	Enzyme activity	CAS Reg. No.	EC No.
Catalase	Catalase	9001–05–2	1.11.1.6
Animal lipase	Lipase	9001–62–1	3.1.1.3
Pepsin	Protease	9001–75–6	3.4.23.1
Trypsin	Protease	9002–07–7	3.4.21.4
Pancreatin [1]	Protease Amylase Lipase	8049–47–6	N/A
Bromelain	Protease	9001–00–7	3.4.22.32
Ficin	Protease	9001–33–6	3.4.22.3
Malt [2]	α-amylase	N/A	3.2.1.1
	β-amylase	.....	3.2.1.2

[1] Pancreatin is identified by a CAS Reg. No. but does not have an EC number.
[2] The α-amylase and β-amylase enzyme activities in malt are identified by EC number, but malt does not have a CAS Reg. No.

2. Animal-Derived Enzyme Preparations

a. *Sources.* The animal-derived enzyme preparations that are the subject of this document are derived from a variety of animal sources. Catalase is obtained from bovine liver (Ref. 9). Animal lipase is obtained from the edible forestomach tissue of calves, kids, or lambs, or from animal pancreatic tissue (Ref. 9). Pepsin is obtained from the glandular layer of hog stomach (Ref. 9). Trypsin is obtained from porcine or bovine pancreas (Ref. 9). Pancreatin is also obtained from porcine or bovine pancreas (Refs. 3 and 4). These source materials for bovine liver catalase, animal lipase, pepsin, trypsin, and pancreatin were described by Tauber in 1949 (Ref. 12) and by Reed, in Kirk and Othmer in 1957 (Ref. 13).

b. *Methods of manufacture.* The animal-derived enzyme preparations that are the subject of this document are produced either as tissue preparations (powders) or aqueous extracts of tissues from edible animals (Refs. 8, 9, 12, and 13). In the tissue preparation method, the animal tissue is ground with processing aids, such as sodium chloride and skim milk powder. In the aqueous extract method, the enzyme preparation may remain in aqueous solution, or it can be precipitated by adding a solvent such as acetone or methyl alcohol. For example, pepsin can be prepared by the aqueous extraction of animal tissue, while animal lipase can be prepared by the tissue preparation method as well as the aqueous extraction method.

c. *Technical effects.* Pre-1958 uses in food of animal-derived enzyme preparations are listed in Table 2, using terminology from the cited reference(s) published before or during 1958.

TABLE 2.—APPLICATIONS OF ANIMAL-DERIVED ENZYMES IN FOOD PRIOR TO 1958

Enzyme preparation	Enzyme activity	Food categories	Technical effect or industry application	References
Pepsin	Protease	Beer	Chillproofing	7, 13, 14, 15
		Condiments	Not reported	15
		Evaporated milk	Stabilization	15
Pancreatin	Protease	Milk	Prevention of oxidation flavor	13, 15
		Milk	Protein hydrolysis	13, 15
		Evaporated milk	Stabilization	15
Trypsin	Protease	Milk	Antioxidant	16
Lipase	Lipase	Italian type cheeses	Flavor production	13, 17, 18
Catalase	Catalase	Milk	Removal of peroxide after sterilization.	13, 15

3. Plant-Derived Enzyme Preparations

a. *Sources.* Bromelain is obtained from the pineapples *Ananas comosus* and *A. bracteatus* L. (Ref. 9). Ficin is obtained from the latex of species of the genus *Ficus* (fig tree) (Ref. 9). Malt is obtained from barley after controlled germination (Ref. 19). These source materials for bromelain, ficin, and malt were described by Tauber in 1949 (Ref. 12) and by Reed in 1957 (Ref. 13).

[3] The activity of a commercial product is a measurement of the rate of the reaction catalyzed by the enzyme of interest in the enzyme preparation, and is usually expressed in activity units per unit weight of the product (Ref. 8). The enzyme preparation is then diluted or concentrated until the activity is within a certain desired range.

b. *Methods of manufacture.* Bromelain is obtained from pineapple juice (pressed from the stems of pineapples that remain after harvesting the fruit) by precipitation with alcohol or ammonium sulfate (Refs. 8, 12, and 13). Ficin is obtained from the latex of a variety of tropical fig trees by precipitation with acetone or alcohol (Refs. 9, 12, and 14).

Malt is produced from germinated barley. The petition describes the following process for the manufacture of malt (Ref. 19). Barley is softened by a series of steeping operations in water at 10 °C to 30 °C until the moisture content of the kernels reaches 40 to 50 percent. The grain is then germinated under controlled conditions for a period of up to 7 days. Reducing substances are added to activate the enzymes. Solids are removed from the extract, which is concentrated, stabilized, and standardized. The resultant syrup is usually a brown, sweet, and viscous liquid with a specific gravity of approximately 1.1 to 1.3 at 25 °C.

c. *Technical effects.* Pre-1958 uses in food of plant-derived enzyme preparations are listed in Table 3, using terminology from the cited reference(s) published before or during 1958.

TABLE 3.—APPLICATIONS OF PLANT-DERIVED ENZYMES IN FOOD PRIOR TO 1958

Enzyme preparation	Enzyme activity	Food categories	Technical effect or industry application	References
Malt	Amylase	Bread	Baking	7, 14, 15
		Beer	Mashing	14, 15
		Precooked baby cereals	Not reported	15
		Breakfast cereals	Not reported	14, 15
		Distilled beverages	Mashing	15
Bromelain	Protease	Beer	Chillproofing	13, 14, 15
		Condiments	Not reported	15
		Milk	Protein hydrolysis	15
		Evaporated milk	Stabilization	15
		Meat	Tenderizing, softening tissue	13, 14, 15, 20
		Sausage casings	Tenderizing	14, 15
		Fish	Condensing fish solubles	15
Ficin	Protease	Meat	Softening	20

IV. Safety Evaluation

A. Pre-1958 History of Use in Food

Enzymes have been used for many years in the production and processing of food, for example, in the baking, dairy, and brewing industries (e.g., see Refs. 7, 13, and 14). The consumption of food produced using these enzymes has produced no evidence of an associated human health hazard.

The petitioner provided generally available information, including published papers and review articles, showing that the animal- and plant-derived enzyme preparations that are the subject of this document were commonly used in food prior to 1958. For example, the pre-1958 food uses shown in Tables 2 and 3 were documented in articles that were published in or before 1958; the cited references demonstrate that the use of these enzyme preparations in a variety of foods was widely recognized by 1958. Therefore, the agency concludes that the enzyme preparations that are the subject of this document were in common use in food prior to January 1, 1958.

B. Corroborating Evidence of Safety

1. The Enzyme Components

A wide variety of enzymes has always been present in human food. Moreover, many naturally occurring enzymes in the cells of animals and plants used for food remain active after cell death. For example, active enzymes are present in fresh fruits and vegetables and are not inactivated unless the fruits or vegetables are cooked (Refs. 6 and 21).

The enzymes that are the subject of this document are naturally occurring proteins that are ubiquitous in living organisms. They are derived from animals and plants that have been used as sources of food, and are identical or substantially similar[4] to enzymes that have been safely consumed as part of the diet throughout human history.

Issues relevant to a safety evaluation of proteins from food sources are potential toxicity and allergenicity. Pariza and Foster (Ref. 6) note that very few toxic agents have enzymatic properties, and those that do (e.g., diphtheria toxin and certain enzymes in the venom of poisonous snakes) catalyze unusual reactions that are not related to the types of catalysis that are common in food processing and that are the subject of this document. Further, the agency has recently noted, in the context of guidance to industry regarding the safety assessment of new plant varieties, that newly introduced enzymes do not generally raise safety concerns (Ref. 22). Exceptions include enzymes that produce substances that are not ordinarily digested and metabolized, or that produce toxic substances. The functions of the enzymes that are the subject of this document are well known; they split proteins, carbohydrates, lipids, or other substances (e.g., hydrogen peroxide) into smaller subunits that do not have toxic properties and that are readily metabolized by the human body.

The agency is not aware of any reports of allergic reactions associated with the ingestion in food of the enzymes that are the subject of this document. There have been, however, some reports of allergies and primary irritations from skin contact with enzymes or inhalation of dust from concentrated enzymes (for example, proteases used in the manufacture of laundry detergents) (Refs. 23 through 25). These reports relate primarily to workers in production plants (Ref. 24) and are not relevant to an evaluation of the safety of ingestion of such enzymes in food.

[4] Enzymes that have the same function and that are identified by the same name and EC number often differ slightly in structure and properties when they are obtained from different sources. For example, the structure of an enzyme isolated from one tissue (such as the liver) of one animal species, may differ slightly from that of the same enzyme isolated from a different tissue from the same species, or from the liver of another animal species. In part because of this variability, the diet routinely contains many thousands of different enzyme protein molecules. The concept of substantial similarity relative to food safety assessment has recently been discussed by several expert groups. For example, a report prepared by an expert group of the Organization for Economic Co-operation and Development (OECD) concluded, in part, ''[I]f a new food or food component is found to be substantially equivalent to an existing food or food component, it can be treated in the same manner with respect to safety. No additional safety concerns would be expected.'' (''Safety Evaluation of Foods Derived by Modern Biotechnology: Concepts and Principles,'' OECD, 1993, Paris).

Moreover, Pariza and Foster (Ref. 6) note that there are no confirmed reports of primary irritations in consumers caused by enzymes used in food processing.

The 1977 report of the Select Committee on GRAS substances concerning the plant enzyme papain (Ref. 23) supports the view that the ingestion of an active protease at levels found in food products is not likely to affect the human gastrointestinal tract, where many proteases already exist at levels adequate to digest food:

> In common with other proteolytic enzymes, papain digests the mucosa and musculature of tissues in contact with the active enzyme for an appreciable period. Because there is no food use of papain that could result in the enzyme preparation occurring in sufficient amount in foods to produce these effects, this property does not pose a dietary hazard.

In summary, the enzyme components of the preparations that are the subject of this document are identical or substantially similar to enzymes that are known to have been safely consumed in the diet; they do not result in the production of toxic substances; and their use in food for many years has not been associated with reports of allergenicity or primary irritation. Therefore, the agency finds that the presence of the enzyme components does not create a basis for concern about the safety of the enzyme preparations.

2. Enzyme Sources and Processing Aids

The agency has concluded that the enzyme components of enzyme preparations do not raise safety concerns; therefore, the relevant safety issue becomes whether the enzyme preparations contain toxic contaminants. Enzyme preparations used in food processing are usually not chemically pure but contain, in addition to the enzyme component, materials that derive from the enzyme source, as well as from the manufacturing methods used to generate the finished enzyme preparation.

In accordance with § 170.30(h)(1), the enzyme preparations affirmed as GRAS in this document must comply with the general requirements and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d ed. (Ref. 9). When the animal-derived enzyme preparations that are the subject of this document are produced in accordance with current good manufacturing practice (CGMP), they are obtained from animal tissues that comply with applicable Federal meat inspection requirements and that are handled in accordance with good hygienic practices (Ref. 9). Similarly, when produced in accordance with CGMP, the plant material used in the production of enzymes consists of components that leave no residues harmful to health in the finished food under normal conditions of use (Ref. 9).

The enzyme preparations may contain substances, such as salts, preservatives, or stabilizers, that are used in their preparation and purification. When used in accordance with CGMP, these processing aids are substances that are acceptable for general use in foods (Ref. 9). As always, any of these substances that are intended to become or become functional components of the enzyme preparation must be GRAS substances or food additives approved for use in the manufacture of enzyme preparations. Therefore, the agency concludes that the presence of added substances and impurities derived from the enzyme source or introduced by manufacturing does not present a basis for concern about the safety of the enzyme preparations.

3. Dietary Exposure

Because enzymes are highly efficient catalysts, they are needed in only minute quantities to perform their function. When used in accordance with CGMP, the amounts added to food represent only a minute fraction of the total food mass. The history of common use in food for many years of the enzyme preparations that are the subject of this document has produced no evidence of an associated hazard; further, there is no reason to believe that use of these enzyme preparations at levels needed to perform their functions would raise a safety concern. Therefore, the agency concludes that no limits other than CGMP are needed to ensure safe use.

V. Comments

FDA received seven letters in response to the filing notice and none in response to the amendment notices. Three comments concerned microbially derived enzyme preparations, which will be addressed in a separate document. Of the remaining four comments, one came from a food manufacturer, two from trade associations, and one from a consumer group. Three comments supported the petition for GRAS affirmation of the enzyme preparations included in the petition, stating that these enzyme preparations have a long history of use in foods such as cheese, bread, and corn syrup.

One comment asserted that enzyme preparations should not be considered GRAS, and their use should be declared on the label of foods to warn consumers about hazards inherent in their use. The comment stated that enzyme preparations are rarely purified to any significant degree and contain a variety of cellular constituents and metabolic debris. The comment further argued that, although enzyme preparations are used at low levels and are inactivated after the treatment of food, they may elicit allergic reactions and other biological activities which could be detrimental to human health. In support of this statement, the comment cited a published scientific article (Ref. 26) which reported that enzyme preparations from *B. subtilis* caused temporary weight loss and aggravated infection in mice when injected into the abdominal cavity and caused hemolysis and hemagglutination of sheep erythrocytes in in vitro studies. Because this article concerns microbially derived enzyme preparations injected directly into the abdominal cavity, it is not relevant to this rulemaking, which concerns animal- and plant-derived enzyme preparations consumed by mouth.

The agency also notes that under certain circumstances, applicable regulations already require use of an enzyme preparation in a food to be declared on the label, depending upon the nature of the enzyme preparation's use and technical effect in the food. These regulatory requirements are discussed below.

The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(i)(2)) requires that all ingredients of multi-ingredient foods be listed on the label of the food. By regulation, FDA has exempted certain ingredients that are used only as processing aids from this requirement. Sections 101.100(a)(3)(ii)(a) and (a)(3)(ii)(c) (21 CFR 101.100(a)(3)(ii)(a) and (a)(3)(ii)(c)) provide an exemption from the ingredient listing requirement for processing aids that are added to a food for their technical or functional effect during processing, but are either removed from the food before packaging or are present in the finished food at insignificant levels and do not have any technical or functional effect in the finished food. Although many enzyme preparations are used as processing aids in food (e.g., the use of amylase preparations in the manufacture of glucose syrup and the use of protease preparations in the manufacture of protein hydrolyzates), other enzyme preparations are not used solely as processing aids in the manufacture of foods (e.g., the use of lipase preparations for flavor production in cheeses and the use of protease preparations in tenderizing meat). In these cases, the enzymes remain active

in the finished food product, functioning as an integral part of the food by enhancing body, flavor, and aroma (49 FR 29242, July 19, 1984). Because such effects in the finished food remove the enzymes from the ingredient listing exemption in § 101.100(a)(3)(ii)(c), the use of such enzymes must be declared on the label. Therefore, whether a label declaration is needed for the use of an enzyme preparation in a food will depend upon its function and effect in the food.

VI. Conclusions

The petitioner has provided generally available evidence demonstrating that the enzyme preparations under consideration were in common use in food prior to 1958. As provided for under § 170.30(a) and (c)(1), FDA has determined that this information provides an adequate basis upon which to conclude that the use of these enzyme preparations in food is generally recognized as safe among the community of experts qualified by scientific training and experience to evaluate the safety of food ingredients.

This evidence of common use in food prior to 1958 without any reported adverse effects from consumption is corroborated by the absence of any reports of toxicity resulting from use of the enzyme preparations in food since 1958, by information that the enzymes themselves and the sources from which they are derived are nontoxic, and by evidence that manufacturing will not introduce impurities that will adversely affect the safety of the finished enzyme preparations. Moreover, the enzyme preparations that are the subject of this document are substantially similar to enzymes naturally present in foods that have been safely consumed in the human diet for centuries.

Having evaluated the information in the petition, along with other available information that related to the use of these enzyme preparations, the agency concludes that the following enzyme preparations derived from animal or plant sources are GRAS under conditions of use consistent with CGMP: Bromelain, catalase (bovine liver), ficin, animal lipase, malt, pancreatin (as a source of protease activity), pepsin, and trypsin. The agency is basing its conclusion on evidence of a substantial history of safe consumption of the enzyme preparations in food by a significant number of consumers prior to 1958, corroborated by the other evidence summarized above.

FDA is therefore affirming that the use of the enzyme preparations that are the subject of this document is GRAS with no limits other than CGMP (21 CFR 184.1(b)(1)). The agency further concludes that the general and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d ed. (1981), pp. 107–110, are adequate as minimum criteria for food-grade preparations of these enzymes.

To clarify the identity of each enzyme preparation, the agency is including in §§ 184.1024(a), 184.1034(a), 184.1316(a), 184.1415(a), 184.1443a(a), 184.1583(a), 184.1595(a), and 184.1914(a), the EC number(s) of the enzyme preparation or of the characterizing enzyme activity(ies) for food use of the preparation [5]. In order to make clear that the affirmation of the GRAS status of these enzyme preparations is based on the evaluation of specific uses, the agency is including in §§ 184.1024(c), 184.1034(c), 184.1316(c), 184.1415(c), 184.1443a(c), 184.1583(c), 184.1595(c), and 184.1914(c) the technical effect and the specific substances on which each enzyme preparation acts, although the data show no basis for a potential risk from any foreseeable use of these enzyme preparations.

VII. Environmental Impact

The agency has determined under 21 CFR 25.24(b)(7) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Economic Impact

FDA has examined the impact of this final rule affirming the GRAS status of enzyme preparations from animal and plant sources under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs Federal agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The Regulatory Flexibility Act requires Federal agencies to minimize the economic impact of their regulations on small businesses.

The agency finds that this final rule is not a significant regulatory action as defined by Executive Order 12866. The rule requires no change in current industry practice concerning the manufacture and use of these substances. Compliance costs to firms are therefore estimated to be zero. The substances that are the subject of this document pose no health risks to consumers when used as intended. Costs to consumers are therefore also estimated to be zero.

In accordance with the Regulatory Flexibility Act, FDA also has determined that this final rule will not have a significant adverse impact on a substantial number of small businesses.

[5] The EC number is sufficient to define the characterizing activity in the enzyme preparation. Therefore, FDA is not including the EC systematic name in the regulation.

IX. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Comments of Ad Hoc Enzyme Technical Committee regarding FDA's draft final regulations, entitled ''Enzymes Proposed for Affirmation as GRAS,'' with a letter dated December 21, 1984, from Roger D. Middlekauff, Ad Hoc Enzyme Technical Committee, to Kenneth A. Falci, FDA.
2. Letter dated September 20, 1985, from Roger D. Middlekauff, Enzyme Technical Association, to Lawrence J. Lin, FDA.
3. Monograph on ''Pancreatin,'' U.S. Pharmacopeia, 21st revision, the United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 777–778, 1985.
4. Monograph on ''Pancreatin,'' U.S. Pharmacopeia, 6th supp., the United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 2595–2597, 1987.
5. Morris, W., editor, The American Heritage Dictionary of the English Language, Houghton Mifflin Co., Boston, MA, p. 438, 1976.
6. Pariza, M. W., and E. M. Foster, ''Determining the Safety of Enzymes Used in Food Processing,'' *Journal of Food Protection*, 46:453–468, 1983.
7. Reed, G., ''Industrial Enzymes—Now Speed Natural Processes,'' *Food Engineering*, 24:105–109, 1952.
8. Scott, D., ''Enzymes, Industrial,'' Encyclopedia of Chemical Technology, Mark, H. F. et al., editors, John Wiley and Sons, New York, 3d ed., 9:173–224, 1978.
9. Monograph on ''Enzyme Preparations,'' Food Chemicals Codex, National Academy Press, Washington, DC, 3d ed., pp. 107–110, and 480–481, 1981.
10. IUB, ''Enzyme Nomenclature 1992,'' Academic Press, New York, pp. 116, 307, 346, 388, 399, 402–403, 1992.
11. IUB, ''Enzyme Nomenclature 1964,'' Academic Press, New York, pp. 66–67, 86–87, 126–131, 136–149, and 170–171, 1965.
12. Tauber, H., ''The Chemistry and Technology of Enzymes,'' John Wiley and Sons, New York, pp. 25–26, 130–131, 140, 145–151, 163–167, 192–193, and 327–335, 1949.

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14. Underkofler, L. A., and W. J. Ferracone, ''Commercial Enzymes—Potent Catalyzers that Promote Quality,'' *Food Engineering,* 29:123, 125–126, 130, and 133, 1957.
15. Underkofler, L. A., R. R. Barton, and S. S. Rennet, ''Microbiological Process Report—Production of Microbial Enzymes and Their Applications,'' *Applied Microbiology,* 6:212–221, 1958.
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17. Harper, W. J. and J. E. Long, ''Italian Cheese Ripening. IV. Various Free Amino and Fatty Acids in Commercial Provolone Cheese,'' *Journal of Dairy Science,* 39:129–137, 1956.
18. Long, J. E., and W. J. Harper, ''Italian Cheese Ripening. VI. Effects of Different Types of Lipolytic Enzyme Preparations on the Accumulation of Various Free Fatty and Free Amino Acids and the Development of Flavor in Provolone and Romano Cheese,'' *Journal of Dairy Science,* 39:245–252, 1956.
19. Response of the Enzyme Technical Association to the letter dated June 26, 1986, of Lawrence J. Lin regarding GRASP 3G0016, received with a letter dated October 3, 1986, from Roger D. Middlekauff of the Enzyme Technical Association, to Lawrence J. Lin, FDA.
20. ''List of Chemicals Approved Under Meat Inspection Act Before September 6, 1958, Which are Exempted from the 1958 Food Additives Amendment of the Federal Food, Drug, and Cosmetic Act,'' *Food Drug Cosmetic Law Journal,* 13:834–840, 1958.
21. De Becze, G. I., ''Food Enzymes,'' *Critical Reviews in Food Technology,*'' 1:479–518, 1970.
22. FDA, ''Statement of Policy: Foods Derived from New Plant Varieties,'' 57 FR 22984 at 23005; May 29, 1992.
23. ''Evaluation of the Health Aspects of Papain as a Food Ingredient,'' Select Committee on GRAS Substances, Washington, DC, available through U.S. Department of Commerce, National Technical Information Service, Order No. PB–274–174, 1977.
24. Fulwiler, R. D., ''Detergent Enzymes—An Industrial Hygiene Challenge,'' *American Industrial Hygiene Association Journal,* 32:73–81, 1971.
25. ''Enzyme-containing Laundering Compounds and Consumer Health,'' National Research Council/National Academy of Sciences, National Technical Information Service, Washington, DC, Order No. PB–204–118, 1971.
26. Dubos, R., ''Toxic Factors in Enzymes Used in Laundry Products,'' *Science,* 173:259–260, 1971.

List of Subjects in 21 CFR Part 184

Food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 184 is amended as follows:

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

1. The authority citation for 21 CFR part 184 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

2. Section 184.1024 is added to subpart B to read as follows:

§ 184.1024 Bromelain.

(a) Bromelain (CAS Reg. No. 9001–00–7) is an enzyme preparation derived from the pineapples *Ananas comosus* and *A. bracteatus* L. It is a white to light tan amorphous powder. Its characterizing enzyme activity is that of a peptide hydrolase (EC 3.4.22.32).

(b) The ingredient meets the general requirements and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d ed. (1981), p. 110, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC, or may be examined at the Office of Premarket Approval (HFS–200), Food and Drug Administration, 200 C St. SW., Washington, DC, and the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as GRAS as a direct food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter to hydrolyze proteins or polypeptides.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

3. Section 184.1034 is added to subpart B to read as follows:

§ 184.1034 Catalase (bovine liver).

(a) Catalase (bovine liver) (CAS Reg. No. 9001–05–2) is an enzyme preparation obtained from extracts of bovine liver. It is a partially purified liquid or powder. Its characterizing enzyme activity is catalase (EC 1.11.1.6).

(b) The ingredient meets the general requirements and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d ed. (1981), p. 110, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave., NW., Washington, DC 20418, or may be examined at the Office of Premarket Approval (HFS–200), Food and Drug Administration, 200 C St., SW., Washington, DC, and the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as GRAS as a direct food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter to decompose hydrogen peroxide.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

4. Section 184.1316 is added to subpart B to read as follows:

§ 184.1316 Ficin.

(a) Ficin (CAS Reg. No. 9001–33–6) is an enzyme preparation obtained from the latex of species of the genus *Ficus,* which include a variety of tropical fig trees. It is a white to off-white powder. Its characterizing enzyme activity is that of a peptide hydrolase (EC 3.4.22.3).

(b) The ingredient meets the general requirements and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d ed. (1981), p. 110, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave., NW., Washington, DC 20418, or may be examined at the Office of Premarket Approval (HFS–200), Food and Drug Administration, 200 C St., SW., Washington, DC, and the Office of the Federal Register, 800 North Capitol St., NW., suite 700, Washington, DC.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as GRAS as a direct food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter to hydrolyze proteins or polypeptides.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

5. Section 184.1415 is added to subpart B to read as follows:

§ 184.1415 Animal lipase.

(a) Animal lipase (CAS Reg. No. 9001–62–1) is an enzyme preparation obtained from edible forestomach tissue of calves, kids, or lambs, or from animal pancreatic tissue. The enzyme preparation may be produced as a tissue preparation or as an aqueous extract. Its characterizing enzyme activity is that of a triacylglycerol hydrolase (EC 3.1.1.3).

(b) The ingredient meets the general requirements and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d ed. (1981), p. 110, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave., NW., Washington, DC 20418, or may be examined at the Office of Premarket Approval (HFS–200), Food and Drug Administration, 200 C St., SW., Washington, DC, and the Office of the Federal Register, 800 North Capitol St., NW., suite 700, Washington, DC.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as GRAS as a direct food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter to hydrolyze fatty acid glycerides.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

6. Section 184.1443a is added to subpart B to read as follows:

§ 184.1443a Malt.

(a) Malt is an enzyme preparation obtained from barley which has been softened by a series of steeping operations and germinated under controlled conditions. It is a brown, sweet, and viscous liquid or a white to tan powder. Its characterizing enzyme activities are α-amylase (EC 3.2.1.1.) and β-amylase (EC 3.2.1.2).

(b) The ingredient meets the general requirements and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d ed. (1981), p. 110, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave., NW., Washington, DC 20418, or may be examined at the Office of Premarket Approval (HFS–200), Food and Drug Administration, 200 C St., SW., Washington, DC, and the Office of the Federal Register, 800 North Capitol St., NW., suite 700, Washington, DC.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as GRAS as a direct food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter to hydrolyze starch or starch-derived polysaccharides.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

7. Section 184.1583 is added to subpart B to read as follows:

§ 184.1583 Pancreatin.

(a) Pancreatin (CAS Reg. No. 8049–47–6) is an enzyme preparation obtained from porcine or bovine pancreatic tissue. It is a white to tan powder. Its characterizing enzyme activity that of a peptide hydrolase (EC 3.4.21.36).

(b) The ingredient meets the general requirements and additional requirements in the Food Chemicals Codex, 3d ed. (1981), p. 110, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of Premarket Approval (HFS–200), Food and Drug Administration, 200 C St. SW., Washington, DC, and the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as GRAS as a direct food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter to hydrolyze proteins or polypeptides.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

8. Section 184.1595 is added to subpart B to read as follows:

§ 184.1595 Pepsin.

(a) Pepsin (CAS Reg. No. 9001–75–6) is an enzyme preparation obtained from the glandular layer of hog stomach. It is a white to light tan powder, amber paste, or clear amber to brown liquid. Its characterizing enzyme activity is that of a peptide hydrolase (EC 3.4.23.1).

(b) The ingredient meets the general requirements and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d ed. (1981), p. 110, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of Premarket Approval (HFS–200), Food and Drug Administration, 200 C St. SW., Washington, DC, and the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as GRAS as a direct food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter to hydrolyze proteins or polypeptides.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

9. Section 184.1914 is added to subpart B to read as follows:

§ 184.1914 Trypsin.

(a) Trypsin (CAS Reg. No. 9002–07–7) is an enzyme preparation obtained from purified extracts of porcine or bovine pancreas. It is a white to tan amorphous powder. Its characterizing enzyme activity is that of a peptide hydrolase (EC 3.4.21.4).

(b) The ingredient meets the general requirements and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d ed. (1981), p. 110, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Office of Premarket Approval (HFS–200), Food and Drug Administration, 200 C St. SW., Washington, DC, and the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good

manufacturing practice. The affirmation of this ingredient as GRAS as a direct food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter to hydrolyze proteins or polypeptides.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

Dated: June 14, 1995.

Fred. R, Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–15239 Filed 6–23–95; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF EDUCATION

34 CFR Parts 75, 200, 201, 364, 365, 366, 367, 386, 388, 396, 403, 405, 406, 607, 641, 647, and 682

Announcement of Effective Dates

AGENCY: Department of Education.

ACTION: Notice of effective dates.

SUMMARY: Prior to its amendment by the Improving America's Schools Act of 1994 (IASA), section 431(d) of the General Education Provisions Act (GEPA) required that most Department of Education regulatory documents be published in the **Federal Register** for forty-five (45) calendar days, or longer if Congress took certain adjournments, before they became effective. Since future congressional adjournments could not be predicted with certainty when a document was published, the Department could not announce a specific effective date at the time of publication. This notice announces the effective dates for certain regulatory documents subject to the delayed effective date requirement of section 431(d) prior to its amendment.

DATES: For effective dates, see **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Kenneth C. Depew, Division of Regulations Management, Office of the General Counsel, U.S. Department of Education, Room 5112, FB–10, 600 Independence Avenue SW., Washington, DC 20202–2241; telephone: (202) 401–8300.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: GEPA section 431(d) was amended by the IASA, Pub. L. 103–382, enacted October 20, 1994. Section 431 was also redesignated as section 437. As a consequence of the new legislation, regulations of the Department are no longer subject to a 45-day delayed effective date. This notice announces the effective dates for those regulations subject to the previous statutory requirement for the delayed effective date. In the future, as a result of the new legislation, it will not be necessary for the Department to publish a special announcement of effective dates.

The effective date provision for each of the regulatory documents included in the notice stated that the effective date would be announced in a notice published in the **Federal Register**. Accordingly, this notice announces the following effective dates:

1. 34 CFR Part 682, final regulations for the Federal Family Education Loan Program, published May 17, 1994 (59 FR 25744).
   DATES: *Effective date:* July 1, 1994.
2. 34 CFR Part 75, final regulations for Direct Grant Programs, published June 10, 1994 (59 FR 30258).
   DATES: *Effective date:* July 25, 1994.
3. 34 CFR Part 386, final regulations for Rehabilitation Training: Rehabilitation Long-Term Training, published June 16, 1994 (59 FR 31060).
   DATES: *Effective date:* July 31, 1994.
4. 34 CFR Part 641, final regulations for the Faculty Development Fellowship Program, published July 1, 1994 (59 FR 34198).
   DATES: *Effective date:* August 15, 1994.
5. 34 CFR Parts 403, 405, and 406, final regulations for the State Vocational and Applied Technology Education Program, National Tech-Prep Education Program, and State-Administer Tech-Prep Education Program, published July 28, 1994 (59 FR 38512).
   DATES: *Effective date:* September 21, 1994.
6. 34 CFR Part 388, final regulations for State Vocational Rehabilitation Unit In-Service Training, published August 5, 1994 (59 FR 40176).
   DATES: *Effective date:* September 21, 1994.
7. 34 CFR Parts 200 and 201, final regulations for the Chapter 1 Program in Local Educational Agencies and Chapter 1—Migrant Education Program, published August 10, 1994 (59 FR 41168).
   DATES: *Effective date:* September 24, 1994.
8. 34 CFR Parts 364, 365, 366, and 367, final regulations for State Independent Living Services Program and Centers for Independent Living Program: General Provisions, State Independent Living Services, Centers for Independent Living, and Independent Living Services for Older Individuals Who Are Blind, published August 15, 1994 (59 FR 41908).
   DATES: *Effective date:* September 29, 1994.
9. 34 CFR Part 607, final regulations for the Strengthening Institutions Program, published August 15, 1994 (59 FR 41914).
   DATES: *Effective date:* September 29, 1994.
10. 34 CFR Part 647, final regulations for the Ronald E. McNair Postbaccalaureate Achievement Program, published August 25, 1994 (59 FR 43986).
    DATES: *Effective date:* November 7, 1994.
11. 34 CFR Part 396, final regulations for Training Interpreters for Individuals Who Are Deaf and Individuals Who Are Deaf-Blind, published October 14, 1994 (59 FR 52218).
    DATES: *Effective date:* November 28, 1994.

Dated: June 21, 1995.

Judith A. Winston,

General Counsel.

[FR Doc. 95–15559 Filed 6–23–95; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5225–9]

National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution (Stage I)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document makes clarifications and corrects errors in the regulatory text of the final rule for National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) which appeared in the **Federal Register** on December 14, 1994 (59 FR 64303).

EFFECTIVE DATE: December 14, 1994.

FOR FURTHER INFORMATION CONTACT: For general and technical information concerning the final rule, contact Mr. Stephen Shedd, Waste and Chemical

Processes Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone (919) 541–5397. For information regarding the test methods and procedures referenced in the rule, contact Mr. Roy Huntley, Emission Inventory and Factors Group, Emissions, Monitoring and Analysis Division (MD–14), U.S. Environmental Protection Agency, Research Triangle Park, NC 27704; telephone (919) 541–1060.

SUPPLEMENTARY INFORMATION: On December 14, 1994 (59 FR 64303), the EPA promulgated regulations requiring sources to achieve emission limits reflecting application of the maximum achievable control technology (MACT) consistent with section 112 of the Clean Air Act (Act). The final rule regulates all hazardous air pollutants (HAP) identified in the Act's list of 189 HAP that are emitted from new and existing bulk gasoline terminals and pipeline breakout stations at plant sites that are major sources of HAP. On February 8, 1995 (60 FR 7627), the Office of the Federal Register made three corrections to the regulatory text in the final rule. Today, four additional corrections are being made to correct and clarify requirements in the National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).

The affected public has requested that the EPA clarify the date of compliance for testing, reporting, and recordkeeping requirements for reducing vapor leakage from gasoline cargo tanks (tank trucks and railcars) loading at major source bulk gasoline terminals affected by this rule. The regulatory text provided compliance dates for the equipment that collects and processes the vapor displaced from cargo tanks and inadvertently did not specify compliance dates for the cargo tank leak testing, reporting, and recordkeeping requirements. The vapor collection and processing equipment requirements in the final rule are required to be met by December 15, 1997 (three years from the effective date) for existing terminals and upon startup for new terminals. The EPA intended that the rule require that all the components of this vapor control system comply during the same compliance period, including cargo tanks. Today's notice is to clarify that the compliance date for both the cargo tank requirements and the other loading rack vapor control requirements occur no later than December 15, 1997 at existing terminals and upon startup at new terminals.

A typographical error was made on an equation in the regulatory text that calculates the minimum allowable final headspace pressure for the nitrogen pressure decay field test for cargo tanks. Additionally, the location of one variable in the subject equation was incorrectly specified. Today's notice corrects the typographical error in both the equation and the location of one of the equation's variables.

Dated: June 15, 1995.

Mary D. Nichols,

Acting Assistant Administrator for Air and Radiation.

The following corrections are being made in the regulatory text for: National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) published in the **Federal Register** on December 14, 1994 (59 FR 64303).

§ 63.422 [Corrected]

1. In paragraph (b) of § 63.422 on page 64320, column 1, remove the second sentence ''Each owner or operator shall comply as expeditiously as practicable, but no later than December 15, 1997 at existing facilities and upon startup for new facilities.''

2. In § 63.422 on page 64320, column 1, add a new paragraph (d) as follows: ''(d) Each owner or operator shall meet the requirements in all paragraphs of this section as expeditiously as practicable, but no later than December 15, 1997 at existing facilities and upon startup for new facilities.''

§ 63.425 [Corrected]

3. The equation in the paragraph (g)(3) of § 63.425 on page 64321, column 3, is revised to read as follows:

* * * * *

$$P_F = 18\left(\frac{(18-N)}{18}\right)\left(\frac{V_s}{5(V_h)}\right)$$

* * * * *

4. The reference to Table 2 in paragraph (g)(3) of § 63.425 on page 64322, column 1, first two lines, is revised to read as follows: ''column of Table 2 of § 63.425(e)(1), inches H_2O.''

[FR Doc. 95–15431 Filed 6–23–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 70

[AD-FRL–5226–7]

Clean Air Act Final Full Approval of Operating Permits Program; State of South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is promulgating full approval of the Operating Permits Program submitted by the State of South Carolina through the South Carolina Department of Health and Environmental Control (DHEC) for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources and to certain other sources.

EFFECTIVE DATE: July 26, 1995.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE, Atlanta, Georgia 30365, on the 3rd floor of the Tower Building. Interested persons wanting to examine these documents, contained in EPA docket number SC–94–01, should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Kelly Fortin, Title V Program Development Team, Air Programs Branch, Air Pesticides & Toxics Management Division, U.S. EPA Region 4, 345 Courtland Street NE, Atlanta, GA 30365, (404) 347–3555 extension 4223.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

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

fully approved a program by two years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On January 24, 1995, EPA proposed full approval of the operating permits program for the State of South Carolina. *See* 60 FR 4583. The January 24, 1995 notice also proposed approval of South Carolina's interim mechanism for implementing section 112(g) and for delegation of section 112 standards as promulgated. Public comment was solicited on these proposed actions. EPA received five letters commenting on the proposal, which are summarized and addressed below. In this document EPA is taking final action to approve the operating permits program and the 112(g) and 112(l) mechanisms noted above for the State of South Carolina.

II. Final Action and Implications

A. Analysis of State Submission and Response to Public Comments

On January 24, 1995, EPA proposed full approval of the State of South Carolina's Title V Operating Permit Program. *See* 60 FR 4583. The program elements discussed in the proposed notice are unchanged from the proposed notice and continue to fully meet the requirements of 40 CFR part 70.

All written comments received during the public comment period were reviewed and considered by EPA prior to taking final agency action. EPA received five comment letters that addressed four general issues: (1) the definition of title I modification; (2) the definition of insignificant activities; (3) prompt reporting of deviations; and (4) implementation of section 112(g). EPA's response to the comments and discussion of these issues is given in this section. The original comment letters can be found in the docket for this action, which is available for review at the address given above.

1. Definition of Title I Modification

DHEC regulations contain a definition of the phrase ''title I modification'' that does not include changes that occur under the State's minor new source review regulations approved into the South Carolina State Implementation Plan (SIP). All five commenters stated that they believed this ''narrower'' definition contained in the State's rule was the appropriate definition for the implementation of title V.

This issue is discussed in detail in EPA's January 24, 1995 proposal to approve South Carolina's program. *See* 60 FR 4583. As discussed in that notice, EPA has not yet determined that a narrower definition of ''title I modification'' is incorrect and thus a basis for disapproval or interim approval. For further rationale on EPA's position on the determination of what constitutes a ''title I modification,'' see EPA's final interim approval of the State of Washington's part 70 operating permits program (59 FR 55813, November 9, 1994).

For the reasons discussed in the proposal, EPA is approving South Carolina's use of a narrower definition of ''title I modification'' at this time. However, should EPA make a final determination that such a narrow definition of ''title I modification'' is incorrect, South Carolina will be required to revise their regulations so that they are consistent with the federal definition, and EPA may propose further action on South Carolina's program so that the State's definition of ''title I modification'' could become grounds for interim approval.[1] A state program like South Carolina's that receives full approval of its narrower definition pending completion of EPA's rulemaking must ultimately be placed on an equal footing with states that receive interim approval under any revised interim approval criteria because of the same issue. EPA anticipates that any action to convert the full approval to an interim approval would be affected through an additional rulemaking, so as to ensure that there is adequate notice of change in the approval status and applicability requirements.

2. Definition of Insignificant Activities

One commenter stated that South Carolina's exemption list for insignificant activities is too restrictive and that by proposing ''acceptable'' levels to other states, EPA is improperly directing the adoption of arbitrarily low emission caps to define insignificant activities that clearly restricts permitting authority discretion.

In this action, EPA is approving the process established by DHEC to determine insignificant activities and emissions levels (South Carolina's Regulation 61–62.70.5(c)). DHEC had discretion to propose emission levels other than those used by other states and may adopt a program more stringent than any proposed by EPA. EPA disagrees that it is inappropriate for the Agency to provide guidance or suggested emission levels to state and local agencies.

3. ''Prompt'' Reporting of Deviations From Permit Limits

EPA received three comments that argued that state programs need not define ''prompt'' reporting deviations in their regulations and disagreed that prompt reporting must be more frequent than semi-annually. The commenters stated that the 24 hour limitation DHEC has committed to include as a standard permit condition is too restrictive and the permits should allow at least two working days for reporting, consistent with the time period allowed for emergencies under 40 CFR 70.6(g).

As discussed in EPA's proposed approval of South Carolina's program, part requires prompt reporting of deviations from permit requirements. Section 70.6(a)(3)(iii)(B) requires the permitting requirements. Section 70.6(a)(3)(iii)(B) requires the permitting authority to define prompt in relation to the degree and type of deviation likely to occur and the applicable requirements. Although the permit program regulations should define prompt for purposes of administrative efficiency and clarity, EPA stated in the proposal that an acceptable alternative is to define prompt in each individual permit.

EPA also stated that it believes that ''prompt'' should generally be defined as requiring reporting within two to ten days of the deviation, but that states could propose alternative time periods that they considered more appropriate. However, prompt reporting must be more frequent than the semiannual reporting requirement under 40 CFR 70.6(a)(3)(iii)(A), which is a distinct reporting obligation.

The State of South Carolina has not defined prompt in its program regulations with respect to reporting of deviations, but has committed to include such a requirement as a standard condition in permits. The state will require notification to the appropriate district office within 24 hours and written notification to the DHEC within 30 days. EPA may veto permits that do not require sufficiently prompt reporting of deviations.

4. Implementation of Section 112(g)

EPA received several comments regarding the proposed approval of the use of South Carolina's preconstruction permitting program for the purpose of implementing section 112(g) during the transition period between title V approval and adoption of a State rule implementing EPA's section 112(g) regulations. The commenters argued

[1] State programs with a narrower ''title I modification'' definition that were approved by EPA before the Agency decision that such a narrower definition is inappropriate, would be considered deficient, but would be eligible for interim approval under revised 40 CFR 70.4(b).

that South Carolina should not and cannot implement section 112(g) until: (1) EPA has promulgated a section 112(g) regulation, and (2) the State has a section 112(g) program in place. The commenters also argued that South Carolina's preconstruction review program can not serve as a means to implement section 112(g) because it was not designed for that purpose.

EPA's proposal was based in part on an interpretation of the Act that would require sources to comply with section 112(g) beginning on the date of approval of the title V program, regardless of whether EPA had completed its section 112(g) rulemaking. The EPA has since revised this interpretation of the Act in a **Federal Register** notice published on February 14, 1995. *See* 60 FR 8333. The revised interpretation postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The rationale for the revised interpretation is set forth in detail in the above referenced notice.

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

EPA is aware that South Carolina lacks a program designed specifically to implement section 112(g). However, South Carolina does have a preconstruction review program that can serve as an adequate implementation vehicle during the transition period because it would allow South Carolina to select control measures that would meet maximum achievable control technology (MACT) and incorporate these measures into a federally enforceable preconstruction permit. South Carolina should be able to impose federally enforceable measures reflecting MACT for most, if not all, changes qualifying as modification, construction, or reconstruction under section 112(g), because most section 112(b) pollutants are also criteria pollutants. Moreover, measures designed to limit criteria pollutant emissions will often have the incidental effect of limiting non-criteria Hazardous Air Pollutants (HAPs). In the situation where South Carolina's preconstruction permit program cannot be used, the State may utilize its title V permitting program to make any required MACT determinations.

For this reason, EPA is finalizing its approval of the use of South Carolina's preconstruction review program for the purpose of implementing section 112(g) during the transition period between promulgation of the section 112(g) rule and adoption by South Carolina of rules established to implement section 112(g). The scope of this approval is narrowly limited to section 112(g) and does not confer or imply approval for purposes of any other provision under the Act. This approval will be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted. The duration of this approval is limited to 18 months following promulgation by EPA of the section 112(g) rule in order to provide adequate time for the State to adopt regulations consistent with the Federal requirements.

B. Final Action

EPA is promulgating full approval of the operating permits program submitted to EPA by the State of South Carolina on November 15, 1993. Among other things, the State of South Carolina has demonstrated that the program will be adequate to meet the minimum elements of a state operating permits program as specified in 40 CFR part 70.

The State of South Carolina's part 70 program approved in this document applies to all part 70 sources (as defined in the approved program) within the State of South Carolina, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–55818 (Nov. 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' *See* section 302(r) of the CAA; *see also* 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

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

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final full approval, including the five public comments received on the proposal and reviewed by EPA, are contained in docket number SC–94–01 maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final full approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

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

C. Regulatory Flexibility Act

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

D. Unfunded Mandates

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

EPA has determined that the approval action promulgated today does not

include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

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

Dated: June 14, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

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

PART 70—[AMENDED]

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

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

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

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

* * * * *

South Carolina

(a) Department of Health and Environmental Control: submitted on November 12, 1993; full approval effective on July 26, 1995.

(b) (Reserved)

* * * * *

[FR Doc. 95–15574 Filed 6–23–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

Health Care Programs: Fraud and Abuse; Technical Revision to the Scope and Effect of the OIG Exclusion Regulations

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Final rule.

SUMMARY: This document sets forth a technical revision to OIG regulations on program integrity for Medicare and State Health Care programs, concerning the scope and effect of the OIG's program exclusion regulations. Prior to this revision, the regulations provided that a program exclusion imposed under title XI of the Social Security Act was to affect future participation in all Federal nonprocurement programs. This revision specifically amends the language in the existing regulations to clarify that the scope of an exclusion is now applicable to all Executive Branch procurement and non-procurement programs and activities. This rule is consistent with the Federal Acquisition Streamlining Act, and the Department's Common Rule on debarment and suspension which is also being amended and published elsewhere in this issue of the **Federal Register**.

EFFECTIVE DATE: This regulation is effective on August 25, 1995.

FOR FURTHER INFORMATION CONTACT: Joel J. Schaer, Office of Management and Policy, (202) 619–0089.

SUPPLEMENTARY INFORMATION:

I. Technical Revision to 42 CFR 1001.1901

On January 29, 1992, the Department of Health and Human Services published a final rule (57 FR 3298) governing the Department's exclusion and civil money penalty authorities as established and amended by the Medicare and Medicaid Patient and Program Protection Act of 1987, Public Law 100–93. These authorities have been delegated to the Office of Inspector General (OIG) for implementation. Under these regulations, section 1001.1901—Scope and effect of exclusion—implemented Executive Order 12549 which provides that debarments, suspensions and other exclusionary actions taken by any Federal agency will have governmentwide effect with respect to all nonprocurement programs. Specifically, section 1001.1901 made clear that exclusions from Medicare and the State health care programs under title XI of the Social Security Act (42 U.S.C. 1320a–7) are also applicable with respect to ''all other Federal nonprocurement programs.''

With the enactment of the Federal Acquisition Streamlining Act (FASA) of 1994, Public Law 103–355, congress mandated and expanded the governmentwide effect of debarments, suspensions and other exclusionary actions to procurement as well as nonprocurement programs and activities. In addition to the amendments to the governmentwide Common Rule necessitated by the enactment of FASA, we are also specifically codifying in the Department's adoption of the Common Rule that exclusions imposed under title XI of the Social Security Act will have the same governmentwide effect as debarments initiated under the Common Rule, and will be recognized and given effect not only for all Departmental programs but also for all other Executive Branch procurement and nonprocurement programs and activities. In addition, because full due process is provided under the statute and the implementing regulations for those excluded under title XI—including the right to an administrative hearing and judicial review—additional due process under the Common Rule is not necessary nor available to excluded individuals and entities beyond that set forth in parts 1001 and 1005 of 42 CFR chapter V. This amendment to section 1001.1901 is intended to be consistent with the amendment of 45 CFR part 76 codifying the requirements of FASA.

II. Regulatory Impact Statement

The Office of Management and Budget has reviewed this final rule in accordance with the provisions of Executive Order 12866. As indicated above, the revisions contained in this technical rule are intended to clarify that the scope of an OIG exclusion is applicable to all Executive Branch procurement and nonprocurement programs and activities, consistent with FASA and the Department's Common Rule at 45 CFR part 76.

As indicated in the original final rule published on January 29, 1992, the amendments to 42 CFR part 1001, and this subsequent revision, are designed to clarify departmental policy with respect to the imposition of program exclusions upon individuals and entities who violate the statute. We believe that the vast majority of providers and practitioners do not engage in such prohibited activities and practices, and that the aggregate economic impact of these provisions should be minimal, affecting only those few who have engaged in prohibited behavior jeopardizing the Federal health care financing programs and beneficiaries. As such, these regulations should have no direct effect on the economy or on Federal or State expenditures.

In addition, in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 through 612), we certify that this rulemaking will not have a significant economic impact on a substantial number of small entities. While some sanctions may have an impact on small entities, we do not anticipate that a substantial number of these small

entities will be significantly affected by this technical rule.

III. Effective Date and Waiver of Proposed Rulemaking

On December 20, 1994, all but one of the Federal agencies participating in the development of the Common Rule published a notice of proposed rulemaking (59 FR 65607) that proposed changes to the nonprocurement debarment and suspension Common Rule to provide for reciprocal effect between the procurement and nonprocurement debarments, suspensions and other exclusionary actions. Since this rulemaking is designed to clarify departmental procedures consistent with the final Common Rule being set forth in 45 CFR part 76, we are waiving the proposed notice and comment period and issuing this technical regulation as a final rule that will apply to all pending and future cases under this authority.

List of Subjects in 42 CFR Part 1001

Administrative practice and procedure, Health facilities, Health professions, Medicare, Peer Review Organizations, Penalties, Reporting and recordkeeping requirements.

Accordingly, 42 CFR chapter V, Part 1001 is amended as follows:

PART 1001—PROGRAM INTEGRITY—MEDICARE AND STATE HEALTH CARE PROGRAMS

1. The authority citation for part 1001 is revised to read as follows:

Authority: 42 U.S.C. 1302, 1320a–7, 1320a–7b, 1395u(j), 1395u(k), 1395y(d), 1395y(e), 1395cc(b)(2)(D), (E) and (F), and 1395hh; and sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note).

2. In § 1001.1901, paragraph (a) is revised to read as follows:

§ 1001.1901 Scope and effect of exclusion.

(a) *Scope of exclusion.* Exclusions of individuals and entities under this title will be from Medicare, State health care programs, and all other Executive Branch procurement and nonprocurement programs and activities. The OIG will exclude the individual or entity from the Medicare program and direct State agency administering a State health care program to exclude the individual or entity for the same period. In the case of an individual or entity not eligible to participate in Medicare, the exclusion will still be effective on the date, and for the period, established by the OIG.

* * * * *

Approved: May 31, 1995.

June Gibbs Brown,

Inspector General.

[FR Doc. 95–14727 Filed 6–23–95; 8:45 am]

BILLING CODE 4154–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–15]

Radio Broadcasting Services; Pago Pago, American Samoa

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Oceania Broadcasting Network, Inc., allots Channel 226C1 to Pago Pago, American Samoa, as the community's second local FM service. *See* 60 FR 6689, February 3, 1995. Channel 226C1 can be allotted to Pago Pago in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates –14–16–41 South Latitude and 170–42–09 West Longitude. With this action, this proceeding is terminated.

DATES: Effective August 3, 1995. The window period for filing applications will open on August 3, 1995, and close on September 4, 1995.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–15, adopted June 12, 1995, and released June 19, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under American Samoa, is amended by adding Channel 226C1 at Pago Pago.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–15477 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

(MM Docket No. 94–111; RM–8519)

Radio Broadcasting Services; Ingalls, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Dana J. Puopolo, allots Channel 290A to Ingalls, Kansas. *See* 59 FR 50719, October 5, 1994. Channel 290A can be allotted to Ingalls, Kansas, in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 290A at Ingalls are 37–49–48 and 100–27–06.

With this action, this proceeding is terminated.

DATES: Effective August 3, 1995. The window period for filing applications will open on August 3, 1995, and close on September 4, 1995.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 94–111, adopted June 7, 1995, and released June 19, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended adding Channel 290A at Ingalls.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–15478 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 94–57; RM–8467]

Radio Broadcasting Services; Sanger & Sherman, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Harmon G. Husbands and Durant Broadcasting Corporation, substitutes Channel 281C3 for Channel 281A at Sherman, Texas, and reallocates Channel 281C3 from Sherman to Sanger, Texas, and modifies Station KWSM(FM)'s license to specify Sanger as its community of license. *See* 59 FR 35894, July 14, 1994. Channel 281C3 can be allotted in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.3 kilometers (6.4 miles) northwest to accommodate petitioners' desired site. The coordinates for Channel 281C3 are 33–25–10 and 97–15–28.

With this action, this proceeding is terminated.

EFFECTIVE DATE: August 3, 1995.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 94–57, adopted June 12, 1995, and released June 19, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Sanger, Channel 281C3 and removing Channel 281A at Sherman.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–15479 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

RIN 2127–AE61

[Docket No. 92–65; Notice 2]

Consumer Information Regulations; Vehicle Stopping Distance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule amends the Consumer Information Regulations by rescinding the requirement that motor vehicle manufacturers provide information about vehicle stopping distance. Upon reevaluation of the vehicle stopping distance information requirements, NHTSA concludes that this information is of little safety value to consumers and might even be misleading. Rescinding the requirement eliminates an unnecessary Federal regulatory burden on the industry.

DATES: *Effective Date.* The amendment becomes effective July 26, 1995.

Petitions for Reconsideration: Any petitions for reconsideration of this rule must be received by NHTSA no later than July 26, 1995.

ADDRESSES: Petitions for reconsideration of this rule should refer to Docket 92–65; Notice 2 and should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta Spinner, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–4802).

SUPPLEMENTARY INFORMATION:

I. Background Information

Pursuant to the March 4, 1995 directive, ''Regulatory Reinvention Initiative,'' from the President to the heads of departments and agencies, NHTSA has undertaken a review of all its regulations and directives. During the course of this review, the agency identified several requirements and regulations that are potential candidates for rescission. One candidate [1] was the consumer information regulation about a passenger car's or motorcycle's stopping distance performance.[2] Manufacturers are currently required to provide an information sheet at automobile dealers that specifies each model's stopping distance from at least 60 miles per hour (mph) on dry pavement with (a) fully operational service brakes under light load and maximum load conditions, (b) partially failed service brakes, and (c) inoperative brake power assist unit or brake power unit (i.e., the power assist part of the brake system is disabled).

In the November 1992 notice of proposed rulemaking (NPRM) preceding this rule, NHTSA explained that the information currently supplied by manufacturers pursuant to the stopping distance requirement did not help consumers compare between vehicles, because it did not meaningfully distinguish the relative stopping ability among different makes and models of vehicles. The information's lack of value was confirmed by the agency's dealership audits which found that little, if any, use was being made of the vehicle stopping distance information. The agency further stated that there was no feasible, cost effective method for obtaining stopping distance information that would properly compare differences in stopping ability among various vehicles. Costly and extensive

[1] Prior to the President's directive, NHTSA had previously identified the stopping distance requirement as a candidate for rescission and had published a notice proposing to rescind it (57 FR 54962, November 23, 1992).

[2] The *Consumer Information Regulations* (49 CFR part 575) are intended to provide prospective purchasers of new motor vehicles with information about vehicle safety performance in several areas. One type of information is the stopping distance of new passenger cars and motorcycles under specified speed, brake, loading, and pavement conditions (49 CFR 575.101).

testing of large samples of each model would be necessary to determine that two or more models really had different stopping distances. Since there was no information supporting a contrary decision, the agency re-identified the requirement as a candidate for rescission as part of the current review.

II. Comments on the NPRM

In response to the NPRM, NHTSA received comments from motor vehicle manufacturers (American Honda, BMW, Chrysler, Fiat, Ford, General Motors (GM), and Volkswagen), advocacy groups (the Coalition for Consumer Health and Safety (Coalition) and Advocates for Highway and Auto Safety (Advocates)), the Association of International Automobile Manufacturers (AIAM), and an individual interested in automobile safety. Fiat, BMW, and Mr. John Kourik agreed with the agency's proposal to rescind the requirements related to stopping distance information. Honda, Chrysler, Volkswagen, GM, Ford, and AIAM believe that the current requirements were unnecessary but were concerned that States or local governments could require manufacturers to provide information about vehicle stopping distance if the Federal requirements were rescinded. In support of rescission, the manufacturers argued that the required information is potentially misleading, that the information is an unnecessary economic burden on vehicle manufacturers, and that the information is not actually used by consumers.

The Coalition and Advocates opposed the proposal to rescind the stopping distance information requirement. These commenters stated that rather than rescinding this consumer information regulation, NHTSA should expand and strengthen it. Advocates further stated that NHTSA must determine that dissemination of stopping distance information is no longer necessary to the furtherance of the National Traffic and Motor Vehicle Safety Act.[3]

III. Agency Response to Comments

A. Summary of Agency Decision and Rationale

After considering the comments and other available information, NHTSA has decided to rescind the stopping distance information requirements. The agency reached this decision after concluding that the current stopping distance requirement is not providing meaningful information to consumers about the differences between different vehicle models in stopping distance and that an upgraded requirement would be prohibitively expensive and might not provide significant safety benefits.

B. Rationale for Agency Decision to Rescind.

1. Current stopping distance information is not meaningful. NHTSA has decided to rescind the stopping distance information requirement of § 575.101 because it is not providing meaningful information to consumers about stopping ability among different models. The agency notes that Chrysler, Ford, and GM, which together manufacture over 60 percent of new passenger cars, list only the maximum allowable stopping distance permitted under Federal Motor Vehicle Safety Standard No. 105, *Hydraulic brake systems* for all of their cars. Information (e.g., GM and Chrysler's comments on the NPRM) indicates that manufacturers appear to do this in part out of a concern that listing specific stopping distance information could mislead vehicle owners about their vehicle's braking ability. The stopping distance measurements are taken under optimum conditions of vehicle loading, tire-to-road peak friction coefficient, environment, and driver braking skills. Manufacturers are concerned that a consumer could mistakenly believe that his or her vehicle will stop in the listed distance under conditions that are less than optimum, e.g., under wet road conditions with a unskilled driver. They have thus listed under § 575.101 the maximum allowable stopping permitted under Standard No. 105.

As a result of the practice of listing the maximum allowable stopping distances permitted under Standard No. 105, consumers cannot use stopping distance information to identify which vehicles have the best stopping distance. Given this, it is not surprising that dealers reported to NHTSA that consumers typically neither ask for stopping distance information nor rely upon it in making purchase decisions.

2. Improving stopping distance information would be prohibitively expensive. NHTSA believes that the requirement should be rescinded because improving stopping distance information would be prohibitively expensive. Several manufacturers stated their belief that there is no cost effective method for obtaining adequate stopping distance information. For instance, GM stated that there was no cost effective method for obtaining stopping distance information that properly compares differences in stopping ability among various models. In contrast, Advocates suggested that, as an alternative to rescission, NHTSA should adopt a ''more stringent'' requirement and require manufacturers to provide actual model-specific stopping distance information for each make and model.

In considering whether to rescind § 575.101, NHTSA analyzed several alternatives to rescission, including an alternative to require manufacturers to provide model-specific stopping information. NHTSA believes that such stopping distance information would be unduly burdensome for manufacturers to obtain, based on its assessment of the costs of such a program and the small safety benefits, if any, that might result. Tests measuring stopping distance would have to be conducted for each of over 400 car models. Each stopping distance test costs approximately $1000 to conduct, and manufacturers typically conduct tests on three or four different vehicles of the same model, since no two vehicles have the same stopping distance. Therefore, the aggregate costs of the 60 mph dry surface stops would be greater than a million dollars.

NHTSA has decided not to adopt more stringent stopping distance information requirements because it does not appear that consumers will use the stopping distance information in making their purchasing decisions. Consumers typically consider and value such attributes as reliability, styling, price, reputation, roominess, and safety. While stopping distance relates to safety, NHTSA does not believe the information would impact purchasing decisions because precise stopping distance information would in many, perhaps most, cases yield differences insufficiently large to make stopping distance a factor in consumers' selections among similar vehicle models. For example, based on compiled information from NHTSA compliance stopping distance tests for several passenger cars, these family size vehicles achieved the following stopping distances: Buick Park Avenue—161.7 feet; Chevrolet Caprice—166.3 feet; Volkswagen Passat—170 feet; and Nissan Infiniti G20—171.3 feet. These small differences are insignificant and are unlikely to provide any meaningful comparative data to consumers.

3. Alternative methods. In considering whether to rescind the stopping distance information requirements, NHTSA considered the suitability of alternative methods to characterize braking performance, including an array of stopping distance tests and braking efficiency tests. However, any comprehensive, meaningful information about braking performance could only

[3] Subsequent to the comments, Congress codified this Act at 49 U.S.C. section 30101 *et seq.*

be derived from a battery of tests that evaluated stopping performance at different speeds and on different surfaces. Monetary constraints have precluded (and in all likelihood will continue to preclude) the agency from spending additional money to further develop brake performance tests for consumer information.

4. NAS Study. While NHTSA has rescinded the stopping distance requirement, this decision does not signal that the agency disfavors consumer information. On the contrary, the agency believes that certain consumer information provides valuable information to the public. NHTSA is working with the National Academy of Sciences (NAS) to review and possibly expand the agency's consumer information efforts related to motor vehicle safety. According to the House Appropriations Committee report addressing the NAS study, ''The study should focus on the validity of current programs, public and private, in providing accurate information to consumers on the real-world safety of vehicles, the possibility of improving the system in a cost effective and realistic manner, and the best methods of providing useful information to consumers.'' This study is currently in process with a legislative due date of March 31, 1996 for a final report on the NAS findings to the House and Senate Appropriations Committees. NHTSA will review the NAS study for insights into whether there is an effective means to provide consumers with information about vehicle stopping ability. However, since all parties agree that the current information is not meaningful or helpful to consumers, no purpose is served by retaining section 575.101.

C. Impacts of Rescission

1. *Economic costs and burdens of the regulation.* In the NPRM, NHTSA stated that rescinding the stopping distance information requirement would eliminate an unnecessary regulatory burden on vehicle manufacturers. The agency estimated that the costs associated with providing the stopping distance information to prospective customers was approximately $600,000 a year. The agency reasoned that rescinding this provision would relieve the automobile industry of this cost, without depriving consumers of any truly meaningful information.

Several manufacturers stated their belief that rescinding the requirement would eliminate administrative costs. Chrysler, Volkswagen, AIAM, and Mr. Kourik agreed that rescinding the stopping distance requirement would relieve administrative costs. Ford believed that no substantial cost results from requiring vehicle manufacturers to furnish stopping distance information to consumers.

NHTSA notes that the testing required by this requirement results in an unwarranted cost for the agency as well as the manufacturers. The agency incurs costs associated with monitoring the information reported by manufacturers. Similarly, manufacturers incur costs associated with testing to generate the stopping distance information as well as printing and distributing materials. These costs to the agency and manufacturers, while not large in absolute terms, serve no real safety purpose and are thus an unnecessary expense.

2. *Preemption.* Chrysler, GM, Ford, Honda, and Volkswagen were concerned about States or local jurisdictions issuing their own stopping distance information requirements if the Federal regulation was rescinded. Chrysler stated that where a Federal agency has determined that no regulation is appropriate, the United States Supreme Court has recognized a form of negative preemption. This led Chrysler to request that NHTSA ''express its intent that all other levels of government be preempted from establishing any related or similar regulation.'' AIAM also requested that the agency state that other levels of government would be preempted from establishing similar requirements. It stated that such a statement would be consistent with the previous position taken by NHTSA in its revocation of Standard No. 127, *Speedometers and Odometers,* (47 FR 7250, February 18, 1982).

NHTSA believes that the States and local governments should not adopt requirements similar to the current Federal stopping distance information requirement. As noted elsewhere in this notice, the agency has concluded that the current Federal requirement has been ineffective in providing meaningful information to consumers about the stopping performance of passenger vehicles. Similar State and local government requirements would be likewise ineffective.

However, NHTSA lacks the authority to preempt the States from adopting such requirements. The agency reaches this conclusion because there is no express preemption in the area of stopping distance information, as there is in connection with Federal motor vehicle safety standards. See 49 U.S.C. 30103(b). Likewise, there would be no implied preemption of State action in this area. The agency does not ''occupy the field.'' Further, there would be no conflict between such a State or local government requirement and the Federal motor vehicle safety law.

The commenters appear to have an overly broad view of the potential for negative preemption under the Federal motor vehicle safety law. Contrary to Chrysler's apparent belief, negative preemption will not always be recognized when NHTSA has determined that no Federal standard or regulation on a particular subject is appropriate. A State information regulation addressing the same subject as a rescinded Federal information regulation would be preempted (under the doctrine of implied preemption) only if the State regulation conflicted with or otherwise frustrated the Federal statute or regulatory scheme. Moreover, according to recent judicial decisions, negative preemption will exist only if the Federal agency has affirmatively manifested an intention to shut out State action. See *Toy Manufacturers of America* v. *Blumenthal,* 986 F.2d 615 (2nd Cir 1992), citing *Hillsborough County* v. *Automated Medical Labs., Inc.,* 471 U.S. 707, 718, 105 S.Ct 2371, 2377, 85 L.Ed.2d 714 (1985). NHTSA is not taking that step here because the agency believes that there is no basis for asserting that State stopping distance information regulations would conflict with Federal law. Even if one State were to take one approach to informing its citizens about vehicle stopping distance and another State were to take a different approach, the agency does not believe that the differences in the approaches would conflict with any Federal program or have a deleterious effect on motor vehicle safety.

E. Effective Date

Each order is required to take effect no sooner than 180 days from the date the order is issued unless ''good cause'' is shown that an earlier effective date is in the public interest. Since this amendment eliminates a requirement with which manufacturers currently have to comply and since the public interest is served by not needlessly delaying when this rescission takes place, the agency has determined that there is good cause to adopt an effective date 30 days after publication of the final rule.

Rulemaking Analyses and Notices

Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This

rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be not ''significant'' under the Department of Transportation's regulatory policies and procedures. NHTSA believes that there would be no gain or loss of safety benefits as a result of rescission of the stopping distance information requirements. The main effect of the rulemaking is to relieve manufacturers of passenger cars and motorcycles of an unnecessary regulatory burden associated with providing information that is not meaningful to consumers.

The agency anticipates that the amendment will result in a cost savings because it will no longer be necessary for manufacturers to assemble, print, and distribute the data required under § 575.101. The agency estimates that the costs associated with providing the stopping distance information to prospective customers was approximately $600,000 in 1991. This estimate is derived from General Motors' estimate made in 1977 adjusted for the intervening inflation between 1977 and 1991. Accordingly, the agency believes that rescinding this provision will relieve the automobile industry of this cost, without depriving consumers of any truly meaningful comparative information.

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 amendment will not have a significant economic impact on a substantial number of small entities. Few vehicle manufacturers qualify as small entities. Further, the small vehicle manufacturers will not be affected since impact of this rule on the cost of new vehicles will be negligible. Accordingly, a regulatory flexibility analysis has not been prepared.

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 rule will not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

National Environmental Policy Act

The agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and determined that the rule will not significantly affect the human environment.

Civil Justice Reform

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

List of Subjects in 49 CFR Part 575

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

In consideration of the foregoing, Title 49 of the Code of Federal Regulations at part 575 is amended as follows:

PART 575—[AMENDED]

1. The authority citation for part 575 is revised to read as follows:

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

§ 575.101 [Removed and Reserved]

2. Section 575.101 is removed and reserved.

Issued on: June 20, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–15525 Filed 6–23–95; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 60, No. 122
Monday, June 26, 1995

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

Office of the Secretary

7 CFR Part 11

National Appeals Division Rules of Procedure

AGENCY: Office of the Secretary, National Appeals Division, USDA.

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: This notice reopens and extends until July 6, 1995, the comment period on the proposed National Appeals Division Rules of Procedure that were published in the **Federal Register** on May 22, 1995 (60 FR 27044–27049). The original closing date for receipt of comments was June 21, 1995. Comments received during the interim between that date and the publication date of this notice also will be accepted. Respondents now are given a 45-day period from the original date of publication to comment.

DATES: Written comments via letter, facsimile, or Internet must be received on or before 5:00 p.m., July 6, 1995.

ADDRESSES: Comments should be sent to L. Benjamin Young, Jr., Office of the General Counsel, Research and Operations Division, AgBox 1415, United States Department of Agriculture, Washington, D.C. 20250–1415; fax number: 202/720–5837; Internet: hqdoma-in.lawpo.young@sies.wsc.ag.gov.

FOR FURTHER INFORMATION CONTACT: L. Benjamin Young, Jr., at the above address or 202/690–1979.

Done at Washington, D.C., this 21st day of June, 1995.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 95–15702 Filed 6–22–95; 12:32 pm]

BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 965

[Docket No. FV95–965–1PR]

Tomatoes Grown in the Lower Rio Grande Valley in Texas; Proposed Termination of Marketing Order 965

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes to terminate the Federal marketing order for tomatoes grown in the Lower Rio Grande Valley in Texas (order) and the rules and regulations issued thereunder. In recent years, this industry has declined significantly in numbers of producers and handlers. In March 1959, when the order commenced, there were 2,488 producers and 61 handlers of tomatoes. Currently, there are approximately 10 producers, 5 of which are also handlers. The Texas Valley Tomato Committee (committee) last met on October 1, 1991, to conduct nominations. However, only a few of the former committee members are currently producers or handlers in the tomato industry and eligible to serve on the committee. Handling regulations have not been implemented since the 1973–74 fiscal period and there is no indication that the industry will be revived. Thus, there is no need for the Department of Agriculture to continue operation of this order.

DATES: Comments must be received by July 26, 1995.

ADDRESSES: Interested person are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS USDA, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456; (202) 720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: James B. Wendland, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone (202) 720–2170, or Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, Texas 78501, telephone (210) 682–2833.

SUPPLEMENTARY INFORMATION: This proposed rule is governed by the provisions of § 608c(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act and § 965.84 of the order.

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

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

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially

small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 10 producers, 5 of which are also handlers who would be subject to seasonal handling regulations under the order, but none have been recommended since the early 1970's. 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 $5,000,000. The majority of the remaining South Texas tomato producers and handlers may be classified as small entities.

The order was initially established in March 1959, to help the industry solve its marketing problems and maintain orderly marketing conditions. It was the responsibility of the Texas Valley Tomato Committee (committee), the agency established for local administration of the marketing order, to periodically investigate and assemble data on the growing, harvesting, shipping, and marketing conditions of tomatoes. The committee endeavored to achieve orderly marketing and improve acceptance of Texas tomatoes through establishment of minimum size and quality requirements. When regulated, fresh tomato shipments consisted only of those grades and sizes desired by consumers, thus, tending to increase returns to producers and handlers.

During the first year the order was in effect, there were 2,488 producers and 61 handlers of South Texas tomatoes. Over the years, commercial production and handling of tomatoes grown in South Texas have declined significantly. As a consequence, handling requirements have not been applied since the early 1970's and there is no indication that the industry will be revived or that regulations will be needed.

In September 1994, the Department conducted interviews with former and remaining industry members to determine whether they expected a revival of South Texas tomato production in the next two years. Industry members did not give any indication that the industry would be revived. Former industry members that were interviewed stated that they did not plan to resume tomato production. They reported that the decline in the industry was caused by a lack of new tomato varieties adaptable to South Texas, which could make it more competitive with Mexico and Florida.

Further, as stated above, there are currently only 10 producers, 5 of which are also handlers. Without an adequate number of producers and handlers, the Department cannot appoint the required committee of members and alternates, or otherwise continue the operation of the order.

The committee holds a certificate of deposit in the amount of $3,778.16, which matures on September 23, 1995, and a savings account that totals $514.23. At the last meeting in 1991, the committee recommended that any funds exceeding the expense of termination should be donated to an institution that conducts research for agriculture in the Lower Rio Grande Valley of South Texas.

Therefore, based on the foregoing, pursuant to § 608c(16)(A) of the Act and § 965.84 of the order, the Department is considering the termination of Marketing Order No. 965, covering tomatoes grown in the Lower Rio Grande Valley in Texas. If the Secretary decides to terminate the order, trustees would be appointed to continue in the capacity of concluding and liquidating the affairs of the former committee, until discharged by the Secretary.

Section 608c(16)(A) of the Act requires the Secretary to notify Congress 60 days in advance of the termination of a Federal marketing order.

Based on the foregoing, the Administrator of the AMS has determined that this action would not have a significant impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 965

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 965 is proposed to be removed.

PART 965—[REMOVED]

1. The authority citation for 7 CFR part 965 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Accordingly, 7 CFR part 965 is removed.

Dated: June 20, 1995

Lon Hatamiya,

Administrator.

[FR Doc. 95–15509 Filed 6–23–95; 8:45 am]

BILLING CODE 3410–02–P

Commodity Credit Corporation

7 CFR Part 1494 and 1570

Export Bonus Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Advance Notice of Proposed Rule Making.

SUMMARY: This document requests comments on three options to reform the USDA/Commodity Credit Corporation's Export Bonus Programs: The Export Enhancement Program (EEP), the Dairy Export Incentive Program (DEIP), the Sunflower Oil Assistance Program (SOAP), and the Cottonseed Oil Assistance Program (COAP). Options for reform of these export bonus programs are being considered as an effort to respond to the General Agreement on Tariff and Trade (GATT) Uruguay Round Agreement that established new mandates for USDA/CCC's export subsidy programs. Additionally, the reform options considered could make these programs more flexible in responding to changing world market conditions and serve to fulfill policy goals for increased administrative efficiency and lower program costs.

DATES: Comments must be submitted on or before July 26, 1995.

ADDRESSES: Comments should be sent to L.T. McElvain, Director, CCC Operations Division, Export Credits, Foreign Agricultural Service, U.S. Department of Agriculture, AG Box 1035, Washington, D.C., 20250–1035; FAX (202) 720–2949 or 720–0938. All comments received will be available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: Christopher E. Goldthwait, General Sales Manager, at the address stated above. Telephone (202) 720–5173. The U.S. Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs and marital or familial status. Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, etc.) should contact the USDA Office of Communications at (202) 720–5881 (voice) or (202) 720–7808 (TAD).

SUPPLEMENTARY INFORMATION:

Background

Since 1985, USDA/CCC has operated export subsidy programs for a variety of commodities, including wheat and wheat flour, barley and barley malt, rice, poultry, table eggs, vegetable oils, pork and dairy products. Wheat and wheat flour have received the largest share of subsidy dollars, accounting for 75 percent of the total export subsidies in 1994.

The Uruguay Round Agreements Act (Public Law 103–465; 108 Stat. 4809) directs that U.S. export subsidies be used to encourage the commercial sale of U.S. agricultural commodities in world markets at competitive prices and not be limited to responding to unfair trade practices. Export subsidies will be progressively reduced to conform to the United States' GATT commitments. Meeting these mandates will require the development of a program that uses less subsidy but leaves U.S. commodities in a more competitive position at the end of the GATT phase-in period.

The Administration's 1995 Farm Bill Proposal announced program objectives that would guide its efforts to make USDA's export subsidy programs more responsive to world market conditions in the post-Uruguay Round period and to further fulfill certain policy goals. The following policy objectives were defined by the proposal:

1. Increase the cost-effectiveness of export subsidy programs by encouraging the lowest possible subsidies to achieve the maximum level of subsidized volume;
2. Increase the flexibility of exporters to respond to changing market conditions;
3. Reduce administrative complexity and cost;
4. Provide safeguards against fraud and exports of foreign-origin products; and
5. Be consistent with U.S. trade policy goals.

The Administration's Farm Bill Proposal announced that the Trade Policy Review Group (TPRG)(an interagency working group comprised of representatives from the Departments of Agriculture, State and Treasury; the Office of the U.S. Trade Representative; the Office of Management and Budget; the Council of Economic Advisors and the National Economic Council), would develop proposals for comment, including the auction concept described in the Farm Bill Proposal as an example of a concept that could fulfill those reform objectives.

The concepts developed by the TPRG for public consideration include: 1. The quarterly auction; 2. a pre-announced bonus mechanism; and 3. a market-oriented modification of the current program. Interested parties are invited to comment on these proposals, but need not limit their comments exclusively to the proposals outlined here. The Administration is seeking comment on a wide spectrum of concepts as it devises a program that embodies the reform principles stated above.

Quarterly Auction

The auction reform is designed to increase the cost-effectiveness of export subsidies by increasing competition in the subsidy allocation process. Such reform would permit the achievement of a given level of export promotion (and, hence, subsidy-related export sales) at minimum budgetary cost. It would also increase the cost-effectiveness of the subsidies by increasing industry flexibility in allocating subsidies across markets, while protecting U.S. foreign policy and trade interests. These gains will be achieved in a way that meets the Administration's commitment to subsidize agricultural exports up to the Uruguay Round ceilings. Specifically, for each subsidized commodity, an auction system would allocate subsidies as follows:

The interagency process would determine maximum annual subsidized export volumes for a set of different markets. The markets would be defined as broadly as possible subject to the promotion of foreign policy and trade objectives. Markets could be specific countries if deemed appropriate. The interagency process could also define select destinations that would be ineligible for any subsidy for reasons that could include the dominent presence of non-subsidized competition, important U.S. foreign policy considerations, and/or a determination that subsidies are not needed for U.S. export growth. The sum of the regional maxima, across all regions, would be no lower than the annual GATT ceiling on U.S. subsidized export volume.

For each of the markets distinguished in the interagency process, USDA/CCC would conduct quarterly auctions in which exporters make bids that specify a dollar amount of export subsidy and the quantity of commodity to be exported.

Quarterly Volumes. Prior to each auction, USDA/CCC would announce the proportion of the overall annual subsidized export volume that is to be auctioned. The quarterly allocations would be designed to avoid distortions in inter-seasonal trade. USDA/CCC would retain flexibility to award subsidies for less volume than it has announced if it faces bonus bids that are too high. Announced quarterly auction volumes would add up, over the GATT year and across all geographical regions, to the overall (worldwide) GATT maximum volume of subsidized exports. Regional volumes would add up to a total that is consistent with the interagency guidelines.

Successful Bids. USDA/CCC would allocate subsidy rights to the lowest bidders. Stated differently, USDA/CCC would choose winning bids in order to achieve the quarterly subsidized volume allocation at minimum cost in dollar subsidies.

Maximum Bonuses. Taking into account the same factors that are currently considered in accepting or rejecting bids—as well as GATT limits—USDA/CCC would set maximum bonus levels to be allowed in awarded bids for each auction. These maximum levels would be secret. Bids with bonus levels higher than the USDA/CCC-determined maximum levels would be rejected. If, because of these limits, a region's allocation of subsidized export volume is not met in a given quarter—and the next quarter is in the same GATT year—the balance of the allocation would be shifted to future quarters in the same GATT year.

Export Flexibility. Winning bidders would be required to export the agreed-upon quantity some time during the 12 months (or less) that follow the award. The exporters would be free to allocate the subsidies to individual sales as they choose. Under the Uruguay Round Agreement, subsidized sales should not be conditioned or linked to other (non-subsidized) sales. The export subsidy rights obtained by a winning bidder would be transferable/tradeable in whole or in part. In other words, a winning bidder could sell his or her right to the agreed-upon per-unit subsidy for either all of the agreed-upon subsidized export volume or part of this volume. USDA/CCC must be notified of any such transactions.

Subsidy Payments. Subsidy payments would be made, on a pro rata basis, at the time that verification of eligible exports is presented to USDA/CCC.

Commodity Definitions. For purposes of defining the commodity that is eligible for export subsidy in a given auction, USDA/CCC would seek to be as unrestrictive as possible subject to practicality, maintaining a minimal standard of product quality, and advancing trade and foreign policy objectives.

Penalties for Non-compliance. If an exporter has subsidy rights, but does not ''exercise'' these rights by exporting the requisite commodity volume, USDA/CCC will take authorized actions to encourage performance, such as debarment proceedings when an exporter exhibits a pattern of non-performance. Such a measure would be taken in order to discourage frivolous bids.

Interagency review and evaluation. If bonus levels are significantly different across markets (suggesting that regional restrictions may be too tight) or

particularly high for certain commodities, interagency review would be called for, with opportunity for corrective action as deemed necessary.

Pre-Announced Bonus

Under the pre-announced bonus mechanism, for each commodity, USDA/CCC would publish a TPRG-cleared list of (regional) destinations. Particularly sensitive countries could have limits on the quantity of subsidized export sales or be excluded. On a periodic basis (weekly or biweekly) USDA/CCC would announce the eligibility of a quantity of commodity and the bonus level to be paid per metric ton (or other unit). A single bonus would apply to all qualities of a particular commodity.

Bonus Awards. Exporters would register for the bonus on a first-come, first-served, basis and awards would be made up to the announced quantity. The announced quantity would be available for a minimum of several business days, but at USDA/CCC's discretion, any unused bonus could remain available for offers until the next scheduled announcement. Differential adjustments would be available for regions where there is a significant freight disadvantage. Exporters would request differential adjustments when making an offer for the pre-announced bonus, and would be constrained to use the bonus within the specified region.

Export Reporting. After export, exporters would report to USDA/CCC the destinations, quantity and limited transaction information for the sales for which a bonus award was used. For sensitive destinations, exporters would need to report immediately on sales so that USDA/CCC could ensure compliance with limits on export volumes.

Export Flexibility. Comments are especially invited on whether pre-announced bonuses should be awarded with the requirement that exporters may only bid if they have firm export sales contracts, or whether there should be no such requirement. In the later case, a secondary market for the transfer of export bonus awards might be permitted among eligible exporters. Transactions in this secondary market would be required to be reported to USDA/CCC.

Market-Oriented Modifications

This reform option is designed to modify current USDA/CCC export subsidy programs to make them more efficient and more responsive to changing world market conditions. It incorporates several market-oriented changes into the existing program operation structure.

Current System. Currently, export subsidy program operations are conducted on a transaction-by-transaction basis. After TPRG clearance, USDA/CCC announces program allocations for each commodity at the beginning of that commodity's marketing year. Allocations specify the maximum quantity of exports that USDA/CCC is willing to subsidize to each country or region. Exporters then submit to USDA/CCC an offer for each export transaction, including proposed selling price and requested bonus per metric ton or other unit. First, USDA/CCC reviews the export sales price to ensure that it is not below world market levels. Second, USDA/CCC reviews the bonus to ensure that it does not exceed the difference between the higher U.S. domestic price and the approved sales price. If USDA/CCC approves both the price and bonus, the exporter is so notified by USDA/CCC. The exporter confirms the sale with the foreign buyer.

USDA/CCC encourages bids by competing exporters. Following each day's bonus awards, USDA/CCC publishes the quantity and the subsidy amount for each sale awarded.

Reform Option. The following market-oriented modifications in this system can better reach the objectives specified in the Administration's Farm Bill guidance. These modifications are designed to restore to the exporter the incentive to achieve higher selling prices and to reduce the current export subsidy program's market intrusiveness. The modifications might include the following:

Regional Allocations. Making all allocations regional or grouping countries by other, non-geographic, criteria, with few countries excluded from the program. Within regions, quantitative limits would be applied to specific sensitive destinations;

Programming. Full GATT authorized quantities would be announced at the beginning of the marketing year, but adjustments to allocations among regions could be made on short notice throughout the year;

Bonus Focus. The emphasis in USDA/CCC's price/bonus review would be more on bonus, with exporters better able to anticipate likely levels of bonus awards. This would be accomplished by: (a) Limiting differences in bonus awards within a particular region and shipping period; (b) announcing the average bonus approved on a regional basis rather than for each transaction; and (c) responding to trade inquiries with specific reference to USDA/CCC's view of changes in market conditions since the latest announced bonus award for a particular region;

Export Flexibility. Exporters would be permitted to shift a bonus award between different transactions within the same region and similar shipping period, with notification to USDA/CCC;

Program Graduation. Countries or regions would be ''graduated'' from their eligibility for subsidy if the U.S. becomes fully price competitive in some regions later in the GATT phase-in period.

Consideration of Comments

Additional comments on other program modifications that are responsive to the Uruguay Round Agreements Act and the policy principles outlined herein are encouraged. All comments submitted by interested parties will be carefully considered. After consideration of the comments received, USDA/CCC will consider what changes should be made to its export subsidy programs. Some of the above-described changes would require additional notice and consideration of comments from interested parties via the rulemaking process. Others, such as restructuring the programs by geographical regions, could be adopted by changing internal policies and procedures.

Signed at Washington, DC, on June 21, 1995.

Christopher E. Goldthwait,

General Sales Manager and Vice President, Commodity Credit Corporation.

[FR Doc. 95–15590 Filed 6–23–95; 8:45 am]

BILLING CODE 3410–10–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR PART 701

Fees Paid By Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comments.

SUMMARY: The NCUA Board is considering a restructuring of the operating fee scale for natural person federal credit unions. It is proposing that all such credit unions with assets of $500,000 and less be exempt from paying any operating fee. In addition, it is proposing that all natural person federal credit unions with assets over $500,000 but equal to or less than $750,000 pay a minimum operating fee of $100.

DATES: Comments must be postmarked or posted on NCUA's electronic bulletin board by August 25, 1995.

ADDRESSES: Mail comments to Becky Baker, Secretary of the Board, National

Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Post comments to Ms. Baker on the bulletin board by dialing 703–518–6480.

FOR FURTHER INFORMATION CONTACT: Jane A. Walters, Controller, or Ron Aaron, Deputy Controller, at the above address, telephone (703) 518–6570.

SUPPLEMENTARY INFORMATION: In 1990, NCUA restructured the operating fee scale for natural person federal credit unions because it was felt the scale did not give due consideration to the ability of such credit unions to pay. The restructuring was a consolidation of the scale from 14 rate brackets to 2 rate brackets. In addition to the rate brackets, credit unions with assets greater than $50,000 but equal to or less than $371,885 paid a minimum fee of $100, and credit unions with assets equal to or less than $50,000 paid no fee. In 1992, a third rate bracket was added for credit unions exceeding $1 billion in assets.

The scale is indexed to and adjusted annually for projected asset growth in federal credit unions. Presently, the operating fee scale is as follows:

Total assets		Assessment rate
Over	But not more than	
$0	50,000	$0.00.
$50,000	371,885	100.00.
$371,885	383,837,000	0.0002689 × total assets.
$383,837,000	1,161,485,000	103,213.77 + 0.000784 × total assets over $383,837,000.
$1,161,485,000 and over		164,181.37 + 0.0002617 x total assets over $1,161,485,000.

NCUA is concerned that the present operating fee scale does not give enough consideration to the ability of small credit unions to pay. As assets continue to grow, the burden on smaller credit unions becomes greater than the burden on larger credit unions. The following table, based upon December 31, 1994, NCUA 5300 report financial data, indicates that as both a percentage of total expenses and a percentage of average assets the operating fee is more burdensome on small credit unions than on larger credit unions:

Asset size category	Percent op fee expense to total operating expense	Percent op fee expense to average assets
Less than $500,000	1.51	.07
$500,000–$2,000,000	.93	.04
$2,000,000–$10,000,000	.90	.03
$10,000,000–$50,000,000	.82	.03
$50,000,000–$100,000,000	.78	.03
Greater than $100,000,000	.73	.02

To reduce or eliminate this burden on small credit unions it is proposed that the asset size of credit unions eligible for an exemption from the operating fee be increased from $50,000 to $500,000. A total of 587 federal credit unions between $50,000 and $371,885 presently pay $100 and would benefit from this proposal. An additional 193 credit unions, with assets between $371,885 and $500,000, that pay an average fee of $117 would benefit from this proposal as well.

It is further proposed that the asset size of federal credit unions that pay a $100 fee be expanded to credit unions with assets over $500,000 but less than or equal to $750,000. A total of 349 federal credit unions in this category presently pay an average operating fee of $167. The restructuring of the operating fee scale will restore the fee to a more equitable assessment basis without imposing any significant, financial burden on larger credit unions. The total cost, in terms of reduced revenue, of this proposal is $104,747. This shortfall in revenue will be spread among all other federal credit unions (at an average cost of $16.63 per federal credit union), and will provide larger credit unions with an additional opportunity to help and support smaller credit unions which will strengthen the entire credit union movement. Finally, the proposed fee scale will comply more fully with the intent of the Federal Credit Union Act by assessing a fee based upon the credit union's ability to pay.

List of Subjects in 12 CFR Part 701

Credit, Credit union, Insurance, Mortgages.

Authority: 12 U. S. C. 1755, 31 U.S.C. 3717.

By the National Credit Union Administration Board on June 14, 1995.

Becky Baker,

Secretary of the Board.

[FR Doc. 95–15494 Filed 6–23–95; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–97–AD]

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes Equipped With Pratt & Whitney Model PW4460 and PW4462 Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes, that currently requires a visual inspection to detect cracks or discrepancies in the aft mount beam assembly of the engines; and replacement of the cracked or discrepant aft mount beam assembly with a new assembly, or a previously inspected and re-identified assembly. That amendment was prompted by reports of cracking in a certain aft mount beam assembly on Airbus Model A310 series airplanes. This action would continue to require the visual inspection, and corrective actions for findings of cracking or discrepancies. This action would require additional inspections to detect cracks or discrepancies in the subject area, and follow-on actions. The actions specified by the proposed AD are intended to prevent cracks in the aft mount beam assembly of the engines, which could result in loss of the capability of the aft mount beam assembly to support engine

loads, and possible separation of the engine from the airplane.

DATES: Comments must be received by August 21, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–97–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5324; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–97–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–97–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On May 22, 1995, the FAA issued AD 95–11–13, amendment 39–9246 (60 FR 28527, June 1, 1995), applicable to certain McDonnell Douglas Model MD–11 series airplanes, to require a one-time visual inspection to detect cracks or discrepancies in the aft mount beam assembly of the engines; and replacement of the cracked or discrepant aft mount beam assembly with a certain new assembly, or a certain previously inspected and re-identified assembly. That action was prompted by reports of cracking in an aft mount beam assembly having part number (P/N) 221–0261–501 on Airbus Model A310 series airplanes. The requirements of that AD are intended to prevent cracks in the aft mount beam assembly of the engines, which could result in loss of the capability of the aft mount beam assembly to support engine loads, and possible separation of the engine from the airplane.

Aft mount beam assemblies having P/N 221–0261–501 also are installed on McDonnell Douglas Model MD–11 series airplanes equipped with Pratt & Whitney PW4460 and PW4462 engines. The FAA has determined that these airplanes are also subject to the addressed unsafe condition.

In the preamble to AD 95–11–13, the FAA indicated that it intended to supersede that AD to require fluorescent penetrant and eddy current inspections of the aft mount beam assembly, P/N 221–0261–501, of the engines within 4,000 flight cycles after accomplishing the visual inspection required by that AD. This action proposes to require the addition of these inspection requirements.

The FAA previously reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–71A073, Revision 1, dated May 16, 1995, which describes procedures for a one-time visual inspection to detect cracks or discrepancies in the aft mount beam assembly, P/N 221–0261–501, of engine numbers 1, 2, and 3. This alert service bulletin also describes procedures for replacement of the cracked or discrepant aft mount beam assembly with a new assembly having P/N 221–0261–503, or a previously inspected and re-identified assembly having P/N 221–0261–501.

As a follow-on action to the visual inspection, this service bulletin describes procedures for etch fluorescent penetrant and eddy current inspections to detect cracks or discrepancies in the aft mount beam assembly, P/N 221–0261–501, of engine numbers 1, 2, and 3. This service bulletin also describes procedures for re-identifying and installing the aft mount beam assembly, if no cracks or discrepancies are detected during the fluorescent penetrant and eddy current inspections; and for replacement of any cracked or discrepant assembly found during these inspections.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 95–11–13 to continue to require a one-time visual inspection to detect cracks or discrepancies in the aft mount beam assembly, P/N 221–0261–501, of engine numbers 1, 2, and 3, and corrective actions for findings of cracking or discrepancies. The proposed AD would also require etch fluorescent penetrant and eddy current inspections to detect cracks or discrepancies in the subject area, and follow-on actions. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

This proposed AD would also require that operators report results of any inspection findings, positive or negative, to the FAA.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

There are approximately 57 Model MD–11 series airplanes equipped with Pratt & Whitney Model PW4460 and PW4462 engines of the affected design in the worldwide fleet. The FAA estimates that 17 airplanes of U.S. registry would be affected by this proposed AD.

The visual inspection that was previously required by AD 95–11–13, and retained in this proposal, would take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the total cost impact of the visual inspection requirement on U.S. operators is estimated to be $2,040, or $120 per airplane. The FAA estimates that all affected U.S. operators have already accomplished this action; therefore, the future cost impact of this requirement is minimal.

The fluorescent penetrant and eddy current inspections that would be required by this proposal would take approximately 15 work hours per airplane to accomplish, at an average labor rate of 60 per work hour. Based on these figures, the total cost impact of the proposed fluorescent penetrant and eddy current inspection requirements of this AD on U.S. operators is estimated to be $15,300, or $900 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9246 (60 FR 28527, June 1, 1995), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 95–NM–97–AD. Supersedes AD 95–11–13, Amendment 39–9246.

Applicability: Model MD–11 series airplanes, equipped with Pratt & Whitney Model PW4460 and PW4462 engines; as listed in McDonnell Douglas Alert Service Bulletin MD11–71A073, Revision 1, dated May 16, 1995; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the capability of the aft mount beam assembly to support engine loads, and possible separation of the engine from the airplane, accomplish the following:

(a) Within 60 days after June 16, 1995 (the effective date of AD 95–11–13, amendment 39–9246), perform a visual inspection to detect cracks or discrepancies in the aft mount beam assembly, part number (P/N) 221–0261–501, of engine numbers 1, 2, and 3, in accordance with McDonnell Douglas Alert Service Bulletin MD11–71A073, Revision 1, dated May 16, 1995.

(1) If no cracks or discrepancies are detected, no further action is required by paragraph (a) of this AD.

(2) If any crack or discrepancy is detected, prior to further flight, replace the cracked or discrepant aft mount beam assembly with a new assembly having P/N 221–0261–503, or an assembly having P/N 221–0261–501 that has been previously inspected and re-identified, in accordance with paragraph 3.B., Phase 2, of the Accomplishment Instructions of the alert service bulletin. Replacement shall be accomplished in accordance with the procedures specified in the alert service bulletin.

(b) Within 4,000 flight cycles after accomplishing the visual inspection required by paragraph (a) of this AD, perform etch fluorescent penetrant and eddy current inspections to detect cracks or discrepancies in the aft mount beam assembly, P/N 221–0261–501, of engine numbers 1, 2, and 3, in accordance with McDonnell Douglas Alert Service Bulletin MD11–71A073, Revision 1, dated May 16, 1995.

(1) If no cracks or discrepancies are detected, prior to further flight, re-identify and install the aft mount beam assembly in accordance with the alert service bulletin.

(2) If any crack or discrepancy is detected, prior to further flight, replace the cracked or discrepant aft mount beam assembly with a new assembly having P/N 221–0261–503, or an assembly having P/N 221–0261–501 that has been previously inspected and re-identified, in accordance with paragraph 3.B., Phase 2, of the Accomplishment Instructions of the alert service bulletin. Replacement shall be accomplished in accordance with the procedures specified in the alert service bulletin.

(c) Within 10 days after accomplishing any inspection required by this AD, report inspection results, positive or negative, to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712; fax (310) 627–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(d) As of June 16, 1995 (the effective date of AD 95–11–13, amendment 39–9246), no person shall install an aft mount beam assembly, P/N 221–0261–501, on any airplane, unless it has been previously inspected and re-identified in accordance with paragraph 3.B., Phase 2, of the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin MD11–71A073, Revision 1, dated May 16, 1995.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may

add comments and then send it to the Manager, Los Angeles ACO.

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

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

Issued in Renton, Washington, on June 20, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–15517 Filed 6–23–95; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Secret Service

31 CFR Part 411

[1505–AA69]

Color Illustrations of U.S. Currency

AGENCY: Secret Service, Treasury.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Counterfeit Deterrence Act of 1992, the Secret Service proposes to permit color illustrations of United States currency. Currently, color illustrations of U.S. currency are not permitted. The intended effect of the proposed rule is to permit color illustrations of U.S. currency while maintaining the safeguards needed to prevent the counterfeiting of United States currency.

DATES: Comments must be submitted on or before August 25, 1995.

ADDRESSES: Written comments should be forwarded to John J. Kelleher, Chief Counsel, United States Secret Service, 1800 G Street, NW., Room 842, Washington, DC 20223.

FOR FURTHER INFORMATION CONTACT: Mark Mulligan, Attorney/Advisor, Office of Chief Counsel, U.S. Secret Service, 1800 G Street, NW., Room 842, Washington, DC 20223, (202) 435–5771.

SUPPLEMENTARY INFORMATION:

Background

Currently, illustrations of U.S. currency are permitted provided the illustration is in black and white and is of a size less than three-fourths or more than one and one-half, in linear dimension, of each part so illustrated, and provided the negatives and plates used in making the illustration are destroyed. 18 U.S.C. 504. The Counterfeit Deterrence Act of 1992, Pub. L. No. 102–550 (1992), amended 18 U.S.C. 504 by requiring ''[t]he Secretary of the Treasury [to] prescribe regulations to permit color illustrations of such currency of the United States as the Secretary determines may be appropriate for such purposes.'' Treasury Directive Number 15–56, 58 FR 48539 (September 16, 1993), delegated the responsibility and authority to prescribe these regulations to the Director, United States Secret Service.

The proposed rule would allow the color illustration of U.S. currency. In developing this proposal, the Secret Service carefully weighed the interest in color illustrations with the federal government's compelling interest of preventing the counterfeiting of U.S. currency. The proposed rule is designed to allow the color illustration of U.S. currency in a manner which both prevents the possibility of these color illustrations being used as instruments of fraud and avoids the creation of conditions which may facilitate counterfeiting. In addition, the proposal recognizes technological advances in both computer graphics and other reprographics and requires that such methods comply with the requirements of the proposed rule.

The proposed rule would require the permitted color illustrations to comply with the current size restrictions set out in 18 U.S.C. 504. Any color illustration permitted under the proposed rule would also be required to have the term ''non-negotiable'' be prominently and conspicuously placed across the center portion of any illustration. In addition, the legend ''non-negotiable'' would be required to appear in clearly legible, bold, black, block letters, being a minimum of one quarter inch high, and covering at least one third of the linear length of the illustration. The legend ''non-negotiable'' must appear simultaneously with the creation, production, printing, publishing and transmission of the illustration on all copies of the illustration or any part thereof, and on all negatives, plates, positives, digitized storage medium, graphic files, magnetic medium, optical storage devices, or other reproductive method. In addition, such color illustrations would be required to be only one-sided.

The exceptions proposed by this rule, like the exceptions set out in 18 U.S.C. 504, apply notwithstanding any other provision of chapter 25 of Title 18 of the U.S. Code. It should specifically be noted that the requirement that the term ''non-negotiable'' appear simultaneously with the creation, production, printing, publishing and transmission of the illustration on all copies of the illustration or any part thereof, and on all negatives, plates, positives, digitized storage medium, graphic files, magnetic medium, optical storage devices, or other reproductive method does not waive or repeal the prohibition in 18 U.S.C. 333 against the mutilation or disfiguring of currency with the intent to render such currency unfit to be reissued. Also, the criminal liability imposed by 18 U.S.C. 474 and other applicable sections of chapter 25 of Title 18 of the U.S. Code could apply where a color illustration of U.S. currency fails to meet the requirements imposed by this proposed regulation.

Executive Order 12866

It has been determined that this document is not a significant regulatory action under Executive Order 12866. This proposed rule is intended to permit the color illustrations of certain U.S. currency, which at the present time are prohibited by law.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act and for the reasons set forth above, it is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

List of Subjects in 31 CFR Part 411

Color illustration, Currency.

For the reasons set out in the preamble, it is proposed that title 31, chapter IV of the Code of Federal Regulations be amended by adding part 411 as set forth below.

PART 411—COLOR ILLUSTRATIONS OF UNITED STATES CURRENCY

Authority: 18 U.S.C. 504; Treasury Directive Number 15–56, 58 FR 48539 (Sept. 16, 1993)

§ 411.1 Color illustrations authorized.

(a) Notwithstanding any provision of chapter 25 of Title 18 of the U.S. Code, authority is hereby given for the printing, publishing or importation, or the making or importation of the necessary plates or items for such printing or publishing, of color illustrations of U.S. currency provided that:

(1) The illustration be of a size less than three-fourths or more than one and one-half, in linear dimension, of each part of any matter so illustrated;

(2) The term ''non-negotiable'' be placed on any illustration in clearly legible, bold, black, block letters, being a minimum of one quarter inch high,

and prominently and conspicuously placed across the center portion of any illustration, covering at least one third of the linear length of the illustration. The term ''non-negotiable'' must appear simultaneously with the creation, production, printing, publishing and transmission of the illustration on all copies of the illustration or any part thereof and on all negatives, plates, positives, digitized storage medium, graphic files, magnetic medium, optical storage devices, or other reproductive method;

(3) The illustration be one-sided; and

(4) All negatives, plates, positives, digitized storage medium, graphic files, magnetic medium, optical storage devices, and any other thing used in the making of the illustration that contain an image of the illustration or any part thereof shall be destroyed and/or deleted or erased immediately after their final use in accordance with this section.

(b) [Reserved]

Paul A. Hackenberry,

Assistant Director, Office of Investigations.

[FR Doc. 95–15523 Filed 6–23–95; 8:45 am]

BILLING CODE 4810–42–P

ASSASSINATION RECORDS REVIEW BOARD

36 CFR Ch. 14

Rules Implementing the Government in the Sunshine Act

AGENCY: Assassination Records Review Board.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The Assassination Records Review Board (Review Board) was established by the President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act). This NPRM will constitute the Review Board's second rulemaking. All of the Review Board's regulations will eventually be codified at 36 CFR Part 1400 *et seq*. This rulemaking is undertaken in response to the Government in the Sunshine Act (Sunshine Act). The Sunshine Act relates to meetings of agencies of the United States government that are headed by collegial bodies composed of two or more members, a majority of whom are appointed by the President with the advice and consent of the Senate. The Act provides that meetings, as defined in the Sunshine Act, shall be held in public except where stated exemptions apply. The Review Board invites comments from interested groups and members of the public on these proposed rules implementing the Sunshine Act.

DATES: To be considered, comments must be mailed or delivered to the address listed below by 5 p.m. on July 26, 1995.

ADDRESSES: Comments on these proposed regulations should be mailed, faxed, or delivered to the Assassination Records Review Board, 600 E Street, N.W., 2nd Floor, Washington, D.C. 20530 (Attention: Sunshine Act NPRM). All comments will be placed in the Review Board's public files and will be available for inspection between 8:30 a.m. and 4:30 p.m., Monday through Friday, in the Review Board's Public Reading Room at the same address. Comments should state prominently that they are being filed in response to the Review Board's Sunshine Act NPRM.

FOR FURTHER INFORMATION CONTACT: T. Jeremy Gunn, Acting General Counsel, Assassination Records Review Board, 600 E Street, N.W., 2nd Floor, Washington, D.C. 20530, (202) 724–0088.

SUPPLEMENTARY INFORMATION: To discharge its responsibilities, the Review Board gathers as a collegial body at its Washington, D.C., office and at other locations as appropriate. Since the Review Board, including its staff, is a small agency, Review Board Members work both personally and collectively in the discharge of the Review Board's responsibilities. Review Board activities include such matters as: reviewing classified and restricted government records relating to the assassination of President Kennedy; determining whether such classified and restricted records should be opened and made available to the public; identifying additional assassination records in the possession of governments and individuals; holding public hearings related to assassination records; and ensuring government office compliance with the JFK Act.

The Sunshine Act defines meetings and sets certain requirements for advance public notice of such meetings (5 U.S.C. § 552b(e)) and permits agencies to close meetings to public attendance and to withhold information regarding meetings where an agency finds that any of ten exemptions enumerated in the Sunshine Act applies, 5 U.S.C. § 552b(c). The Act further sets forth the procedures that must be followed by agencies in invoking one of these exemptions, 5 U.S.C. § 552b(d),(f). The Review Board is required to adopt, after opportunity for public comment, regulations to implement the Sunshine Act, 5 U.S.C. § 552b(g).

Consistent with the requirement of 5 U.S.C. § 552b(g), the proposed regulations implement the provisions of 5 U.S.C. § 552b(b)–(f). This NPRM has been made following a review of the Sunshine Act, regulations promulgated and implemented by other collegial bodies under the Sunshine Act, and the opinion of the Supreme Court of the United States in *FCC* v. *ITT World Communications, Inc.*, 466 U.S. 463 (1984). The proposed regulations are intended to follow the exemptions set forth in the Sunshine Act and to implement fully the Sunshine Act's procedural requirements regarding public notice of meetings, availability of transcripts or other records of meetings, and closure of meetings.

Paperwork Reduction Act Statement

The proposed rule is not subject to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. § 3501, *et seq.*) because it does not contain any information collection requirements with the meaning of 44 U.S.C. § 3502(4).

Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. § 601–12, the Review Board certifies that this rule, if adopted, will not have a significant economic impact upon a substantial number of small entities and that a regulatory flexibility analysis need not be prepared. 5 U.S.C. § 605(b). The proposed rule would not impose any obligations, including any obligations on ''small entities,'' as set forth in 5 U.S.C. § 601(3) of the Regulatory Flexibility Act, or within the definition of ''small business,'' as found in 15 U.S.C. § 632, or within the Small Business Size Standards in regulations issued by the Small Business Administration and codified in 13 CFR part 121. Since the impact of the proposed rule is confined to the Review Board, the proposed rule does not fall within the purview of the Regulatory Flexibility Act.

List of the Subjects in 36 CFR Part 1405

Sunshine Act.

The Proposed Regulations

Chapter XIV of Title 36 of the Code of Federal Regulations (as proposed to be established at 60 FR 7507, February 8, 1995), is proposed to be amended by adding part 1405 to read as follows:

CHAPTER 14—ASSASSINATION RECORDS REVIEW BOARD

PART 1405—RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Sec.
1405.1 Applicability.
1405.2 Definitions.
1405.3 Open meetings requirement.
1405.4 Grounds on which meetings may be closed or information be withheld.
1405.5 Procedures for closing meetings, or withholding information, and requests by affected persons to close a meeting.
1405.6 Procedures for public announcement of meetings.
1405.7 Changes affecting a meeting following the public announcement of a meeting.
1405.8 Availability and retention of transcripts, recordings, and minutes and applicable fees.
1405.9 Severability.

Authority: 5 U.S.C. 552b; 44 U.S.C. 2107.

§ 1405.1 Applicability.

(a) This part implements the provisions of the Government in the Sunshine Act (5 U.S.C. 552b). These procedures apply to meetings of the Review Board. The Review Board may waive the provisions set forth in this Part to the extent authorized by law.

(b) Requests for all documents other than the transcripts, recordings, and minutes described in § 1405.8 shall be governed by Review Board regulations pursuant to the Freedom of Information Act (5 U.S.C. 552).

§ 1405.2 Definitions.

As used in this part:

Chairperson means the Member elected by the Board to serve in said position pursuant to 44 U.S.C. 2107.7(f).

General Counsel means the Review Board's principal legal officer, or an attorney serving as Acting General Counsel.

Government office means any office of the Federal Government that has possession or control of assassination records as set forth in 44 U.S.C. 2107.3(5).

Meeting means the deliberations of three or more Members where such deliberations determine or result in the joint conduct or disposition of official Review Board business. A meeting does not include:

(1) Notation voting or similar consideration of business, whether by circulation of material to the Members individually in writing or by a polling of the Members individually by telephone.

(2) Action by three or more Members to:

(i) Open or to close a meeting or to release or to withhold information pursuant to § 1405.5;

(ii) Set an agenda for a proposed meeting;

(iii) Call a meeting on less than seven days' notice as permitted by § 1405.6(b); or

(iv) Change the subject matter or the determinations to open or to close a publicly announced meeting under § 1405.7(b).

(3) A session attended by three or more Members for which the purpose is to receive briefings from the Review Board's staff or expert consultants, provided that members of the Review Board do not engage in deliberations at such sessions that determine or result in the joint conduct of disposition of official Review Board business on such matters.

(4) A session attended by three or more Members for which the purpose is to receive informational briefings from representatives of government offices discussing classified or otherwise restricted information in accordance with the provisions of the JFK Act, provided that Members of the Review Board do not engage in deliberations at such sessions that determine or result in the joint conduct of disposition of official Review Board business on such matters.

(5) A gathering of three or more Members for the purpose of holding informal preliminary discussions or exchanges of views, but that does not effectively predetermine official Review Board action.

Member means a current member of the Review Board as provided by law.

Presiding Officer means the Chairperson or any other Member authorized by the Review Board to preside at a meeting.

Review Board means the Assassination Records Review Board created pursuant to 44 U.S.C. 2107.7.

§ 1405.3 Open meetings requirement.

Any meetings of the Review Board, as defined in § 1405.2, shall be conducted in accordance with this part. Except as provided in § 1405.4, the Review Board's meetings, or portions thereof, shall be open to public observation.

§ 1405.4 Grounds on which meetings may be closed or information may be withheld.

A meeting may be closed when the Review Board properly determines that an open meeting would disclose information that may be withheld under the criteria enumerated below. Similarly, information that otherwise would be required to be disclosed under §§ 1405.5, 1405.6, and 1405.7 may also be withheld under these criteria. All records of closed meetings shall, however, be disclosed at a future date consistent with the terms and requirements of the JFK act. The criteria for closing meetings are whether information disclosed at such meetings is likely to:

(a) Disclose matters that are:

(1) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy; and

(2) in fact properly classified pursuant to such Executive order;

(b) Relate solely to the internal personnel rules and practices of the Review Board;

(c) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute:

(1) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(d) Disclose trade secrets and commercial or financial information obtained from a person and is privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclosure investigatory records compiled for law enforcement purposes, or information which, if written, would be contained in such records, but only to the extent that the production of such records or information would:

(1) interfere with enforcement proceedings;

(2) deprive a person of a right to a fair trial or an impartial adjudication;

(3) constitute an unwarranted invasion to personal privacy;

(4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) disclose investigative techniques and procedures; or

(6) endanger the life or physical safety of law enforcement personnel;

(h) Specifically concern the Review Board's issuance of a subpoena, or the Review Board's participation in a civil action or proceeding, an action in a

foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Review Board of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing; or

(i) Disclose other information for which the Sunshine Act provides an exemption to the open meeting requirements of the Act.

§ 1405.5 Procedures for closing meetings, or withholding information, and requests by affected persons to close a meeting.

(a) A majority of all Members may vote to close a meeting or withhold information pertaining to that meeting. A separate vote shall be taken with respect to each action under § 1405.4. A majority of the Review Board may act by taking a single vote with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. Each Member's vote under the paragraph shall be recorded and no proxies shall be permitted.

(b) Any person whose interests may be directly affected if a portion of a meeting is open may request the Review Board to close the portion of the meeting on the grounds referred to in § 1405.4(e), (f), or (g). Requests, with reasons in support thereof, should be submitted to the Office of the General counsel, Assassination Records Review Board, 600 E Street, NW., 2nd Floor, Washington, DC 20530. On the motion of any Member, the Review Board shall determine by recorded vote whether to grant the request.

(c) Within one working day of any vote taken pursuant to this section, the Review Board shall make publicly available a written copy of such vote reflecting the vote of each Member on the question. If a portion of a meeting is to be closed to the public, the Review Board shall make available a full written explanation of its action closing the meeting (or portion thereof) and a list of all persons expected to attend the meeting and their affiliation.

(d) For each closed meeting, the General Counsel shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification shall be available for public inspection.

(e) For each closed meeting, the Presiding Officer shall issue a statement setting forth the time, place, and persons present. A copy of such statement shall be available for public inspection.

(f) For each closed meeting, with the exception of a meeting closed pursuant to 1405.4(h), the Review Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting. For meetings or portions thereof that are closed pursuant to § 1405.4(h), the Review Board may maintain a set of minutes in lieu of such transcript or recording. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote. The records of closed meetings, in addition to all other records of the Review Board, shall be included as permanent records in the JFK Collection at the National Archives as provided by the JFK Act.

§ 1405.6 Procedures for public announcement of meetings.

(a) For each meeting, the Review Board shall make public announcement, at least one week before the meeting, of the:

(1) Time of the meeting;

(2) Place of the meeting;

(3) Subject matter of the meeting;

(4) Whether the meeting is to be open or closed; and

(5) The name and business telephone number of the official designated by the Review Board to respond to requests for information about the meeting.

(b) The one week advance notice required by paragraph (a) of this section may be reduced only if:

(1) A majority of all Members determines by recorded vote that Review Board business requires that such meeting be scheduled in less than seven days; and

(2) The public announcement required by paragraph (a) of this section is made at the earliest practicable time.

§ 1405.7 Changes affecting a meeting following the public announcement of a meeting.

(a) After there has been a public announcement of a meeting, the time or place of such meeting may be changed only if the Review Board publicly announces such change at the earliest practicable time. Members need not approve such change by recorded vote.

(b) After there has been a public announcement of a meeting, the subject matter of such meeting, or the determination of the Review Board to open or to close a meeting or a portion thereof to the public may be changed only when:

(1) A majority of all Members determines, by recorded vote, that Review Board business so requires and that no earlier announcement of the change was possible; and

(2) The Review Board publicly announces such change and the vote of each Member thereof at the earliest practicable time.

(c) The deletion of any subject matter announced for a meeting is not a change requiring the approval of the Review Board under paragraph (b) of this section.

§ 1405.8 Availability and retention of transcripts, recordings, and minutes, and applicable fees.

In accordance with the provisions of the JFK Act, the Review Board shall retain the transcript, electronic recording, or minutes of the discussion of any item on the agenda or of any testimony received at a closed meeting for inclusion as a permanent record in the JFK Collection at the National Archives. the public shall have access to such records consistent with the terms of the JFK Act. Copies of any nonexempt transcript or minutes, or transaction of such recordings disclosing the identity of each speaker, shall be furnished to any person at the actual cost of transcription or duplication unless otherwise provided by the terms of the JFK Act. If at some later time the Review Board determines that there is no further justification for withholding a portion of a transcript, electronic recording, or minutes or other item of information from the public which had been previously withheld, such portion or information shall be made publicly available.

§ 1405.9 Severability.

If any provision of this part or the application of such provision to any person or circumstance, is held invalid, the remainder of this part of the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Dated: June 20, 1995.

David G. Marwell,

Executive Director.

[FR Doc. 95–15514 Filed 6–23–95; 8:45 am]

BILLING CODE 6820–TD–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–86, RM–8636]

Radio Broadcasting Services; Frankenmuth, MI

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Frankenmuth Broadcasting, Inc., proposing the allotment of Channel 229A to Frankenmuth, Michigan, as that community's first local FM broadcast service. The coordinates for Channel 229A are 43–18–21 and 83–33–28. There is a site restriction 14.9 kilometers (9.3 miles) southeast of the community. Canadian concurrence will be requested for the allotment of channel 229A at Frankenmuth.

DATES: Comments must be filed on or before August 10, 1995, and reply comments on or before August 25, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Harry C. Martin, Andrew S. Kersting, Reddy, Begley, Martin & McCormick, 1001 22nd Street, NW., Suite 350, Washington, DC 20037.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–86, adopted June 8, 1995, and released June 19, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–15484 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–88, RM–8641]

Radio Broadcasting Services; Rose Hill and Trenton, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Duplin County Broadcasters seeking the substitution of Channel 284C2 for Channel 284A at Rose Hill, NC, the reallotment of Channel 284C2 to Trenton, NC, and the modification of Station WBSY's license to specify Trenton as its community of license. The allotment of Channel 284C2 to Trenton could provide the community with its first local aural service. Channel 284C2 can be allotted to Trenton in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.4 kilometers (0.9 miles) west, at coordinates North Latitude 35–04–00 and West Longitude 77–22–00.

DATES: Comments must be filed on or before August 10, 1995, and reply comments on or before August 25, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Peter Gutmann, Esq., Pepper & Corazzini, L.L.P., 1776 K Street, NW., Suite 200, Washington, DC 20006 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–88, adopted June 8, 1995, and released June 19, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A Karousos,

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

[FR Doc. 95–15485 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

(MM Docket No. 95–83, RM–8634)

Radio Broadcasting Services; Littlefield, Wolfforth and Tahoka, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by 21st Century Radio Ventures, Inc., seeking the reallotment of Channel 238C3 from Littlefield to Wolfforth, Texas, and the modification of Station KAIQ(FM)'s construction permit to specify Wolfforth as its community of license. In order to accommodate the reallotment, we seek comment on the deletion of vacant Channel 237A at Tahoka, Texas, or in the alternative, the substitution of Channel 278A for Channel 237A at Tahoka. *See* Supplemental Information, *infra*.

DATES: Comments must be filed on or before August 10, 1995, and reply comments on or before August 25, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant,

as follows: James L. Primm, 21st Century Radio Ventures, Inc., 713 Broadway, Santa Monica, California, 90401 (Petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–83, adopted June 8, 1995, and released June 19, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Channel 238C3 can be allotted to Wolfforth in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.3 kilometers (5.8 miles) south. The coordinates for Channel 238C3 at Wolfforth are 33–25–48 and 102–03–35. In accordance with Section 1.420(i) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 238C3 at Wolfforth or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties. Channel 278A can be allotted to Tahoka in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.6 kilometers (3.5 miles) northeast. The coordinates for Channel 278A are Tahoka are 33–11–34 and 101–44–44.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–15486 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–89, RM–8639]

Radio Broadcasting Services; Healdsburg, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Phil Squyres, seeking the allotment of Channel 244A to Healdsburg, California, as that community's third local FM service. Coordinates used for this proposal are 38–43–53 and 122–49–07.

DATES: Comments must be filed on or before August 10, 1995, and reply comments on or before August 25, 1995.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Peter Gutmann, Esq., Pepper & Corazzini, L.L.P., 1776 K Street, NW., Suite 200, Washington, DC 20006.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–89, adopted June 8, 1995, and released June 19, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–15480 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–82, RM–8630]

Radio Broadcasting Services; Monticello, Perry, Quincy and Woodville, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Great South Broadcasting, Inc., licensee of Station WXSR(FM), Channel 268C2, Quincy, Florida, requesting the reallotment of Channel 268C2 from Quincy, Florida, to Woodville, Florida, and the modification of its license to specify Woodville as its community of license, in accordance with Section 1.420(i) of the Commission's Rules. The coordinates for Channel 268C2 at Woodville, Florida are North Latitude 30–18–53 and West Longitude 84–15–57. This proposal also requires the substitution of Channel 289C3 for Channel 270C3 at Monticello, Florida, at coordinates North Latitude 30–25–05 and West Longitude 83–50–18, and the substitution of Channel 221A for Channel 288A at Perry, Florida at coordinates North Latitude 30–06–27 and West Longitude 83–34–00.

DATES: Comments must be filed on or before August 10, 1995, and reply comments on or before August 25, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gary S. Smithwick, Shaun A. Maher, Smithwick & Belendiuk, P.C., 1990 M Street, NW., Suite 510, Washington, DC 20036 (Attorneys for Petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of*

Proposed Rule Making, MM Docket No. 95–82, adopted June 7, 1995, and released June 19, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–15481 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 95–85, RM–8518]

Radio Broadcasting Services; Copeland, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Greater Plains Christian Radio, Inc., proposing the allotment of Channel 280C1 to Copeland, Kansas, and the reservation of Channel 280C1 for noncommercial use. Channel *280C1 can be allotted in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel *280C1 at Copeland are North Latitude 37–32–31 and West Longitude 100–37–45.

DATES: Comments must be filed on or before August 10, 1995, and reply comments on or before August 25, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Stephen C. Simpson, 1090 Vermont Avenue, NW., Suite 800, Washington, DC 20005 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–85, adopted June 7, 1995, and released June 19, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–15482 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–50; Notice 01]

RIN 2127–AF74

Federal Motor Vehicle Safety Standards; Reflecting Surfaces

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: NHTSA proposes to rescind Federal Motor Vehicle Safety Standard No. 107, *Reflecting Surfaces.* This proposed action is part of NHTSA's efforts to implement the President's Regulatory Reinvention Initiative to remove unnecessary regulations. The agency has tentatively concluded that market forces and product liability concerns will achieve the same results as Standard No. 107. Therefore, the Standard can be rescinded without affecting safety. Eliminating the Standard will remove the need to certify compliance with it.

DATES: Comments must be received on or before July 26, 1995.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to: Docket Section, Room 5109, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested, but not required, that 10 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Van Iderstine, Office of Vehicle Safety Standards, Office of Safety Performance Standards, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Mr. Van Iderstine's telephone number is (202) 366–5280, and his FAX number is (202) 366–4329.

SUPPLEMENTARY INFORMATION

President's Regulatory Reinvention Initiative

Pursuant to the March 4, 1995 directive ''Regulatory Reinvention Initiative'' from the President to the heads of departments and agencies, NHTSA has undertaken a review of its regulations and directives. During the course of this review, the agency identified several requirements and regulations that are potential candidates for rescission, including Federal Motor Vehicle Safety Standard No. 107, *Reflecting Surfaces* (49 CFR 571.107).

This document discusses why NHTSA believes Standard No. 107 can be rescinded without adversely affecting motor vehicle safety. That belief is based primarily on the vehicle manufacturers' established practice of using nonglossy materials and finishes on regulated and nonregulated components in the driver's forward field of view. Since the nonregulated components are not glossy, the agency believes that currently regulated components would not become glossy if they were deregulated.

Standard No. 107's Background

Standard No. 107 specifies reflecting surface requirements for certain ''bright metal'' components in the driver's forward field of view. The components are the windshield wiper arms and blades, inside windshield mouldings, horn ring and hub of the steering wheel assembly, and the inside rearview mirror frame and mounting bracket. The standard requires that the specular gloss of the surface of materials used in the components must not exceed 40 units when tested. (''Specular gloss'' refers to the amount of light reflected from a test specimen.) The purpose of the standard is to reduce the likelihood that glare from the regulated components will distract drivers or interfere with their ability to view the driving environment ahead.

Previous Review of Need for Standard No. 107

In a rulemaking during the late 1980's, NHTSA considered and ultimately rejected the possibility of extending Standard No. 107's specular gloss limitations to non-metallic surfaces. The issues raised in that rulemaking are relevant to the issue of whether Standard No. 107 should be rescinded.

In the NPRM proposing to extend Standard No. 107 to non-metallic surfaces, NHTSA considered three issues: (1) Whether there were safety benefits in retaining Standard No. 107; (2) whether there is justification to apply the specular gloss requirement to non-metallic versions of the components already covered by Standard No. 107; and (3) whether there is a need to expand Standard No. 107 to apply to other component parts (such as instrument panel pads). (November 13, 1987, 52 FR 43628).

Addressing the first issue, NHTSA noted Standard No. 107 was issued because the agency believed that the reflection of sun and bright lights off metallic components into the driver's eyes presented a potential safety problem which could be reduced by limiting the specular gloss of those items. Since a driver could still experience glare from sunlight and other bright lights, NHTSA concluded that Standard No. 107's limits on highly reflective components (i.e., possible sources of glare) still addressed a safety problem for drivers.

Addressing the second issue, NHTSA proposed to expand the coverage of the Standard by eliminating the limitation to ''metal'' components. NHTSA tentatively concluded that the safety problem posed by glossy metallic components was indistinguishable from the problem posed by glossy non-metallic components. NHTSA proposed to extend the standard despite a manufacturer's comment that any material used for new components would not be highly reflective. The manufacturer stated its belief that surfaces in the driver's forward field of view in modern automobiles are seldom constructed of glossy components because bright finishes are ''incompatible with the new trends of matte-finish componentry and trim * * *''

Addressing the third issue, NHTSA declined to propose extending Standard No. 107 to other vehicle components since it found no data showing that glare from unregulated components presents a safety problem. NHTSA also stated its belief that the absence of data showing that glare from unregulated components has presented a safety problem indicates that Standard No. 107 has correctly identified the components that are most likely to be the sources of hazardous glare.

In 1989, NHTSA terminated the rulemaking because there was no substantiation that there was a safety problem with glare from non-metallic surfaces (54 FR 35011, August 23, 1989). NHTSA concluded that because of the apparently insignificant nature of the safety problem (from reflected glare off non-metallic parts), and the costs of implementing the more expensive and complex test procedure necessary for non-metallic vehicle parts and materials, extending Standard No. 107 was not appropriate.

In 1991, NHTSA was petitioned by the Center for Auto Safety to include the instrument panel surface as one of the regulated items in Standard No. 107. The Center believed that such an action would ''significantly limit dashboard reflections in windshields'', and limit ''veiling glare'' as a ''major source of vision impairment.'' NHTSA denied this petition (see 56 FR 40853, August 16, 1991), after determining that there was no visibility problem which warranted Federal rulemaking. The agency could find no information showing that such dashboard reflections constituted a safety hazard. At the time, a search of the NHTSA consumer complaint file found only 23 complaints that were related to light reflections from the dashboard in over 138,000 complaints (0.017 percent). In only one of those was there a possibility that the reflections may have contributed to an accident.

In 1995, an updated search of the current file found 52 complaints that were related to dashboard glare in over 241,000 complaints (0.021 percent). In only one of these was there a possibility that the reflections contributed to accidents. The insignificant change in the number of complaints reinforces the agency's prior determinations that there is no need to expand the scope of Standard No. 107.

Market Forces and Product Liability Concerns Have Eliminated the Need for Standard No. 107

NHTSA believes that market forces continue to favor matte finishes and surfaces for components in the driver's field of view, and are reinforced by product liability concerns. Evidence of the impacts of these factors may be found in the virtual disappearance of horn rings and metallic inside windshield mountings and in the use of matte finishes on unregulated components. The agency also notes that nonmetallic materials are typically lighter weight than metallic ones.

As a result of the use of matte finishes on regulated components in the driver's field of view, glare from those components has been substantially reduced. Increased use of matte-finished, non-metallic materials (hard plastic or rubber) for parts such as windshield wiper arms and blades, steering wheel assembly hubs, and inside rearview mirror frame and mounting brackets, mean fewer vehicle components must meet Standard No. 107.

The decreasing tendency to use metal is also evident with respect to components not regulated by Standard No. 107. Since 1987, vehicle interior styling practices have favored a combination of hard plastic and padded faux leather, materials that do not reflect sufficient light to create glare. NHTSA believes that market forces will continue to favor matte finishes in the future.

NHTSA's Authority Over Safety Related Defects

Although NHTSA believes future market forces will favor matte finishes, it is possible that motor vehicle designs, styles, and preferred materials will change. If such changes should result in motor vehicle components that may produce distracting glare in the driver's line of sight, NHTSA intends to review the situation through its statutory authority over safety related defects in motor vehicles and motor vehicle equipment.

Proposed Effective Date

Because the proposed removal of Standard No. 107 would relieve restrictions without compromising safety, the agency tentatively has determined that there is good cause for

concluding that an effective date earlier than 180 days after issuance is in the public interest. Accordingly, the agency proposes that, if adopted, the effective date for the final rule be 30 days after its publication in the **Federal Register**.

Rulemaking Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule was not reviewed under Executive Order 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this rulemaking action and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. The agency anticipates that making this rule final would not affect the materials and finishes choices of the manufacturers with respect to the currently regulated components. NHTSA believes that this proposal would not impose any additional costs and would not yield any significant savings. Any cost impacts would be so slight that they cannot be quantified. The impacts would be so minimal as not to warrant preparation of a full regulatory evaluation.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this proposed action on small entities. Based upon this evaluation, I certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. As noted above, this final rule would not affect the materials and finishes choices of the manufacturers with respect to the currently regulated components. Accordingly, this rule would not affect either vehicle or equipment manufacturers. Similarly, it would not affect purchasers of motor vehicles and motor vehicle equipment. Accordingly, an initial regulatory flexibility analysis has not been prepared.

3. Executive Order 12612 (Federalism)

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

4. National Environmental Policy Act

The agency also has analyzed this proposed rule for the purpose of the National Environmental Policy Act, and determined that it would not have any significant impact on the quality of the human environment.

5. Executive Order 12778 (Civil Justice Reform)

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

Procedures for Filing Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

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

In consideration of the following, NHTSA proposes to amend 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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

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

§ 571.107 [Removed]

2. Section 571.107 would be removed in its entirety.

Issued on: June 20, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–15526 Filed 6–23–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[I.D. 062095A]

Atlantic Weakfish Fisheries; Public Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings; request for comments.

SUMMARY: NMFS will hold nine public hearings to receive comments from fishery participants and other members of the public regarding proposed regulations on the harvest and possession of weakfish in the exclusive economic zone of the Atlantic Ocean from Maine through Florida.

DATES: Written comments on the proposed rule must be received on or before August 2, 1995. The public hearings will be held during the month of July. See **SUPPLEMENTARY INFORMATION** for dates and times of the public hearings.

ADDRESSES: Written comments should be sent to William Hogarth, Office of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Clearly mark the outside of the envelope ''Atlantic Weakfish Comments.'' The public hearings will be held in North Carolina, Massachusetts, New York, Maryland, New Jersey, Florida, and Virginia. See **SUPPLEMENTARY INFORMATION** for the public hearing locations.

FOR FURTHER INFORMATION CONTACT: William Hogarth at 301–713–2339.

SUPPLEMENTARY INFORMATION: The proposed regulations are necessary to complement the rules already implemented by the coastal states through the Atlantic States Marine Fisheries Commission's Weakfish Management Plan, and to ensure the rebuilding of the weakfish stock along the east coast of the Atlantic Ocean.

A complete description of the measures, and the purpose and need for the proposed action, is contained in the proposed rule published June 20, 1995 and is not repeated here. Copies of the proposed rule may be obtained by writing (see **ADDRESSES**) or calling the contact person (see **FOR FURTHER INFORMATION CONTACT**).

To accommodate people unable to attend a hearing or wishing to provide additional comments, NMFS also solicits written comments on the proposed rule.

The public hearings will be held as follows:

Morehead City, NC

Monday, July 10, 1995, 7–9 p.m.

Joslyn Hall
Carteret Community College
3505 Arendell Street
Morehead City, NC 28557

Fall River, MA

Monday, July, 10, 1995, 7–9 p.m.

Fall River Heritage State Park Theater
Route 24, Davol Street
Fall River, MA 02202

Manteo, NC

Tuesday, July 11, 1995, 7–9 p.m.

North Carolina Aquarium
Airport Road
Manteo, NC 27954

Setauket, NY

Wednesday, July 12, 1995, 7–9 p.m.

New York State Department of Environmental Control
Division of Marine Resources Headquarters
Conference Room
205 Belle Mead Road
Setauket, NY 11790

Salisbury, MD

Wednesday, July 12, 1995, 7–9 p.m.

Wicomico Public Library
122 South Division Street
Salisbury, MD 21802

Cape May Court House, NJ

Wednesday, July 12, 1995, 7–9 p.m.

New Jersey Marine Advisory Service Education Center - Cape May County
Dennisville Road, Route 657
Cape May Court House, NJ 08210

Mayport, FL

Thursday, July 13, 1995, 7–9 p.m.

Mayport Elementary School Auditorium
2753 Shang-ri-la Drive
Mayport, FL 32233

Newport News, VA

Monday, July 17, 1995, 7–9 p.m.

Commission Hearing Room
4th Floor
2600 Washington Avenue
Newport News, VA 23607

Dover, DE

Tuesday, July 18, 1995, 7:30–9:30 p.m.

Department of Natural Resources and Environmental Control
Auditorium
89 Kings Highway
Dover, DE 19903

The purpose of this document is to alert the interested public of hearings and provide for public participation. These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to William Hogarth by July 3, 1995 (see **ADDRESSES**).

Authority: 16 U.S.C. 5101 *et seq.*

Dated: June 20, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–15522 Filed 6–21–95; 10:23 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 60, No. 122
Monday, June 26, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Washington Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Washington Provincial Advisory Committee will meet on July 12, 1995, in Randle, Washington, at the White Pass School on US Highway 12, 49 miles east of Interstate 5 via Exit No. 68. The meeting will begin at 9 a.m. and continue until 4:30 p.m.

Meeting purpose is to review processes applied in assessing watershed health conditions within the Cowlitz Basin. The Advisory Committee will determine how to use this information in advising Federal land managers on implementing the President's Northwest Forest Plan. Agenda items to be covered include: (1) Cowlitz Basin Pilot Project findings, (2) Public Open Forum, and (3) Forest Monitoring Program.

All Southwest Washington Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled near the conclusion of this meeting. Interested speakers will need to register at the door. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Mark Maggiora, Public Affairs Specialist, at (360) 750–5007, or write Forest Headquarters Office, Gifford Pinchot National Forest, 6926 E. Fourth Plain Blvd., P.O. Box 8944, Vancouver, WA 98668.

Dated: June 20, 1995.

Ted C. Stubblefield,

Forest Supervisor.

[FR Doc. 95–15552 Filed 6–23–95; 8:45 am]

BILLING CODE 3410–11–M

Intergovernmental Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Intergovernmental Advisory Committee (IAC) will meet on July 6, 1995, at the Wyndham Garden Hotel, 18188 Pacific Highway South, Seattle, Washington 98188. The purpose of the meeting is to continue discussions on the implementation of the Northwest Forest Plan. The meeting will begin at 9:00 a.m. on July 6 and continue until 4:30 a.m. Agenda items to be covered include: (1) Discussions on revisions to the federal watershed analysis guide; (2) a review of information management tasks; (3) further discussions on the final draft implementation monitoring plan; and (4) an update of information data sharing efforts on specific activities. The IAC meeting will be open to the public. Written comments may be submitted for the record at the meeting. Time will also be scheduled for oral public comments. Interested persons are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Questions regarding this meeting may be directed to Don Knowles, Executive Director, Regional Ecosystem Office, 333 SW 1st Avenue, P.O. Box 3623, Portland, OR 97208 (Phone: 503–326–6265).

Dated: April 8, 1995.

Donald R. Knowles,

Designated Federal Official.

[FR Doc. 95–15541 Filed 6–23–95; 8:45 am]

BILLING CODE 3410–11–M

ASSASSINATION RECORDS REVIEW BOARD

Notice of Formal Determinations

SUMMARY: The Assassination Records Review Board met in closed meeting on 06/07/95, and made formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992. These determinations are listed below. The assassination records are identified by the record identification number assigned in the President John F. Kennedy Assassination Records Collection database maintained by the National Archives. For each document, the number of releases of previously redacted information is noted.

REVIEW BOARD DETERMINATIONS

Record No.	Status	Releases	New review date
104–10007–10037	Open in Full	18	N/A
104–10007–10040	Open in Full	7	N/A
104–10007–10043	Open in Full	3	N/A
104–10007–10046	Open in Full	6	N/A
104–10007–10195	Open in Full	1	N/A
104–10008–10109	Open in Full	10	N/A
104–10015–10052	Open in Full	4	N/A
104–10015–10093	Open in Full	12	N/A
104–10015–10153	Open in Full	5	N/A
104–10015–10154	Open in Full	8	N/A
104–10015–10165	Open in Full	6	N/A
104–10015–10181	Open in Full	7	N/A

REVIEW BOARD DETERMINATIONS—Continued

Record No.	Status	Releases	New review date
104–10050–10002	Open in Full	3	N/A
104–10050–10077	Open in Full	1	N/A
104–10054–10023	Open in Full	12	N/A
104–10054–10204	Open in Full	2	N/A

FOR FURTHER INFORMATION CONTACT: T. Jeremy Gunn, Acting General Counsel and Associate Director for Research and Analysis, Assassination Records Review Board, Second Floor, 600 E Street, NW, Washington, DC 20530, (202) 724–0088, Fax: (202) 724–0457.

David G. Marwell,

Executive Director.

[FR Doc. 95–15515 Filed 6–23–95; 8:45 am]

BILLING CODE 6820–TD–M

COMMISSION ON CIVIL RIGHTS

Hearing on Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination; New York City

AGENCY: Commission on Civil Rights.

ACTION: Notice of hearing.

SUMMARY: Notice is hereby given pursuant to the provisions of the Civil Rights Commission Amendments of 1994, section 3, Public Law 103–419, 108 Stat. 4338, as amended, and 45 CFR 702.3, that a public hearing of the U.S. Commission on Civil Rights will commence on Wednesday, July 26, 1995, beginning at 8:30 a.m., in Ballroom 3 of the New New York Vista Hotel, located at 3 World Trade Center, New York, New York 10048.

The purpose of the hearing is to collect documents within the jurisdiction of the Commission, under 45 CFR 702.2, related to City policies and administration, immigration, and the securities industry in order to examine underlying causes of racial and ethnic tensions in the United States.

The Commission is authorized to hold hearings and to issue subpoenas for the production of documents and the attendance of witnesses pursuant to 45 CFR 701.2(c). The Commission is an independent bipartisan, factfinding agency authorized to study, collect, and disseminate information, and to appraise the laws and policies of the Federal Government, and to study and collect information concerning legal developments, with respect to discrimination or denials of equal protection of the laws under the constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice.

Hearing impaired persons who will attend the hearing and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division, at (202) 376–8105 (TDD (202) 376–8116), at least five (5) working days before the scheduled date of the hearing.

FOR FURTHER INFORMATION CONTACT: Barbara Brooks, Press and Communications (202) 376–8312.

Dated: June 21, 1995.

Miguel A. Sapp,

Acting Solicitor.

[FR Doc. 95–15588 Filed 6–23–95; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket Nos. 5109–01, 5109–02, 5110–01, 5110–02, 5110–03]

Decision and Order

In the Matter of: Sidhartha Bose, also known as Dr. Bose individually and doing business as Perfect Technologies, Ltd. with an address at 211 Golders Green Road, London, NW11 9BY, England and Thirunavukkarasu Ragunathan individually and doing business as W.K. Agencies and as Computer Focus Services Pte. Ltd. with an address at 18 Jalan Kechil, #06–22 Eastern Mansion, Singapore 1543, Respondents

On May 31, 1995, the Administrative Law Judge (ALJ) entered his Recommended Decision and Default Order in the above-referenced matters. The Recommended Decision and Default Order, a copy of which is attached hereto and made a part hereof, has been referred to me for final action. After describing the facts of the case and his findings based on those facts, the ALJ found that the Respondents had violated Sections 787.3(a) and 787.3(b) of the Export Administration Regulations (EAR) by conspiring with others to bring about acts that constituted violations of the EAR, by exporting or attempting to export U.S.-origin computers or computer parts from the United States, either directly or through Canada and/or Singapore, for ultimate destination in the then-Union of Soviet Socialist Republics, without the validated export licenses required by Section 772.1 of the EAR.

The ALJ found that the appropriate penalty for the violations should be that the Respondents and all successors, assignees, officers, representatives, agents and employees be denied for a period of ten years from this date all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving commodities or technical data exported or to be exported from the United States and subject to the Export Administration Regulations.

Based on my review of the entire record, I affirm the Recommended Decision and Default Order of the Administrative Law Judge.

This constitutes final agency action in this matter.

Dated: June 16, 1995.

William A. Reinsch,

Under Secretary for Export Administration.

Recommended Decision and Default Order

On July 20, 1994, the Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), issued separate charging letters initiating administrative proceedings against Sidhartha Bose, also known as Dr. Bose, individually and doing business as Perfect Technologies, Ltd.; and Thirunavukkarasu Ragunathan, individually and doing business as W.K. Agencies and as Computer Focus Services Pte. Ltd. (hereinafter ''Bose'' or ''Ragunathan'' or collectively referred to as respondents). Each charging letter alleged that the named respondent committee two violations of the Export Administration Regulations (currently codified at 15 CFR Parts 768–799 (1995)) (the Regulations),[1] issued

[1] The alleged violations occurred between 1987 and 1989. The Regulations governing the violations

pursuant to the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401–2420 (1991, Supp. 1993, and Pub. L. No. 103–277, July 5, 1994)) (the Act).[2]

Specifically, each charging letter alleged that the named respondents conspired with a network of business associates to bring about acts that constituted violations of the Regulations. The purpose of the conspiracy was to acquire U.S.-origin computers or computer parts which the conspirators would then export, or attempt to export, from the United States, either directly or through Canada, to India and/or Singapore, for ultimate destination in the then-Union of Soviet Socialist Republics (U.S.S.R.), without the validated export licenses required by Section 772.1 of the Regulations. Accordingly, the Department alleged that each respondent committed one violation of Section 787.3(a) and one violation of Section 787.3(b) of the Regulations.

On April 19, 1995, in light of the fact that neither Bose nor Ragunathan had answered the charging letter in accordance with the requirements of Section 788.7 of the Regulations, I ordered the Department to file separate default submissions, together with supporting evidence for the allegations made, by May 19, 1995. Because the two actions arose out of the same transactions or occurrences and the evidence supporting the Department's allegations in both cases is substantially the same, the Department moved on May 9, 1995 that I consolidate the proceedings and authorize the Department to file a single default submission. On May 10, 1995, I granted the Department's request. On May 18, 1995, the Department requested and I granted permission for the Department to file its default submission on or before May 24, 1995.

On the basis of the Department's submission and all of the supporting evidence presented, I have determined that Bose and Ragunathan violated Sections 787.3(a) and 787.3(b) of the Regulations by conspiring with others to bring about acts that constituted violations of the Regulations, by exporting or attempting to export from the United States, either directly or through Canada, to India and/or Singapore, for ultimte destination in the then-U.S.S.R. without the validated export licenses, as the Department alleges.

For those violations, the Department urges as a sanction that respondent's export privileges be denied for 10 years. I concur in the Department's recommendation.

Accordingly, it is therefore ordered,

First, that all outstanding individual validated licenses in which Sidhartha Bose, also known as Dr. Bose, individually and doing business at Perfect Technologies, Ltd., or Thirunavukkarasu Ragunathan, individually and doing business as W.K. Agencies and as Computer Focus Services, Pte. Ltd., appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Exporter Services for cancellation. Further, all of Bose and Ragunathan's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

Second, Sidhartha Bose, also known as Dr. Bose, individually and doing business as Perfect Technologies, Ltd., with an address at 211 Golders Green Road, London, NW11 9BY, England; and Thirunavukkarasu Ragunathan, individually and doing business as W.K. Agencies and as Computer Focus Services Pte. Ltd, with an address at 18 Jalan Kechil, #06–22 Eastern Mansion, Singapore 1543 (collectively referred to as ''Bose and ''Ragunathan''), and all successors, assigns, officers, representatives, agents, and employees, assigns, officers, representatives, agents, and employees, shall, for a period of 10 years from the date of final agency action, be denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, and subject to the Regulations.

A. Without limiting the generality of the foregoing, participating, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) as a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

B. After notice and opportunity for comment as provided in Section 788.3(c) of the Regulations, any person, firm, corporation, or business organization related to either Bose or Ragunathan by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

C. As provided by Section 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Exporter Services, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) in any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

Third, that a copy of this Order shall be served on Bose and Ragunathan and on the Department.

Fourth, that this Order, as affirmed or modified, shall become effective upon entry of the final action by the Under Secretary for Export Administration, in accordance with the Act (50 U.S.C.A. app. § 2412(c)(1)) and the Regulations (15 CFR 788.23).

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are found in the 1987 version of the Code of Federal Regulations, codified at 15 CFR Parts 368–399 (1987); the 1988 version of the Code of Federal Regulations, codified at 15 CFR Parts 368–399 (1988); and the 1989 version of the Code of Federal Regulations, codified at 15 CFR Parts 768–799 (1989). Effective October 1, 1988, the Regulations were redesignated as 15 CFR Parts 768–799 (53 FR 37751, September 28, 1988). The transfer merely changed the first number of each Part from ''3'' to ''7.''

[2] The Act expired on August 20, 1994. Executive Order 12924 (59 FR 43437, August 23, 1994) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991)).

To be considered in the 30 day statutory review portion which is mandated by Section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave., N.W., Room 3898B, Washington, D.C., 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 788.23(b), 50 FR 53134(1985). Pursuant to Section 13(c)(3) of the Act, the order of the final order of the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of its issuance.

Dated: May 31, 1995.

Edward J. Kuhlmann,

Administrative Law Judge.

[FR Doc. 95–15587 Filed 6–23–95; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

Countervailing Duty Order; Amendment of Notice of Opportunity to Request a Section 753 Injury Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Amendment of Notice of Opportunity to Request a Section 753 Injury Investigation for Countervailing Duty Orders.

SUMMARY: On May 26, 1995, the Department of Commerce (the Department) notified domestic interested parties of their right to request an injury investigation under section 753 of the Tariff Act of 1930, as amended (the Act), for countervailing duty orders that were issued under former section 303 of the Act (60 FR 27963). This notice amends the Appendix to the previous notice which omitted six eligible countervailing duty orders.

EFFECTIVE DATE: June 26, 1995.

FOR FURTHER INFORMATION CONTACT: Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–2786; or Vera Libeau, Office of Investigations, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone: (202) 205–3176.

SUPPLEMENTARY INFORMATION:

Background

This notice includes countervailing duty orders issued under former section 303 of the Act which were omitted from the Appendix to our previous notice dated May 26, 1995 (60 FR 27963). At the time these orders were issued, U.S. law did not require injury determinations as a prerequisite to their issuance. With the accession of the United States to the World Trade Organization (WTO) and the enactment of the Uruguay Round Agreements Act of 1994 (URAA), P.L. 103–465, U.S. law has changed. Under the URAA, the Government of the United States may not assess countervailing duties on imports from a WTO member country in the absence of an injury determination. Thus, as noted in the Statement of Administrative Action, new section 753 of the Act (as amended by the URAA) provides that for such orders ''. . . a domestic interested party may request that the [International Trade] Commission initiate an investigation to determine whether an industry in the United States is likely to be materially injured by reason of imports of the merchandise subject to the CVD order if the order is revoked.'' See Statement of Administrative Action, URAA, p.272.

Opportunity to Request a Section 753 Injury Investigation

On January 1, 1995, Singapore and Thailand joined the WTO. Therefore, for each of the countervailing duty orders listed below, we are notifying all domestic interested parties, as described in sections 771(9) (C), (D), (E), (F), or (G) of the Act, of their right to request an injury investigation under section 753(a) from the U.S. International Trade Commission (the Commission). In accordance with sections 753(b)(3) and (4) of the Act, outstanding section 303 orders for which the Commission has not previously made an affirmative injury determination will be revoked by the Department unless a request for an injury investigation is submitted to the Commission within six months of the date on which the country covered by the order joins the WTO, and the Commission renders an affirmative injury determination pursuant to section 753(a)(1) of the Act. Requests for the following orders must be filed with the Commission no later than June 30, 1995.

Singapore: Ball Bearings .....(C–559–802)
Singapore: Bearings, Cylindrical Roller .....(C–559–802)
Singapore: Bearings, Needle Roller .....(C–559–802)
Singapore: Bearings, Spherical Plane .....(C–559–802)
Singapore: Bearings, Spherical Roller .....(C–559–802)
Thailand: Ball Bearings.....[1] (C–549–802)

Requests for injury investigations under section 753 must be filed with the Commission in accordance with 19 C.F.R. § 207.46(b), added by 60 FR 18, 22–23 (January 3, 1995). All requests should be addressed to: Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436.

Dated: June 21, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–15761 Filed 6–23–95; 8:45 am]

BILLING CODE 3510–DS–P

[1] Applies only to the dutiable merchandise within the scope of the order.

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On June 16, 1995 Cemex, S.A. de C.V. filed a First Request for Panel Review with the U.S. Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free-Trade Agreement. Panel review was requested of the final antidumping determination review made by the International Trade Administration in the administrative review respecting Gray Portland Cement and Cement Clinker from Mexico. This determination was published in the **Federal Register** on January 9, 1995 (60 FR 2378) and Amended on May 19, 1995 (60 FR 26865). The NAFTA Secretariat has assigned Case Number USA–95–1904–02 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') established a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the government of Canada and the government of Mexico established

Rules of Procedure for Article 1904 Binational Panel Reviews (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter will be conducted in accordance with these Rules.

A first Request for Panel Review was filed with the U.S. Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on June 16, 1995, requesting panel review of the final antidumping duty administrative review described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is July 17, 1995);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is July 31, 1995); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: June 20, 1995.

James R. Holbein,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 95–15586 Filed 6–23–95; 8:45 am]

BILLING CODE 3510–GT–M

National Oceanic and Atmospheric Administration

National Weather Service Modernization and Associated Restructuring; Notice and Opportunity for Public Comment

SUMMARY: The National Weather Service (NWS) is publishing proposed certifications for:

(1) The proposed consolidation of the Galveston Weather Service Office (WSO) into the future Houston/Galveston Weather Forecast Office (WFO); and

(2) The proposed consolidation of the residual Los Angeles WSO into the future Los Angeles WFO.

In accordance with Pub. Law 102–567, the public will have 60 days in which to comment on these proposed certifications.

DATES: Comments are requested by August 25, 1995.

ADDRESSES: Requests for copies of the proposed consolidation packages should be sent to Janet Gilmer, Room 12316, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301–713–0276. All comments should be sent to Janet Gilmer at the above address.

FOR FURTHER INFORMATION CONTACT: Julie Scanlon at 301–713–1413.

SUPPLEMENTARY INFORMATION: NWS anticipates consolidating:

(1) The Galveston WSO with the future Houston/Galveston WFO, and

(2) The residual Los Angeles WSO with the future Los Angeles WFO.

In accordance with section 706 of Pub. Law 102–567, the Secretary of Commerce must certify that these consolidations will not result in any degradation of service to the affected areas of responsibility and must publish the proposed consolidation certifications in the FR. The documentation supporting each proposed certification includes the following:

(1) A draft memorandum by the meteorologist-in-charge recommending the certification, the final of which will be endorsed by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) A description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) A comparison of the services provided within the service area and the services to be provided after such action;

(4) A description of any recent or expected modernization of NWS operation which will enhance services in the service area;

(5) An identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the WSR–88D Radar Commissioning Report, User Confirmation of Services Report, and the Decommissioning Readiness Report; and

(7) A letter appointing the liaison officer.

These proposed certifications do not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Public Law 102–567. At its June 14, 1995 meeting the Committee concluded that the information presented did not reveal any potential degradation of service and decided not to issue a report. The Committee did offer several recommendations on these proposed certifications, which are attached to this notice.

The documentation supporting the proposed certifications is too voluminous to publish in its entirety. Copies of the supporting documentation can be obtained through the contact listed above.

Attached to this notice are:

(1) Draft memoranda by the respective meteorologists-in-charge recommending the certifications, and

(2) Recommendations of the Committee on these proposed certifications.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certifications. If decisions to certify are made, the Secretary of Commerce must publish the final certifications in the FR and transmit the certifications to the appropriate Congressional committees prior to consolidating the offices.

Dated: June 20, 1995.

Nicholas R. Scheller,

National Implementation Staff.

Memorandum for: Harry S. Hassel, Director, Southern Region

From: Bill Read, MIC, NWSO Houston/Galveston

Subject: Recommendation for Consolidation Certification

After reviewing the attached documentation, I have determined, in my professional judgment, consolidation of the Galveston Weather Service Office (WSO) with the future Houston/Galveston Weather Forecast Offices (WFO) will not result in any degradation in weather services to the Galveston service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending you approve this action in accordance with section 706 of Public Law 102–567 . If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the Galveston service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from Houston/Galveston WFO will not degrade these services.

2. A detailed list of the services currently provided within the Galveston service area from the Galveston WSO location and a list of services to be provided from the Houston/Galveston WFO location after consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. Also, the enclosed map shows the WSO Galveston Area of Responsibility (i.e. ''Affected Service Area'' and the future WFO Houston/Galveston Area of Responsibility. As discussed below, I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the WSO Galveston service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for Texas is included as attachment D. NWS operational radar coverage for the Galveston service area will be increased and no area will be missed in coverage.

5. The following evidence, based upon operational demonstration of modernized NWS operations played a key role in concluding there will be no degradation of service.

A. The WSR–88D RADAR Commissioning Report, attachment E, validates that the WSR–88D meets technical specifications (acceptance test); is fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed but two national work-arounds remain in effect.

B. The User Confirmation of Services, attachment F, documents that only two negative comments were received. Both of the negative comments have been answered to the satisfaction of the commentors as stated in the service Confirmation Report.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing Galveston WSR–57 radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Galveston service area is included as attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment 1) and the _____ public comments received during the comment period (attachment J). On _____, the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I Harry S. Hassel, Director, Southern Region, endorse this consolidation certification.

_____

Harry S. Hassel

_____

Date

Attachments

May 23, 1995.

Memorandum for: Thomas D. Potter, Director, Western Region

From: Todd Morris, AM/MIC, NWSFO Los Angeles

Subject: Recommendation for Consolidation Certification

A change of operations occurred at the Los Angeles Weather Service Forecast Office (WSFO) in October 1993 when most personnel were transferred to the facility of the future Los Angeles Weather Forecast Office (WFO) in Oxnard, California to operate the WSR–88D and assume forecast and warning responsibility for the Los Angeles service area. At the same time this office has been designated a Residual Weather Service Office (RWSO) at the original WSFO location to continue operating the existing WSR–74C radar.

After reviewing the attached documentation, I have determined, in my professional judgement, consolidation of the Los Angeles Residual Weather Service Office (RWSO) with the future Los Angeles/Oxnard Weather Forecast Office (WFO) will not result in any degradation in weather services to the Los Angeles service area. This proposed certification is in accordance with the advance notification provided in the National Implementation Plan. Accordingly, I am recommending that you approve this action in accordance with section 706 of Public Law 102–567. If you concur, please endorse this recommendation and forward this package to the Assistant Administrator for Weather Services for final certification. If Dr. Friday approves, he will forward the certification to the Secretary for approval and transmittal to Congress.

My recommendation is based on my review of the pertinent evidence and application of the modernization criteria for consolidation of a field office. In summary:

1. A description of local weather characteristics and weather-related concerns affecting the weather services provided in the pre-modernized Los Angeles service area is included as attachment A. As discussed below, I find that providing the services which address these characteristics and concerns from the Los Angeles/Oxnard WFO will not degrade these services.

2. A detailed list of the services currently provided from the Los Angeles RWSO location and comparable services to be provided from the Los Angeles/Oxnard WFO location after consolidation is included as attachment B. Comparison of these services shows that all services currently provided will continue to be provided after the proposed consolidation. I find that there will be no degradation in the quality of these services as a result of the consolidation.

3. A description of the recent or expected modernization of National Weather Service (NWS) operations which will enhance services in the pre-modernized Los Angeles service area is included as attachment C. The new technology (i.e. ASOS, WSR–88D, and AWIPS) has or will be installed and will enhance services.

4. A map showing planned NEXRAD coverage at an elevation of 10,000 feet for California is included as attachment D. NWS operational radar coverage for the Los Angeles service area will be vastly increased and will not degrade services.

It should be noted that neither the old Radar network nor the NEXRAD include coverage of a small mountainous area in the northeast corner of the service area. Therefore this does not represent a degradation of Radar coverage or services.

5. The following evidence, based upon operational demonstration of modernized NWS operations, played a key role in concluding there will be no degradation of service.

A. The WSR–88D RADAR Commissioning Report, attachment E, validates that the WSR–88D meets technical specifications (acceptance test); is fully operational (satisfactory operation of system interfaces and satisfactory support of associated NWS forecasting and warning services); service backup capabilities are functioning properly; a full set of operations and maintenance documentation is available; and spare parts and test equipment and trained operations and maintenance personnel are available on site. Training was completed. There were two national work-arounds. One of these has been satisfied while the other one remains in effect.

B. The User Confirmation of Services, attachment F, documents that only two negative comments were received. Both of the negative comments have been answered to the satisfaction of the commentors as stated in the service Confirmation Report.

C. The Decommissioning Readiness Report, attachment G, verifies that the existing Los Angeles WSR–74C radar is no longer needed to support services or products for local office operations.

6. A memorandum assigning the liaison officer for the Los Angeles service area is included as attachment H.

I have considered recommendations of the Modernization Transition Committee (attachment I) and the _____ public comments received during the comment period (attachment J). On _____ the Committee voted to endorse the proposed consolidation (attachment K). I believe all negative comments have been addressed to the satisfaction of our customers and I continue to recommend this certification.

Endorsement

I, Thomas D. Potter, Director, Western Region, endorse this consolidation certification.

_____

Thomas D. Potter

Date

Attachments

Modernization Transition Committee

Completion of Initial Consultation on Proposed Consolidation for Galveston and Los Angeles

The Modernization Transition Committee (MTC) has reviewed the consolidation certifications for the Houston/Galveston and Los Angeles/Oxnard consolidations and has determined that these actions will not result in degradation of services. In fact, contrary to the degradation of service, the Committee has concluded that these consolidations have improved the levels of service in these areas.

In addition, the committee makes the following recommendations to further improve, and maintain such levels of service:

(1) Continue to improve precipitation data assimilation and analysis capabilities.

(2) The Los Angeles/Oxnard WFO local weather description summary should include reference to weather related threats to public safety such as fire and mudslides.

(3) The Los Angeles/Oxnard WFO should implement a program of nonstructural mitigation to minimize the effects of earthquakes and other collapsed structure incidents on the provision of weather forecasting services.

Dated: June 14, 1995.

Peter R. Leavitt,

Chair, Modernization Transition Committee.

[FR Doc. 95–15511 Filed 6–23–95; 8:45 am]

BILLING CODE 3510–12–M

[I.D. 062095B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit 964 (P770#69), modification 5 to permit 825 (P513), modification 4 to permit 817 (P45K), and modification 2 to permit 823 (P503C).

SUMMARY: Notice is hereby given that NMFS has issued a permit and modifications to permits authorizing takes of listed species for the purpose of scientific research, subject to certain conditions set forth therein, to the Coastal Zone and Estuarine Studies Division (CZESD) of the Northwest Fisheries Science Center, NMFS, the Columbia River Inter-Tribal Fish Commission (CRITFC), the Northwest Biological Science Center of the National Biological Service (NBS), and the Idaho Department of Fish and Game (IDFG).

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Environmental and Technical Services Division, F/NWO3, NMFS, 525 NE Oregon Street, Portland, OR 97232–4169 (503–230–5400).

SUPPLEMENTARY INFORMATION: Permit 964, modification 5 to permit 825, modification 4 to permit 817, and modification 2 to permit 823 were issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222).

Notice was published on February 9, 1995 (60 FR 7752) that an application had been filed by CZESD (P770#69) for a permit to take listed species. CZESD requested authorization for a direct take of juvenile, listed, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) and an incidental take of juvenile, listed, Snake River sockeye salmon (*Oncorhynchus nerka*) and juvenile, listed, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with a juvenile fall chinook salmon transportation study. The purpose of the study is to compare the adult recoveries of run-of-the-river subyearling chinook salmon transported around the hydropower dams on the Columbia River using state-of-the-art facilities and technologies versus those migrating inriver under as favorable passage conditions as possible. Permit 964 was issued to CZESD on June 14, 1995. The duration of the research will be from approximately June 15 to September 15 for 3 of the next 5 years. The take of listed species associated with the research is authorized for 1995. Permit 964 expires on December 31, 1999.

Notice was published on April 26, 1995 (60 FR 20480) that an application had been filed by CRITFC (P513) for modification 5 to permit 825. Permit 825 authorizes a take of adult and juvenile, listed, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with five scientific research projects. For modification 5, CRITFC requested an additional take of juvenile, listed, Snake River spring/summer chinook salmon and a take of juvenile, listed, Snake River sockeye salmon (*Oncorhynchus nerka*) associated with a new scientific research project designed to provide fishery managers and hydropower system operators with real-time information on the distribution and incidence of gas bubble trauma symptoms experienced by migrating juvenile salmon during spills at Lower Monumental and Ice Harbor Dams on the Snake River and McNary and Bonneville Dams on the Columbia River. Modification 5 to permit 825 was issued on June 9, 1995 and is valid for the duration of the permit. Permit 825 expires on December 31, 1997.

Notice was published on March 20, 1995 (60 FR 14735) that an application had been filed by NBS (P45K) for modification 4 to permit 817. Permit 817 authorizes a take of juvenile, listed, Snake River fall and spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with a study designed to assess the migration timing of juvenile anadromous salmon using passive integrated transponder (PIT) tags and Panjet marks. For modification 4, NBS requested an increase in the annual take authorized in the permit and approval to use an additional sampling gear type. The increase in the annual take was requested to obtain a sufficient sample size to estimate the migration timing of fish produced in the upper Snake and Clearwater Rivers to Lower Monumental Dam on the lower Snake River. In addition, NBS requested approval to use modified fyke nets instead of beach seines to capture fish for tagging and to assess nearshore movements of the marked fish in the Snake and Clearwater Rivers. Modification 4 to permit 817 was issued on June 5, 1995 and is valid for the duration of the permit. Permit 817 expires on December 31, 1996.

Notice was published on March 9, 1995 (60 FR 12913) that an application had been filed by IDFG (P503C) for modification 2 to permit 823. Permit 823 authorizes a take of adult and juvenile, listed, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*), adult and juvenile, listed, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*), and adult and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) associated with a wide range of scientific research activities. For modification 2, IDFG requested an increase in the lethal take

of juvenile, endangered, Snake River sockeye salmon in Redfish Lake to optimize the evaluation of Redfish Lake fertilization/supplementation efforts in 1995 and beyond. In addition, IDFG requested to implement three other actions which would not require an increase in the take of listed species authorized in the permit. These three actions are: (1) A fish flush strategy designed to provide flushing flows through a seasonally dewatered stretch of the Lemhi River between the Barracks Lane Bridge and the Clark Steelhead Bridge during times of critical adult and juvenile salmon migrations; (2) the installation of a second juvenile fish trap upstream from the existing juvenile fish trap, the Sawtooth Hatchery weir, on the upper Salmon River to optimize trapping efficiency with the aim of developing more accurate estimates of anadromous fish survival rates and migration timing; and (3) the installation of a rotary screw trap in Rapid River upstream from the Rapid River Fish Hatchery to collect natural production information on wild steelhead salmon. Modification 2 to permit 823 was issued on June 13, 1995 and is valid for the duration of the permit. Permit 823 expires on November 30, 1997.

Issuance of these permit actions, as required by the ESA, was based on a finding that such actions: (1) Were applied for in good faith, (2) will not operate to the disadvantage of the listed species that are the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing listed species permits.

Dated: June 20, 1995.

Robert C. Ziobro,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–15528 Filed 6–23–95; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Army

Environmental Assessment and Finding of No Significant Impact for the Creation of Artificial Reefs Within the U.S. Continental Shelf Using Surplus Armored Vehicles (REEF–EX)

AGENCY: Army Material Command, DOD.

ACTION: Notice of Availability.

SUMMARY: This notice of availability is for the Environmental Assessment (EA) and the Finding of No Significant Impact (FNSI) which were prepared for the program known as Reef-Ex. The EA analyzes the environmental impacts of transportation, cleaning, and offshore placement of obsolete surplus armored military vehicles into artificial reef placement sites pre-approved by the appropriate state and Federal regulatory authorities. The FNSI briefly presents the reasons why the proposed action will not significantly affect the human environment and why an Environmental Impact Statement (EIS) was not prepared.

FOR FURTHER INFORMATION CONTACT: Persons wishing to review or receive further information on the EA and FNSI should contact LTC Dale, (703) 274–7115, Headquarters, U.S. Army Materiel Command, ATTN: AMCSA–AR, 5001, Eisenhower Ave., Alexandria, VA 22333–0001. For due consideration, comments must be received no later than 30 days from publication of this notice in the Federal Register.

SUPPLEMENTARY INFORMATION: The purpose of Reef-Ex is to provide practical and challenging U.S. Reserve Component training while enhancing national fishery resources. Benefits to the military include training for the Reserve Component personnel responsible for preparing and implementing transportation plans, scheduling and conducting and cleaning operations, and executing the final placement of vehicles at designed reef sites. National fishery resources will benefit from the increase of valuable habitat. Reef-Ex will concentrate primarily on the offshore deployment of obsolete armored vehicles. The obsolete armored vehicles will come largely from two classes: tanks and combat vehicles. The primary tank considered for the Reef-Ex program will be the M60 main battle tank. The Viet Nam-era M60 tank became obsolete by the end of the cold war. In addition, earlier model tanks such as the M48 and M551 ''Sheridan'' tanks may also be used in the Reef-Ex program. The combat vehicles will consist of members from the M113 Family of Vehicles (FOV), which have been used for a variety of missions including transport of infantry and engineering units, medial evacuation, fire support, and command and control functions on the battlefield. Under this program, it is proposed that up to 1,000 surplus/obsolete armored vehicles and similar types of equipment will be deployed in offshore artificial reef sites annually. If a reef site lies within state waters, a state permit and a Federal (U.S. Army Corps of Engineers) permit are required. If a reef is established in Federal waters (beyond the 3 miles from the ocean shoreline), only a Corps of Engineers (COE) permit is required. The holder of the COE permit; i.e. a state agency, is responsible for complying with all terms and conditions of the artificial reef permit and obtaining the necessary regulatory approvals. No armored vehicles will be transported for artificial reef placement without the necessary regulatory approvals. Cleanup standards and inspection procedures for the M48 and M60 tanks were developed as a result of extensive coordination with Federal and state agencies. Similar cleanup standards and inspections procedures will be developed for combat vehicles and other types of tanks. In addition to the proposed action, the EA considered several alternatives. They were: (1) No action, (2) sell for scrap/salvage, (3) sales to other countries, and (4) mothballing. The direct, indirect, and cumulative impacts associated with implementation of the Reef-Ex program by the U.S. Reserve Component personnel will not have significant adverse effects on the quality of the human environment. No threatened or endangered species, historical sites, or known archaeological resources are expected to be adversely affected by any of the activities associated with the Reef-Ex program. Coordination and cooperation with regulatory and technical environmental agencies has and will ensure that this action will be environmentally beneficial by creating valuable habitat for undersea life and providing for enhanced offshore fishing and diving on the artificial reef and surrounding areas. Based upon the analysis of the economic, social, and environmental considerations addressed in the EA, it was determined that the Reef-Ex program will not cause any significant impacts to the environment. Therefore, no EIS is required and a FNSI was prepared.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–15491 Filed 6–23–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.310A]

Parental Assistance Program

ACTION: Clarification regarding eligible applicants.

SUMMARY: On May 25, 1995, the U.S. Secretary of Education published a notice in the **Federal Register** inviting applications for new awards for fiscal

year 1995 under the Parental Assistance Program (60 FR 27836–54). The Parental Assistance Program is authorized by Title IV of the Goals 2000: Educate America Act (Pub. L. 103–227) (20 U.S.C. 5801 *et seq.*). In that notice, the Secretary noted that under the statutory provisions, nonprofit organizations, and nonprofit organizations in consortia with local educational agencies (LEAs), are eligible to apply for grants.

A number of potential applicants have contacted the U.S. Department of Education for clarification concerning the meaning of a nonprofit organization. The Education Department General Administrative Regulations at 34 CFR 77.1 define a nonprofit organization as one that is ''* * * owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.''

Specific questions have been raised concerning whether an institution of higher education (IHE) could qualify as a grantee. An IHE itself is not eligible to apply for a grant. However, a nonprofit foundation, or other entity established by an IHE and that meets the definition of ''nonprofit'' in 34 CFR 77.1 is eligible to apply as long as it meets the other application requirements in section 402(a) of the Goals 2000: Educate America Act.

FOR FURTHER INFORMATION CONTACT: Patricia Gore, U.S. Department of Education, 600 Independence Avenue, S.W., Portals Building, Room 4000, Washington, D.C. 20202–6135. Telephone: (202) 401–0039. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time.

Dated: June 20, 1995.

Thomas W. Payzant,

Assistant Secretary, Elementary and Secondary Education.

[FR Doc. 95–15560 Filed 6–23–95; 8:45 am]

BILLING CODE 4000–01–M

National Educational Research Policy and Priorities Board; Meeting

AGENCY: National Educational Research Policy and Priorities Board, Education.

ACTION: Notice of committee meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the National Educational Research Policy and Priorities Board's Committee on Research and Development Centers. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATE AND TIME: July 18, 1995, 8:30 a.m. to 4:00 p.m.

ADDRESSES: The Capitol Room, Washington Court Hotel, 525 New Jersey Avenue, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: John Christensen, Designated Federal Official, National Educational Research Policy and Priorities Board, 555 New Jersey Avenue, NW., Washington, DC 20208–7564. Telephone: (202) 219–2065; FAX: (202) 219–1466.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office.

The meeting of the Committee on the Research and Development Centers is open to the public. The agenda for the July 18, 1995 meeting provides for the review and comment by the Committee on the final notice of priorities for the National Research and Development Centers competition.

Records are kept of all Board proceedings, and are available for public inspection at the Office of the National Educational Research Policy and Priorities Board, 555 New Jersey Avenue, NW., Washington, DC 20208–7564.

Dated: June 21, 1995.

Sharon P. Robinson,

Assistant Secretary, Office of Educational Research and Improvement.

[FR Doc. 95–15589 Filed 6–23–95; 8:45 am]

BILLING CODE 4000–01–M

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel Decision Under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on November 8, 1993, an arbitration panel rendered a decision in the matter of Bessie Reece, Petitioner v. Missouri Bureau for the Blind, Division of Family Services, Respondent, Case No. R-S/92–5. This panel was convened by the Secretary of the U. S. Department of Education pursuant to 20 U.S.C. 107d-2, upon receipt of a complaint filed by petitioner Bessie Reece.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U. S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Switzer Building, Washington, D.C. 20202–2738. Telephone: (202) 205–9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d-2(c)), the Secretary publishes a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal property.

Background

Bessie Reece, complainant, is a blind vendor licensed by the State of Missouri, Division of Family Services, which is the State licensing agency (SLA) under the Randolph-Sheppard Act. Ms. Reece began operating vending facility no. 84 at the Federal Court and Customs House in St. Louis, Missouri, in 1981.

The Division of Family Services terminated Ms. Reece's Level II license because she was unable to keep the cost of goods to be sold under 72% of net sales and generate a 19% profit on net sales in any of the years she operated the facility. Under State regulatory provisions, 13 CSR 40–91.010(11), each facility manager is required to maintain a minimum level of net profits from sales of 19% for a Level II facility. The State regulations require that the maximum percentage of the cost of goods to be sold shall not exceed 72% of net sales for a Level II facility. For the entire year of 1991, complainant's cost of goods to be sold averaged 92.6% of net sales and her profit on net sales was 5.7%.

Ms. Reece had problems filing her monthly statements with the SLA and received delinquency notices in January, February, March, April, May, and June of 1991. She received her termination notice in July of 1991, although she was not removed until January 4, 1992. The SLA pointed out to Ms. Reece that her failure to meet the minimum level of net profits resulted in a loss of revenue for the blind employee program, requiring the blind vendors in other locations to pay her share for management and to carry the cost of her benefits.

Ms. Reece complained of poor inventory when she took over the

facility and stated that she was not credited for inventory that had to be destroyed. Ms. Reece stated that her starting inventory was substantially less than it should have been and that she did not receive an inventory report from the SLA until one year later. Complainant also stated that there was a problem with theft. She testified that these circumstances contributed to her inability to generate a profit. The Division of Family Services stated that it attempted to assist the complainant in improving the operation of her facility by making personnel available to assist in correcting her problems. The SLA provided an electric cash register to help her maintain better records of her cash flow.

Ms. Reece sought the reinstatement of her license, lost earnings in the amount of $8,000, as well as reimbursement of attorney's fees. Complainant also sought to be reinstated at vending facility no. 84 at the Federal Court and Customs House. Complainant believed that, since the facility had been renovated and a security camera had been installed, she could operate the facility within the cost guidelines established by the SLA.

Arbitration Panel Decision

The panel found that Ms. Reece did not, in the 10 years that she operated the vending facility, achieve the set guidelines of 72% of net sales for the cost of goods to be sold and the 19% profit margin as required under 13 CSR 40–91.010(11). Her cost of goods to be sold exceeded 103% on several occasions and averaged in the 90 percent range. Her profit margin was never more than 5% or 6%, but most of the time that profit margin was less than 1% or a negative profit.

There was evidence that the SLA attempted to assist the vendor on several occasions in cutting her cost of goods sold and improving her margin of profit. The panel found that the SLA had just cause to terminate Ms. Reece's vendor's license. The panel suggested to the SLA that the vendor be permitted to apply for rehabilitation services and, upon completion of those services, that her bid be considered on a Level I facility when it becomes available.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U. S. Department of Education.

Dated: June 13, 1995.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 95–15512 Filed 6–23–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Financial Assistance: County of Lake, Special Districts Administration, Lakeport, CA

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office, announces that pursuant to the DOE Financial Assistance Rules 10 CFR 600.7, it intends to award a renewal for Grant Number DE–FG07–93HD13257 to the County of Lake, Lakeport, California. The objective of the work to be performed under this grant is to provide funds to continue design, engineering, and construction oversight activities on the Southwest Geysers Effluent Pipeline. The project plan is to use treated wastewater effluent for injection as a means of increasing the recovery of energy from The Geysers geothermal field. The Federal Domestic Catalog Number is 81.087.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Stallman, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, MS 1221, Idaho Falls, Idaho 83401–1563, (208) 526–7038.

SUPPLEMENTARY INFORMATION: The statutory authority for the proposed award is the Geothermal Energy Research, Development & Demonstration Act (Pub. L. 93–410); the Department of Energy Organization Act (Pub. L. 95–91); and the Energy and Water Development Appropriation Bill of 1993 (Pub. L. 102–377). The proposal meets the criteria for ''non-competitive'' financial assistance as set forth in 10 CFR Part 600.7(b)(2)(i)(C). The applicant represents a unit of government and the activity to be supported is related to the performance of a government function within the subject jurisdiction. The County of Lake is the leader of this project and is the appropriate agency, since they will be the owner and operator of the pipeline carrying the effluent from the county wastewater treatment plant to The Geysers. The anticipated period to complete the award is eighteen (18) months. The Office of Utility Technologies has provided $1,800,000 to the DOE, Idaho Operations Office for support of this project. This grant would augment the County's funds associated with this project. The total estimated cost of this project is $30,000,000.

R. Jeffrey Hoyles,

Director, Procurement Services Division.

[FR Doc. 95–15545 Filed 6–23–95; 8:45 am]

BILLING CODE 6450–01–M

Refractory Containment Research, Development and Demonstration

AGENCY: Department of Energy, Idaho Operations Office.

ACTION: Solicitation for Financial Assistance: Refractory Containment Research, Development and Demonstration.

SUMMARY: The U.S. Department of Energy (DOE) Idaho Operations Office (ID), is seeking applications for cost-shared research, development and demonstration (field testing) of new refractories in state-of-the-art high temperature furnaces and molten material handling equipment to assist end-use industry sectors to remain competitive, and reduce energy consumption and environmental impacts. The research is to be directed toward those refractories used by the aluminum, glass, iron or steel industries. Applications shall include a demonstration (field test) in an end-use facility. A minimum 50% non-DOE cost-share is required. This is the complete solicitation document.

DATES: The deadline for receipt of applications is 4:00 p.m. MDT, August 17, 1995.

ADDRESSES: Applications shall be submitted to: B. G. Bauer, Contracting Officer; Procurement Services Division; U. S. Department of Energy; Idaho Operations Office; P.O. Box 52280; Idaho Falls, Idaho 83405–2280. [NUMBER DE-PS07–95ID13375]

FOR FURTHER INFORMATION CONTACT: Sharon Walker, Contract Specialist, Telephone (208) 526–5906, Facsimile (208) 526–5548.

SUPPLEMENTARY INFORMATION:

A. Background

Projects sponsored by the DOE Office of Industrial Technologies (OIT) are based on the needs and concerns of industry. The program advances technology to the point of commercialization. Historically, activities have focused on industrial competitiveness, the development of energy efficient, environmentally benign technology and equipment. As part of this program, this solicitation for DOE financial assistance applications is being issued. This solicitation is in accordance with Public Law 93–577, the Federal Non-nuclear Energy Research and Development Act of 1974.

B. Project Description

DOE anticipates awarding one or more Cooperative Agreements in accordance with DOE Financial Assistance regulations appearing at Title

10 of the Code of Federal Regulations, Chapter II Subchapter H, Part 600 as a result of this solicitation, and funds are available. Federal funds appropriated for this solicitation are approximately $890,000 and are to be used to fund the entire two year research effort. The Catalog of Federal Domestic Assistance Number for this program is 81.078. All projects shall be cost shared by DOE and the participant. Applicants should be aware that any awardee shall be required to have a cost share of not less than 50% of the total cost of the program. *No fee or profit will be paid to the award recipients.* Under Cooperative Agreements it is anticipated there will be substantial involvement by DOE.

DOE suggests, but does not require, a multi-task single phase approach. The first task would usually consist of refractory material selection and rationale for selecting the refractory materials formulation, followed by the second task consisting of field testing of the selected refractory formulation in an state-of-the art end-user application in one or more of the targeted industries. Project duration cannot exceed 2 years. Project(s) with durations of 2 years or less are eligible. All applications with project periods of 2 years or less will be given equal consideration. The period of performance for the first budget period is anticipated to be 12 months. If at the end of the first budget period, funds are available and the participant demonstrates a continuing need for federal assistance, shows sufficient progress in the research effort, has completed the work in compliance with a mutually agreed management plan, and identifies the new work planned, DOE may award a continuation to undertake further work to complete field testing. Successful applicants will be required to submit quarterly, annual and a final report to DOE.

The objective of this solicitation is to support research, development and demonstration (field testing) of new refractories in state-of-the-art high temperature furnaces and molten material handling equipment to assist end-use industry sectors to remain competitive, and reduce energy consumption and environmental impacts. The research is to be directed toward those refractories used by the aluminum, glass, iron or steel industries. Applications shall include a demonstration (field test) in an end-use facility.

New refractory systems are needed for use in existing industrial furnaces and for applications in new industrial processes (in the iron and steel, glass and aluminum end-use areas). Basic research to develop exotic new materials is not being sought. Improved refractories resulting from compositional changes or adaptations of existing materials are being sought for high temperature applications. Refractories with improved thermal, mechanical, and chemical characteristics are needed to improve longevity, adaptability, resistance to harsh environments, and ease of application. Development may include (but are not limited to) the following:

- Refractory materials installation systems
- Refractory for molten material and/or slag containment systems
- Longer service life
- Composites, coatings
- Materials with improved expansion/contraction characteristics
- Furnace repair refractories and glass stop materials
- Recuperator linings
- Refractories for oxy-fuel or gas reburn applications
- Stable refractories for high temperature applications

C. Application Requirements

Each Application shall contain the following information and use the following format:

1.0 EXECUTIVE SUMMARY
- 1.1 Proposed program and why it is appropriate for domestic industry and the relationship to the objectives of the solicitation
- 1.2 Organizational Plan
- 1.3 Specialized Experience
- 1.4 Total costs and non-federal cost-share commitments
- 1.5 Nonproprietary summary of proposed project including project benefits suitable for public release (maximum of two pages)

2.0 CRITICAL REVIEW OF TECHNOLOGY STATUS
- 2.1 Domestic Technology Status including Emerging Technologies
- 2.2 Worldwide Technology Status including Emerging Technologies
- 2.3 Why domestic industry is not pursing the proposed concept

3.0 PROJECT DESCRIPTION
- 3.1 Introduction including how industry has participated in the selection of the proposed R&D
- 3.2 Proposed concepts
- 3.3 Assumptions and detailed calculations of economic benefit to the overall domestic end-use industry
- 3.4 Assumptions and detailed calculations of energy savings in the overall domestic end-use industry
- 3.5 Technical feasibility and targets
- 3.6 Hurdles to be overcome by the proposed R&D
- 3.7 Environmental benefits of the proposed R&D

4.0 PROJECT PLAN
- 4.1 Project goals and scope
- 4.2 Statement of work
- 4.3 Work breakdown structure
- 4.4 Milestone plan, schedule integration
- 4.5 Technical targets, decision points and go/no-go decision criteria
- 4.6 Spending plan by task, phase and year
- 4.7 Sources of, and expectations concerning cost share and financing
- 4.8 Commercialization plan including technology transfer to industry and academia

5.0 TECHNICAL CAPABILITIES
- 5.1 Key personnel and responsibilities
- 5.2 Related experience
- 5.3 Facilities and equipment available
- 5.4 Justification for and description of needed facilities and estimated costs

6.0 PROJECT MANAGEMENT PLAN
- 6.1 Project organization and responsibilities
- 6.2 Task integration and project coordination
- 6.3 Project management structure including implementation and monitoring of R&D
- 6.4 Management philosophy
- 6.5 Reporting

D. Qualified Applicants

For profit and not for profit organizations, state and local governments, Indian tribes and institutions of higher learning. Applications may include national laboratories, but only as lower tier participants with funding for their expected costs provided through their existing arrangements with the Government.

E. Application Evaluation

a. Application Deadline

The deadline for receipt of applications is 4:00 p.m. MDT, August 17, 1995. Late applications will be handled in accordance with 10 CFR 600.13.

b. Selection of Applications

Only those applications which meet all of the requirements of this solicitation will be considered for selection. Selections will be made in accordance with the following selection criteria and programmatic considerations. All applications will be evaluated and point-scored in accordance with the following criteria. The applications should be fully responsive to each of the criteria.

Criterion 1: Research Concept and Plan—Factors to be considered are the clarity, completeness, responsiveness, and adequacy of the statement of work; the merit and depth of discussion of the proposed project (review of supporting data obtained in laboratory and/or pilot scale work completed to date) to determine if the proposed work is new and advanced, is based on sound scientific/engineering principles, advances refractory containment technologies which will assist one or more of the end-use industry sectors remain competitive, reduce energy consumption and envinonmental impacts, and the general applicability, timeliness and potential economic viability of the proposed technology; the planned levels of data acquisition, sampling and analyses; the schedule (sequence of project tasks, principal milestones, decision points, and adequacy of time for each task); and the planned assignment of responsibilities and level of manpower to complete the research.

Criterion 2: Applicant/Team Capabilities—Factors to be considered for the applicant and industrial partner team personnel are experience in research, development and demonstration of the project proposed; knowledge of past advanced developments in the work proposed; resources to perform the research, development and demonstration of the work proposed; ability to assemble a team of multi-disciplined individuals; qualifications of key individuals and the percentage of time devoted to the project; individual responsibilities, task assignments, and resource and manpower availability; and, project management methods.

Criterion 3: Facilities—Factors to be considered are the availability of laboratory and potential host facilities for performing research, development and demonstration work proposed; apparatus for performance of the tests, instrumentation, and data acquisition and control systems; and the availability of analytical support.

Criterion 4: Industrial Involvement—Factors to be considered are evidence of strong support by the refractory and end-user industry by identifying significant industry involvement in preparation of the application and in performing the research activities.

Criterion 5: Technology Transfer—The factor to be considered is the clear identification of a viable mechanism to facilitate the transfer of the technology to the end-user industry at the earliest practicable time;

Criterion 6: Cost Share—This solicitation requires a minimum of 50% non-DOE cost share. Additional cost share will be point scored in the following manner. Fifty percent cost share is valued at 0 points; 51% to 60% cost share is valued at 1 point; 61% to 70% cost share is valued at 2 points; 71% to 80% cost share is valued at 3 points; 81% to 90% cost share is valued at 4 points; and, above 91% cost share is valued at 5 points.

c. Weighting of Criteria

The Evaluation Criteria are weighted in the following manner: The criteria will be based on a maximum of 100 points. Criterion 1 and 2 each have a maximum point value of 25. Criterion 3, 4, and 5 each have a maximum point value of 15. Criterion 6 has a maximum point value of 5.

d. Programmatic Selection Considerations

In conjunction with the evaluation results and rankings of individual applications, the Government will make selections for negotiations and planned awards from among the highest ranking applications utilizing the following programmatic considerations:

(1) The total proposed cost of the project will not be point scored. Applicants are advised, however, that not withstanding the lower relative importance of the cost considerations, the evaluated cost may be the basis for selection. In making the selection decision, the apparent advantages of individual technical and business applications will be weighed against the probable cost to the government to determine whether the application approaches (excluding cost considerations) are worth the probable cost differences.

(2) It is desirable to implement each research and development project as a continuing collaborative effort in which the participants represent both the scientific/engineering research disciplines as well as members of the refractory and end-use industry.

(3) Applications that have the potential to save significant energy, reduce negative environmental impacts and provide significant cost benefits are preferred.

(4) Applications requiring DOE funding levels exceeding the availability of federal funds stated in the solicitation will not be evaluated.

e. Merit Reviews

All Applications will be evaluated under the procedure for ''Objective Merit Review of Discretionary Financial Assistance Applications'' which was published in the **Federal Register** on May 31, 1990 (Vol. 55, No. 105).

Selections for negotiations are expected to be made October 6, 1995, and financial assistance awards are expected to be made beginning November 26, 1995.

GENERAL CONDITIONS

The applications will be evaluated in accordance with the Office of Energy Efficiency and Renewable Energy Merit Review Procedure, and the criteria and programmatic considerations set forth in this solicitation. In conducting this evaluation, the Government may utilize assistance and advice from non-Government personnel. Applicants are therefore requested to state on the cover sheet of the applications if they do not consent to an evaluation by such non-Government personnel. The applicants are further advised that DOE may be unable to give full consideration to an application submitted without such consent. DOE reserves the right to support or not to support any, all, or any part of any application. All applicants will be notified in writing of the action taken on their applications in approximately 90 days after the closing date for this solicitation, provided no follow-up clarifications are needed. Status of any application during the evaluation and selection process will not be discussed with the applicants. Unsuccessful applications will not be returned.

A. Instructions for Preparation of Applications

Each application in response to this solicitation should be prepared in one volume. One original and nine copies of each application are required. Applications shall be a maximum of 40 pages excluding costing information and, assurance and certification forms provided in the DOE Application Instruction package. The application facesheet is the Standard Form 424. The application is to be prepared for the complete project period.

a. Proprietary Application Information

Applications submitted in response to this solicitation may contain trade secrets and/or privileged or confidential commercial or financial information which the applicant does not want used or disclosed for any purpose other than evaluation of the application. The use and disclosure of such data may be restricted provided the applicant marks the cover sheet of the application with the following legend, specifying the pages of the application which are to be restricted in accordance with the conditions of the legend:

''The data contained in pages _____ of this application have been submitted in

confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data herein to the extent provided in the award. This restriction does not limit the government's right to use or disclose data obtained without restriction from any source, including the applicant.''

Further, to protect such data, each page containing such data shall be specifically identified and marked, including each line or paragraph containing the data to be protected with a legend similar to the following:

Use or disclosure of the data set forth above is subject to the restriction on the cover page of this application.

It should be noted, however, that data bearing the aforementioned legend may be subject to release under the provisions of the Freedom of Information Act (FOIA), if DOE or a court determines that the material so marked is not exempt under the FOIA. The Government assumes no liability for disclosure or use of unmarked data and may use or disclose such data for any purpose. Applicants are hereby notified that DOE intends to make all applications submitted available to non-Government personnel for the sole purpose of assisting the DOE in its evaluation of the applications. These individuals will be required to protect the confidentiality of any specifically identified information obtained as a result of their participation in the evaluation.

Proposer must submit with each application a brief nonproprietary (maximum two page) summary of the proposed project including anticipated benefits for release to the public (Part 1.5 of Executive Summary) .

b. Budget

A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes. Project period means the total approved period of time that DOE will provide support contingent upon satisfactory progress and availability of funds. The project period may be divided into several budget periods. The project period shall not exceed two years. Each application must contain Standard Forms 424 and 424A. The budget summary page only needs to be completed for the first budget period; all other periods of support requested should be shown on the total costs page. The application should contain full details of the costs regarding the labor, overhead, material, travel, subcontracts, consultants, and other support costs broken down by task and by year. Every cost item should be justifiable and further details of the costs may be required if the application is selected for the award. It is essential that requested details be submitted in a timely manner for the actual award. Items of needed equipment should be individually listed by description and estimated cost, inclusive of tax, and adequately justified. The destination and purpose of budgeted travel and its relation to the research, should be specified. Anticipated consultant services should be justified and information furnished on each individual's expertise, primary organizational affiliation, daily compensation rate and number of days of expected service. Consultant's travel costs should be listed separately under travel in the budget.

c. Cost Proposal

In the event there are multiple projects proposed in a submittal, a separate cost proposal should be included for each project proposed for funding. The cost proposal should have sufficient detail that an independent evaluation of the labor, materials, equipment and other costs as well as a verification of the proposed cost share can be performed.

B. Notices to Applicants

a. False Statements

Applications must set forth full, accurate, and complete information as required by this solicitation. The penalty for making false statements is prescribed in 18 U.S.C. 1001.

b. Application Clarification

DOE reserves the right to require applications to be clarified or supplemented to the extent considered necessary either through additional written submissions or oral presentations.

c. Amendments

All amendments to this solicitation will be mailed to recipients who submit a written request for the DOE Application Instruction package.

d. Applicant's Past Performance

DOE reserves the right to solicit from available sources relevant information concerning an applicant's past performance and may consider such information in its evaluation.

e. Commitment of Public Funds

The Contracting Officer is the only individual who can legally commit the Government to the expenditure of public funds in connection with the proposed award. Any other commitment, either explicit or implied, is invalid.

f. Effective Period of Application

All applications should remain in effect for at least 180 days from the closing date.

g. Availability of Funds

The actual amount of funds to be obligated in each fiscal year will be subject to availability of funds appropriated by Congress. DOE reserves the right to fund in whole or in part, any, all or none of the applications submitted in response to this solicitation.

h. Assurances and Certifications

DOE requires the submission of preaward assurances of compliance and certifications which are mandated by law. Prospective applicants intending to submit an application in response to this solicitation should request a DOE Application Instruction package, which includes standard forms, assurances and certifications, by notifying the DOE Contract Specialist. It is advised that prospective applicants submit their requests in writing no later than July 13, 1995.

i. Questions & Answers

Questions regarding this solicitation should be submitted in writing to the DOE Contract Specialist no later than July 17, 1995. Questions and answers will be issued in writing as an amendment to this solicitation.

j. Preaward Costs

The government is not liable for any costs incurred in preparation of an application. Awardees may incur preaward costs up to ninety (90) days prior to the effective date of award. Should the awardee take such action, it is done so at the awardee's risk and does not impose any obligation on the DOE to issue an award (10 CFR 600.103)

k. Patents, Data, and Copyrights

Applicants are advised that patents, data, and copyrights will be treated in accordance with 10 CFR 600.33.

l. Environmental Impact

An applicant environmental checklist will be provided in the DOE Application Instruction package. Award will not be made until all environmental requirements are completed.

m. EPACT

Applicants shall be required to comply with Section 2306 of the Energy

Policy Act of 1992 (EPACT) [42 U.S.C. 13525], in the event EPACT applies to financial assistance instruments issued as a result of this solicitation. A copy of Section 2306 will be included in the DOE Application Instruction package.

Procurement Request Number: 07–95ID13375.000.

Dated: June 9, 1995.

R. Jeffrey Hoyles,

Director, Procurement Services Division.

[FR Doc. 95–15546 Filed 6–23–95; 8:45 am]

BILLING CODE 6450–01–P

Office of Fossil Energy

[FE Docket No. 95–41–NG]

Crestar Energy Marketing Corp.; Order Granting Blanket Authorization To Import and Export Natural Gas From and To Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Crestar Energy Marketing Corp. authorization to import and export up to a combined total of 50 Bcf of natural gas from and to Canada over a two-year term beginning on the date of the first import or export after July 12, 1995.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 13, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–15543 Filed 6–23–95; 8:45 am]

BILLING CODE 6450–01–P

[FE Docket No. 95–45–NG]

Pan-Alberta Gas (U.S.) Inc., Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Pan-Alberta Gas (U.S.) Inc. authorization to import up to 730 Bcf of natural gas from Canada over a two-year term beginning on the date of the first delivery after July 3, 1995.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., June 13, 1995.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 95–15544 Filed 6–23–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP95–565–000]

Equitrans, Inc.; Notice of Application

June 20, 1995.

Take notice that on June 15, 1995, Equitrans, Inc. (Equitrans), 3500 Park Lane, Pittsburgh, Pennsylvania 15275, filed in Docket No. CP95–500–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Equitrans to recove the costs associated with implementing a new technology for decreasing the investment in cushioning storage reservoirs by replacing the natural gas serving as cushion gas in Equitrans' Shirley reservoir in Tyler and Doddridge Counties, West Virginia with nitrogen, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Equitrans proposes to inject up to 300 Mmcf of nitrogen into the existing Shirley storage reservoir, but states that the reservoir will not be physically enlarged. According to Equitrans, less of the natural gas will need to remain in the reservoir to maintain the working capacity and deliverability of the reservoir, and the former cushion gas replaced with nitrogen will thereby be available for withdrawal, sale and public consumption. Equitrans proposes that the cushion natural gas withdrawn will be replaced by nitrogen at a lower cost to Equitrans' ratepayers.

In order to execute this procedure Equitrans state that it will contract with a third party to install temporary facilities at the surface of the Shirley reservoir to produce the nitrogen needed for injection. The nitrogen generation facilities will be installed and removed by the provider. It is stated that the cost of constructing these facilities will be included in the unit cost of nitrogen which will be purchased by Equitrans at the point of injection. Equitrans states that the wells that will be used in this project are owned and operated by an independent producer of natural gas. It is stated that these wells were dually completed to allow access by Equitrans to the storage formation. Under an existing operating and farmout agreement between Equitrans and the producer, Equitrans states that it will withdraw cushion natural gas from the storage reservoir for one year prior to injecting nitrogen. Equitrans proposes to commence nitrogen injection in late 1996 or early 1997.

Equitrans states that the natural gas that will be replaced as cushion gas by nitrogen under this proposal is currently reflected in Equitrans' ratebase at $1.10 per Mcf. Upon the sale of the natural gas that no longer needs to remain in the reservoir as cushion rates, Equitrans proposes to credit its ''Account 117, Gas stored udnerground—noncurrent'' by the amount that the gas is currently reflected in the rate base. Equitrans states that it will correspondingly debit the appropriate rate base account for the lower cost of the nitrogen. Equitrans contends that this rate base reduction will be included in rate base accounts chargeable to Equitrans' jurisdictional customers. It is stated that the cost of service impact of this rate base reduction will be included in Equitrans' next general Section 4(e) rate filing to be made in August of 1997, and will provide customers with rate benefits while maintaining the same level and reliability of storage service.

Equitrans further requests that the certificate issued herein provides that in the event of project failure, Equitrans be guaranteed recovery of the current book value of its Shirley facilities, together with a return on its investment in these facilities. Equitrans states that this regulatory protection is consistent with the Commission's treatment of the coal gasification projects undertaken in the 1970s.

Equitrans states that its proposal to offer its Shirley reservoir as a demonstration site will culminate the effort begun by the Gas Research Institute (GRI) in 1985 that has involved a variety of industry participants. It is stated that the potential benefits to the public of this project are significant, given the readily transferable nature of the technology to Equitrans' other storage reservoirs and to other storage operators in the industry.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 11, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20436, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to 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 with further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Equitrans to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15505 Filed 6–23–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–568–000]

Williams Natural Gas Co.; Notice of Request Under Blanket Authorization

June 20, 1995.

Take notice that on June 16, 1995, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP95–568–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon by reclaim facilities originally installed to deliver sales gas to Farmland Industries (Farmland) and to the Kansas Public Service Haskell town border (KPS Haskell), both located in Douglas County, Kansas, under WNG's blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

WNG states that the Farmland facilities were originally installed in 1954 and the KPS Haskell facilities were originally installed in 1938. In addition, WNG states that the Farmland setting has been blinded since 1983 and is no longer required to supply natural gas to the plant. WNG also states that the KPS Haskell setting has been blinded for several years, WNG having received authorization in Docket No. CP92–637–000 to install an additional tap for KPS in Douglas County which shifted the load from the low pressure distribution system serving the Haskell town border in anticipation of abandoning the town border. WNG further states that the reclaim of the Farmland and KPS Haskell facilities will also enable WNG to reclaim two regulator settings thereby eliminating unnecessary facilities.

WNG states that the total cost to reclaim the facilities at both locations is estimated to be $1,200 with an estimated salvage value of $0.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15506 Filed 6–23–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–108–003, et al]

Heartland Energy Services, Inc., et al; Electric Rate and Corporate Regulation Filings

June 16, 1995.

Take notice that the following filings have been made with the Commission:

1. Heartland Energy Services, Inc.

[Docket No. ER94–108–003]

Take notice that on April 28, 1995, Heartland Energy Services, Inc. tendered for filing a summary of its activity for the quarter ending March 31, 1995.

2. Valero Power Services Company

[Docket No. ER94–1394–003]

Take notice that on May 8, 1995, Valero Power Services Company tendered for filing a letter resubmitting a summary of its activity for the quarter ending March 31, 1995.

3. CNG Power Services Corporation

[Docket No. ER94–1554–003]

Take notice that on June 1, 1995, CNG Power Services Corporation (CNG Power) tendered for filing an amendment to its filing in this docket as required by the Commission's October 25, 1994, order in Docket No. ER94–1554–000. Copies of CNG Power's informational filing are on file with the Commission and are available for public inspection.

4. Northeast Utilities Service Company

[Docket No. ER94–1591–000]

Take notice that on May 26, 1995, Northeast Utilities Service Company tendered for filing an amendment in the above-referenced docket.

Comment date: June 29, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Mock Resources, Inc.

[Docket No. ER95–300–002]

Take notice that on June 2, 1995, Mock Resources, Inc. tendered for filing a letter stating that the power marketing business was transferred from Wickland Power Services to Mock Resources, Inc.

Comment date: June 29, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Ruffin Energy Service Inc.

[Docket No. ER95–1047–000]

Take notice that on June 7, 1995, Ruffin Energy Service, Inc. tendered for filing an amendment to its May 15, 1995, filing in the above-referenced docket.

Comment date: June 29, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Robert S. Jepson

[Docket No. ID–2908–000]

Take notice that on May 25, 1995, Robert S. Jepson (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Director—The Washington Water Power Company

Chairman of the Board/Chief Executive Officer—Kuhlman Corporation

Comment date: June 30, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15504 Filed 6–23–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER95–62–001, et al.]

TexPar Energy Inc., et al. Electric Rate and Corporate Regulation Filings

June 19, 1995.

Take notice that the following filings have been made with the Commission:

1. TexPar Energy, Inc.

[Docket No. ER95–62–001]

Take notice that on June 12, 1995, TexPar Energy, Inc. tendered for filing certain information as required by the Commission's letter order dated December 27, 1994. Copies of the informational filing are on file with the Commission and are available for public inspection.

2. CINergy Services, Inc.

[Docket No. ER95–1178–000]

Take notice that on June 8, 1995, CINergy Services, Inc. (CIN), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated May 1, 1995, between CIN, CG&E, PSI and Nor/Am Energy Services, Inc. (NES).

The Interchange Agreement provides for the following service between CIN and NES.

1. Exhibit A — Power Sales by NES
2. Exhibit B — Power Sales by CIN

CIN and NES have requested an effective date of June 12, 1995.

Copies of the filing were served on Nor/Am Energy Services, Inc., and interested state regulatory commissions.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Central Hudson Gas and Electric Corporation

[Docket No. ER95–1182–000]

Take notice that on June 8, 1995, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing a Service Agreement between CHG&E and Electric Clearinghouse, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1662. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Central Hudson Gas and Electric Corporation

[Docket No. ER95–1183–000]

Take notice that on June 8, 1995, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing a Service Agreement between CHG&E and Heartland Energy Services. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1662. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Central Hudson Gas and Electric Corporation

[Docket No. ER95–1184–000]

Take notice that on June 8, 1995, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing a Service Agreement between CHG&E and Utility-2000 Energy Corp. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1662. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Arkansas Public Service Commission v. Entergy Services, Inc.

[Docket No. EL95–53–000]

Take notice that on June 9, 1995, the Arkansas Public Service Commission filed a complaint under Sections 205 and 206 of the Federal Power Act, 16 U.S.C. §§ 824d and 8243 against Entergy Services, Inc. as the representative of Energy Corporation and its operating companies, Arkansas Power & Light Company (AP&L), Louisiana Power & Light Company (LP&L), Mississippi Power & Light Company (MP&L), Gulf States Utilities Company (GSU), and New Orleans Public Service, Inc. (NOPSI). The complaint seeks a revision of the Entergy System Agreement based upon allegations that the terms of that agreement, under current circumstances, are unjust, unreasonable and unduly discriminatory. Specifically, the complaint alleges that the allocation of nuclear decommissioning costs among AP&L, LP&L MP&L and NOPSI is unjust and unreasonable and results in cross-subsidization among the companies.

Comment date: July 19, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Electric Clearinghouse, Inc.

[Docket No. ER94–968–006]

Take notice that on June 8, 1995, Electric Clearinghouse, Inc., (Electric Clearinghouse) supplemented its filing of certain information as required by the Commission's April 7, 1994, order in Docket No. ER94–968–000. Copies of Electric Clearinghouse's informational filing are on file with the Commission and are available for public inspection.

8. Wisconsin Electric Power Company

[Docket No. ER95–1173–000]

Take notice that on June 7, 1995, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement and a

Transmission Service Agreement between itself and Howard Energy Company (Howard). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff. The Transmission Service Agreement allows Howard to receive transmission service under Wisconsin Electric's FERC Electric Tariff, Original Volume 1, Rate Schedule T–1.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on Howard, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc.

[Docket No. ER95–1174–000]

Take notice that on June 7, 1995, Montana-Dakota Utilities Co., a division of MDU Resources Group, Inc. (Montana-Dakota), tendered for filing amendments to a certain Interconnection and Common Use Agreement entered into between Montana-Dakota and Basin Electric Power Cooperative, Inc. (Basin).

Montana-Dakota requests that the Commission waive the notice requirement to permit the amendments to be effective January 1, 1995.

Copies of the filing were served on Basin and on the interested utility regulatory agencies.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. East Texas Electric Cooperative, Inc.

[Docket No. ER95–1175–000]

Take notice that on June 7, 1995, East Texas Electric Cooperative, Inc. (ETEC), tendered for filing a proposed tariff change to add a competitive rate alternative designated ETEC Schedule C–1. The proposed tariff shall be available to ETEC's three member generation and transmission (G&T) cooperatives (Sam Rayburn G&T Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc.) for resale to the G&T's member distribution cooperatives with: (1) customers who have an economically viable ability to acquire, self-, or co-generate electricity at prices below the applicable retail rate of the distribution cooperative, and; (2) new customers with monthly loads of not less than 2,500 Kw or existing loads that add at least 2,500 Kw of monthly load. This rate is only available to these customers if ETEC is successful in acquiring new power supply resources to competitively serve the loads.

The tariff proposal is designed to pass the actual cost of serving each customer under the tariff directly to the ETEC member using a formula calculation and adding a small contribution for ETEC fixed costs.

Copies of the filing were served upon the public utility's customers, and the Public Utility Commission of Texas.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Consumers Power Company

[Docket No. ER95–1176–000]

Take notice that on June 8, 1995, Consumers Power Company (Consumers), tendered for filing a revision to the annual charge rate for charges due Consumers from Northern Indiana Public Service Company (Northern), under the terms of the Barton Lake-Batavia Interconnection Facilities Agreement (designated Consumers Power Company Electric Rate Schedule FERC No. 44).

The revised charge is provided for in Subsection 1.043 of the Agreement, which provides that the annual charge rate may be redetermined effective May 1, 1995, using year-end 1994 data with a new annual charge rate. As a result of the redetermination, the monthly charges to be paid by Northern were increased from $17,020.00 to $17,082.00. Consumers requests an effective date of May 1, 1995, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Northern, the Michigan Public Service Commission and the Indiana Utility Regulatory Commission.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Entergy Power, Inc.

[Docket No. ER95–1177–000]

Take notice that on June 8, 1995, Entergy Power, Inc. (EPI), tendered for filing a Purchase and Sale Agreement with Louis Dreyfus Electric Power, Inc.

EPI requests an effective date for the Agreement that is one (1) day after the date filing, and respectfully requests waiver of the Commission's notice requirements in § 35.11 of the Commission's Regulations.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Wisconsin Electric Power Company

[Docket No. ER95–1179–000]

Take notice that on June 8, 1995, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement between itself and Manitowoc Public Utilities (Manitowoc). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on Manitowoc, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Wisconsin Electric Power Company

[Docket No. ER95–1180–000]

Take notice that on June 8, 1995, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement between itself and Central Illinois Public Service Co. (CIPS). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on CIPS, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Washington Water Power Company

[Docket No. ER95–1181–000]

Take notice that on June 8, 1995, Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, two signed service agreements, Grant County Public Utility District No. 2 and Public Utility District No. 1 of Snohomish County, previously accepted under Electric Tariff No. 4 as an unsigned service agreement and a signed service agreement under Service Schedule A only, respectively. Public Utility District No. 1 of Snohomish County includes a signed service agreement for all service schedules A through E. WWP requests waiver of the prior notice requirement and requests an effective date of July 1, 1995.

WWP also submits a new signed service agreement, Utility-2000 Energy Corp., to be accepted for filing with the Commission waiving the prior notice requirement and requesting an effective date of July 1, 1995.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Central Illinois Public Service Company

[Docket No. ER95–1189–000]

Take notice that on June 9, 1995, Central Illinois Public Service Company (CIPS), tendered for filing 1st Revised Schedule 1, ''Electric Utilities Interconnected with CIPS,'' to the Power Supply Agreement between CIPS and Soyland Power Cooperative, Inc. (Soyland) dated February 11, 1986, and 1st Revised Schedule 1, ''Electric Utilities Interconnected with CIPS,'' to the Transmission Services Agreement between CIPS and Soyland dated February 11, 1986. The revised schedules add Northern Indiana Public Service Company to the list of companies with which CIPS is interconnected.

CIPS requests an effective date of June 2, 1995 and, accordingly, asks waiver of the Commission's notice requirements. Copies of this filing have been served on Soyland and the Illinois Commerce Commission.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. San Diego Gas & Electric Company

[Docket No. ER95–1190–000]

Take notice that on June 9, 1995, San Diego Gas & Electric Company (SDG&E), tendered for filing and acceptance, pursuant to 18 CFR 35.12, an Interchange Agreement (Agreement) between SDG&E and Utility 2000 Energy Corporation (Utility-2000).

SDG&E requests that the Commission allow the Agreement to become effective on the 14th day of August, 1995 or at the earliest possible date.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Utility-2000.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. PacifiCorp

[Docket No. ER95–527–000]

Take notice that on June 1, 1995, PacifiCorp tendered for filing an amendment to its February 1, 1995, filing in the above-referenced docket.

Comment date: July 3, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. Dartmouth Power Associates Limited Partnership v. Commonwealth Electric Company

[Docket No. EL95–52–000]

Take notice that on June 8, 1995, Dartmouth Power Associates Limited Partnership tendered for filing a Complaint and Motion for Summary Judgment concerning violation of filed rate schedule and motion for penalties and expedited consideration.

Comment date: July 19, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–15542 Filed 6–23–95; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5226–4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) 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 July 26, 1995.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740. Please refer to ICR #0167.05

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: ''Verification of Test Parameters and Parts Lists for Light-Duty Vehicles and Light-Duty Trucks,'' (EPA ICR 0167.05; OMB #2060–0094). This ICR requests renewal of the existing clearance.

Abstract: In order to enforce compliance with the emission standards, under the emission recall program, EPA tests in-use vehicles using the Federal Test Procedures (FTP). The FTP specify parameters and parts list that vary with manufacturer and model. Therefore, EPA needs to verify with manufacturers that the specified parameters and parts lists are current for, and appropriate to, the vehicles being tested.

Burden Statement: The public reporting burden for this collection of information is estimated to average 2 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Motor vehicle manufacturers.

Estimated Number of Responses: 15.

Estimated Total Annual Burden: 150.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing burden, to:

Sandy Farmer, ICR #0167.05, Regulatory Information Division, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

and

Chris Wolz, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, N.W., Washington, D.C. 20530.

Dated: June 19, 1995.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 95–15575 Filed 6–23–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5226–8]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) 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 July 26, 1995.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, please refer to EPA ICR #0941.05.

SUPPLEMENTARY INFORMATION:

Office of Research and Development

Title: Application for Quality Control Sample (QC) Request Form (OMB No. 2080–0016; EPA ICR No. 0941.05).

Abstract: This ICR is an extension of an existing information collection request to continue the use of EPA's QC Sample Request Form, a form that is used by laboratories to request biological, microbiological, and selected chemical samples from USEPA's QC Program. The requirements for QC sampling are set forth at 40 CFR Parts 136, 141, and 142 and described in EPA's *Manual for Certification of Laboratories Analyzing Public Drinking Water Supplies.*

Laboratories requesting chemical, biological or other reference samples from the EPA must complete the one page QC form that includes: (1) identification (name, address of laboratory) information, and (2) a check list of samples that are available from EPA. EPA will enter completed request forms into their automated system, prepare the samples, attach computer generated labels to these samples and send the samples to the requesting laboratory. The samples provided by EPA used by laboratories to evaluate their own data, validate their methods, and evaluate instruments and standards used in the laboratory.

Burden Statement: Public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time for completing and reviewing the collection of information, and submitting the information to the EPA.

Respondents: State, local or private laboratories that perform drinking water testing.

Estimated Number of Respondents: 1,000.

Frequency of Collection: On occasion.

Estimated Number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 600 hours.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, (please refer to EPA ICR #0941.05 and OMB #2080–0016):

Sandy Farmer, EPA ICR #941.05, U.S. Environmental Protection Agency, Regulatory Information Division (2136), 401 M Street, SW., Washington, DC 20460.

and

Timothy Hunt, OMB #2080–0016, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: June 20, 1995.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 95–15576 Filed 6–23–95; 8:45 am]

BILLING CODE 6560–50–M

[RL–5223–7]

42 U.S.C. Section 122(g) Proposed Settlement of Administrative Order on Consent

AGENCY: U.S. Environmental Protection Agency (U.S. EPA).

ACTION: Proposed *de minimis* settlement.

SUMMARY: U.S. EPA is proposing to settle a claim under Section 122 of CERCLA with a *de minimis* potentially responsible party for pasts costs and costs that will be incurred during removal activities at the Lead Battery Recycler site in Toledo, Lucas County, Ohio. The Respondent has agreed to pay a total of $78,624.99. The money will be used to reimburse the U.S. EPA for past costs and oversight costs which will be incurred during removal actions to be taken at the site. This action is being taken to settle all liability related to the Lead Battery Recycler site with this Respondent pursuant to the intent of Section 122(g) of CERCLA, as amended.

DATES: Comments on this proposed settlement must be received by no later than July 26, 1995.

ADDRESSES: A copy of the proposed settlement is available at the following address for review: (It is recommended that you telephone Richard Clarizio at (312) 886–0559, before visiting the Region V Office.) U.S. Environmental Protection Agency, Region V, Office of Superfund, Emergency and Enforcement Response Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

Comments on the proposed settlement should be addressed to: (Please submit an original and three copies, if possible.) Richard Clarizio, Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency, Region V, 77 West Jackson Boulevard (CS–29A), Chicago, Illinois 60604–3590 (312) 886–0559.

FOR FURTHER INFORMATION CONTACT: Richard Clarizio, Office of Regional Counsel, at (312) 886–0559.

SUPPLEMENTARY INFORMATION: From 1981 to 1983, Detroit Lead Recyclers, a partnership doing business as Battery Recyclers of Detroit and Battery Recyclers of Toledo, operated the 2.75 acre site as a battery recycling facility. The site is located at 5715 Angola Road, Toledo, Lucas County, Ohio, in a mixed residential/industrial area. While in operation, the Lead Battery Recycler site received batteries from numerous locations and companies for recycling. The facility has been closed since 1983.

The Respondent, Dallas and Mavis Forwarding Co., Inc. arranged for disposal of spent batteries at the Lead Battery Recycler site. The Respondent's share of the waste delivered to the site is believed not to exceed 1.0% of the total waste delivered to the site. A similar settlement agreement for four other de minimis responsible parties was noticed in the **Federal Register** on August 24, 1994.

A 30-day period, beginning on the date of publication of today's notice, is open pursuant to Section 122(i) of CERCLA for comments on the proposed settlement with this Respondent.

William E. Muno,

Director, Waste Management Division, U.S. Environmental Protection Agency, Region V.

[FR Doc. 95–15577 Filed 6–23–95; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–83004; FRL–4961–2]

Receipt of Request from Rhone-Poulenc for Waiver from Testing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt of request for waiver from testing.

SUMMARY: Regulations issued by EPA under section 4 of the Toxic Substances Control Act require that specified chemical substances be tested to determine if they are contaminated with halogenated dibenzo-*p*-dioxins (HDDs) or halogenated dibenzofurans (HDFs), and that results be reported to EPA. However, provisions have been made for exclusion and waiver from these requirements if an appropriate application is submitted to EPA and is approved. EPA has received a request for a waiver from these requirements from Rhone-Poulenc and will accept comments on this request. EPA will publish another **Federal Register** notice announcing its decisions on this request.

DATES: Submit written comments on or before July 11, 1995.

ADDRESS: Submit written comments in triplicate, identified with the document

control number OPPTS–83004, to: TSCA Docket Receipts, (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. G99, East Tower, 401 M St., SW., Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPPTS–83004. No CBI should be submitted through e-mail. Electronic comments on this waiver request may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E–543, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under 40 CFR part 766 (52 FR 2112, June 5, 1987), EPA requires testing of certain chemical substances to determine whether they may be contaminated with HDDs and HDFs. Under 40 CFR 766.32(a)(2)(i), a waiver may be granted if a responsible company official certifies that the chemical substance is produced only in quantities of 100 kilograms or less per year, and only for research and development purposes. Under 40 CFR 766.32(b), a request for a waiver must be made 60 days before resumption of manufacture or importation of a chemical substance not being manufactured, imported, or processed as of June 5, 1987.

Rhone-Poulenc requests a waiver under 40 CFR 766.32(a)(2)(i). Rhone-Poulenc plans to import 2,4-dichlorophenol (CAS No. 120–83–2), a substance subject to testing under 40 CFR part 766, solely for research and development purposes. Rhone-Poulenc will limit its import of 2,4-dichlorophenol to 100 kilograms per calendar year.

A public version of the record for this action, from which confidential business information has been deleted, is available for inspection in the TSCA Public Docket Office, Monday through Friday, excluding legal holidays, in Rm. NE B607, 40l M St. SW., Washington, DC 20460 from 12 p.m. to 4 p.m.

A record has been established for this action under docket number OPPTS–83004 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record for this action which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

List of Subjects

Environmental protection, Chemical substances.

Dated: June 8, 1995.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 95–15169 Filed 6–23–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Being Reviewed By The Federal Communications Commission For Extension Under Delegated Authority 5 CFR 1320.9

June 15, 1995.

The Federal Communications Commission is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320.9, authority delegated to the Commission by the Office of Management and Budget (OMB) on October 6, 1994. These collections were all previously approved by OMB and are unchanged. Public comments are invited on any of these collections for a period ending July 26, 1995. Persons wishing to comment on these information collections should contact Dorothy Conway, Federal Communications Commission, 1919 M Street NW., Room 242–B, Washington, DC 20554. You may also send comments via Internet to DConway@fcc.gov. Upon approval FCC will forward supporting material and copies of these collections to OMB.

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800. For further information on these submissions contact Dorothy Conway, Federal Communications Commission, (202) 418–0217.

OMB Number: 3060–0391.

Title: Monitoring Program for Impact of Federal-State Joint Board Decisions.

Form No.: N/A.

Action: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 708 responses; 1.9 hours burden per response; 1,376 hours total annual burden.

Needs and Uses: The Monitoring Program is necessary for the Commission, the Joint Board, Congress, and the general public to access the impact of the Joint Board Decisions. Failure to implement the program would make it impossible to determine the impact of these decisions and to assure that they do not produce unanticipated results contrary to the public interest.

OMB Number: 3060–0515.

Title: Section 43.21(d) Miscellaneous Common Carrier and Record Carrier Annual Letter Filing Requirements.

Form No.: N/A.

Action: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 28 responses; 1,4 hours burden per response; 38 hours total annual burden.

Needs and Uses: Pursuant to Section 43.21(d) each miscellaneous common carrier with operating revenues over $100 million must file a letter showing its operating revenues for that year and the value of its total communications plant at the end of that year. Record carriers with operating revenues over

$75 million for a calendar year must file a letter showing selected income statement and balance sheet items for that year. The letter must contain information pertaining to the carriers revenues, expenses, net income, assets, liabilities and owners' equity. The information is used by FCC staff to regulate and monitor the telephone industry and by the public to analyze the industry.

OMB Number: 3060–0166.

Title: Part 42 Preservation of Records of Communications Common Carriers.

Action: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: On occasion.

Estimated Annual Burden: 68 responses; 2 hours burden per response; 136 hours total annual burden.

Needs and Uses: Part 42 of the Commission's Rules prescribes guidelines to ensure that carriers maintain the records needed by the FCC for its regulatory obligations. Section 42.4 requires carriers to maintain at is operating company headquarters a master index of the records identifying the records retained. Carriers must explain, by adding a certified statement to the index, the premature loss or destruction of records pursuant to Section 42.4. Section 42.6 requires the retention of telephone toll records for 18 months providing the following billing information about telephone toll calls: the name, address, and telephone number of the caller, telephone number called, date, time and length of the call. Pursuant to Section 42.7 carriers are allowed to establish their own retention periods, expect for the case of telephone toll records and records relevant to complaint proceedings.

OMB Number: 3060–0504.

Title: Section 90.658 Loading data required for base station licensees of trunked specialized mobile radio systems to acquire additional channels.

Form No.: N/A.

Action: Extension of a currently approved collection.

Respondents: Business or other for-profit; Not-for-Profit Institutions; State, Local or Tribal Government.

Frequency of Response: On occasion

Estimated Annual Burden: 1,909 responses; 30 minutes burden per response; 955 hours total annual burden.

Needs and Uses: Section 90.658 requires licensees of trunked Specialized Mobile Radio (SMR) Systems to submit information regarding the number of mobile units served by each base station when applying for additional channels to expand an existing system, or to renew a trunked SMR System licensed in a waiting list area before June 1, 1993. The Commission licensing personnel use the information to ensure that licensees of trunked SMR Systems that apply for additional spectrum or renew certain licenses have satisfied the FCC loading requirements.

OMB Number: 3060–0024.

Title: Section 76.12 Special Temporary Authority.

Form No.: N/A.

Action: Extension of a currently approved collection.

Respondents: Businesses or other for-profit

Frequency of Response: On occasion

Estimated Annual Burden: 1 response; 3 hours burden per response; 3 hours total annual burden.

Needs and Uses: Section 76.12 states that a system community unit shall be authorized to commence operation only after filing a registration statement with the Commission. Section 76.12 states that in circumstances requiring the temporary use of community units for operations not authorized by the Commission's rules, a cable television system may request temporary authorization to operate. The Commission may grant temporary authority upon finding that the public interest would be served. The data is used by Commission staff to ensure that a grant of special temporary authority will not cause interference with other stations.

OMB Number: 3060–0022.

Title: Application for Permit of an Alien Amateur Radio License to Operate in the United States.

Form No.: 610A.

Action: Extension of a currently approved collection.

Respondents: Individuals or households.

Frequency of Response: On occasion.

Estimated Annual Burden: 4,000 responses; 5 minutes burden per response; 336 hours total annual burden.

Needs and Uses: FCC610A must be filed with the Commission by aliens who hold an Amateur Operator and Station License issued by his/her government and who wish to apply for a permit to operate an Amateur Radio in the United States.

OMB Number: 3060–0228.

Title: Section 80.59 Compulsory ship stations.

Form No.: N/A.

Action: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government

Frequency of Response: On occasion.

Estimated Annual Burden: 200 responses; 2 hours burden per response; 400 hours total annual burden.

Needs and Uses: The requirements in Section 80.59 permit the Commission to waive the required annual inspection of certain oceangoing ships for up to 30 days beyond the expiration of the date of a vessel's radio safety certificate

OMB Number: 3060–0265.

Title: Section 80.868 Card of Instruction.

Form No.: N/A.

Action: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 3,000 responses; 6 minutes burden per response; 300 hours total annual burden.

Needs and Uses: Section 80.868 is necessary to insure that radiotelephone distress procedures are readily available to the radio operator on board certain vessels (300–600 gross tons). This information is used by the radio operator during an emergency situation, and is designed to assist the radio operator to utilize proper distress procedures.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–15487 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–01–F

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

June 20, 1995.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Dorothy Conway, Federal Communications Commission, (202) 418–0217 or via internet at DConway@FCC.GOV. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10214 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: 3060–0425.

Title: Sections 74.913 Selection procedure for multually exclusive ITFS applications.

Form No.: N/A.

Action: Revision of a currently approved collection.

Respondents: Not-for-profit institutions.

Frequency of Response: On occasion.

Estimated Annual Burden: 175 responses; 8 hours burden per response; 1,400 hours total annual burden.

Needs and Uses: Sections 74.913 requires applicants tied in a comparative selection proceeding for Instructional Television Fixed Service stations to submit an agreement to divide the use of the channels or a statement of student enrollment at its proposed receive locations. The data are used by FCC staff to detemmine the most qualified applicant.

OMB Number: 3060–0497.

Title: Mediator Survey and Party Survey Forms.

Form No.: FCC Form 91, and FCC Form 92.

Action: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Frequency of Response: On occasion.

Estimated Annual Burden: 1,620 responses; 30 minutes burden per response; 810 hours total annual burden.

Needs and Uses: These forms are necessary for the Commission to fulfill its responsibilities under the Administrative Dispute Resolutions Act. These forms provide feedback from the parties concerning the ADR Program and will enable the Commission to institute changes that will improve the program.

OMB Number: 3060–0498.

Title: Confidental Alternative Dispute Resolution Statement.

Form No.: FCC Form 90.

Action: Extension of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Frequency of Response: On occasion.

Estimated Annual Burden: 1,080 responses; 30 minutes burden per response; 540 hours total annual burden.

Needs and Uses: These forms are necessary for the Commission to fulfill its responsibilities under the Administrative Dispute Resolutions Act. This for will be filed with the neutral selected by the parties, it is necessary to provide the neutral with the background information to the case before the first ADR session.

OMB Number: 3060–0106.

Title: Section 43.61 Reports of Overseas Telecommunications Traffic.

Form No.: FCC Report 43.61.

Action: Revison of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: Annual.

Estimated Annual Burden: 160 responses; 17 hours burden per response; 2,370 hours total annual burden.

Needs and Uses: The telecommunications traffic data report is an annual reporting requirement imposed on common carriers engaged in the provision of overseas telecommunications services. The reported data is useful for international planning, facility authorization, monitoring emerging developments in communications services, analyzing market structures, tracking the balance of payments in international communications services, and market analysis purposes. The reported data enables the Commission to fulfill its regulatory responsibilites.

OMB Number: 3060–0512.

Title: ARMIS Quarterly Report.

Form No.: FCC Report 43–01.

Action: Extension of a currently approved collection.

Respondents: Business or other-for profit.

Frequency of Response: Quarterly.

Estimated Annual Burden: 600 responses; 220 hours burden per response; 132,000 hours total annual burden.

Needs and Uses: This report is needed to adminster our accounting, jurisdictional separations and access charge rules and the analyze revenue requirements and rates of return and to collect financial and operating data from all Tier 1 local exchange carriers. Automated reporting of these data greatly enhances the Commission's ability to process and analyze the extensive amount of data needed to administer its rules.

OMB Number: 3060–0511.

Title: ARMIS Access Report.

Form No.: FCC Report 43–04.

Action: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Frequency of Response: Annual.

Estimated Annual Burden: 150 responses; 1,150 hours burden per response; 172,500 hours total annual burden.

Needs and Uses: The Access Report is needed to administer accounting, juridictional separations and access change rules, and to analyze revenue requirements and rates of return and to collection financial and operating data from tier I local exchange carriers.

OMB Number: N/A.

Title: Section 76.934(h) Small system cost-of-service showings.

Form No.: FCC 1230.

Action: New Collection.

Respondents: Business or other for-profit; State, Local or Tribal Government.

Frequency of Response: On occasion.

Estimated Annual Burden: 1,500 responses; 2.25 hours burden per response; 3,375 hours total annual burden.

Needs and Uses: On May 5, 1995 the Commission realeased a Sixth Report and Order and Eleventh Order on Reconsideration in MM Docket Nos. 92–266 and 93–215. In this rulemaking the Commission amends its definition of small cable entities and makes available to these systems a new regulatory schem to provide both rate relief and reduce adminstrative burden. To implement this scheme of rate regulation, the Commission has created FCC Form 1230 a one page form on which the systems are to calculate permitted cable rates.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–15488 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–0I–F

[DA 95–1368]

Mass Media Bureau

Assignment and Transfer Backlog Reduction and New Speed of Service Initiatives

The Mass Media Bureau has instituted a plan to eliminate the existing backlog of contested assignment and transfer applications and to reduce, to the maximum extent possible, the time between the filing of new assignment and transfer applications and action on such applications. Additionally, the Bureau is exploring improved procedural techniques to expedite review of all applications filed with it.

Backlog Reduction Effort

Under the sales backlog reduction plan the Bureau will:

- Maintain its current speed of service for all routine assignment and transfer applications (*i.e.*, applications

that do not involve a waiver and are uncontested) at 60 days or less from the date of filing.

• By June 30, dispose of all non-routine assignment and transfer applications (*i.e.*, applications that are contested or involve a waiver) that have been pending for over 180 days, except for cases that are blocked because of circumstances beyond the Bureau's control.

• By July 31, dispose of all petitions for reconsideration of staff action on sales applications in cases where the petition has been pending for over 180 days; submit for Commission consideration draft decisions on all applications for review of staff action on sales applications in cases where the application for review has been pending for over 180 days.

• With regard to newly filed assignment and transfer applications, dispose of all non-routine applications in no more than 180 days from the date of filing, respond to all petitions for reconsideration of those decisions in no more than 180 days from the filing of the petition, and submit for Commission review draft documents responding to applications for review of such decisions in no more than 180 days from the filing of the application for review. The 180 day time-frame for initial action on a non-routine assignment and transfer application represents a worst-case scenario. The Bureau will act on most newly filed non-routine assignment and transfer applications in no more than 120 days. Frivolous petitions to deny will be acted on within 30 days of the close of the pleading cycle and frivolous informal objections will be acted on within 30 days of the close of the period established by the public notice announcing acceptance of the application. Applications will be approved simultaneously if otherwise grantable.

To achieve its backlog reduction plan, the Bureau has recently detailed several attorneys from other parts of the Bureau to the Audio Services Division, which receives the highest percentage of assignment and transfer applications. That Division is also reorganizing to permit its attorneys to focus on the more difficult legal issues raised in sales applications and to reduce the levels of internal review. These changes, coupled with certain procedural improvements, have within the last three months permitted the Division to reduce the number of non-routine sales cases over six months old by 65%, from 144 to 50, and the appeals of such cases by 20%, from 53 to 42. In the Video Services Division, the backlog of pending sales cases over six months old is currently 20 and, with the exception of a few complex cases, will be reduced according to the schedule above. On a separate matter, the Video Services Division, since June of 1994 when it assumed responsibility for processing MMDS applications, has reduced the number of applications for new or improved facilities by approximately 2200, or 33%, and has reduced the backlog of MMDS petitions for reconsideration from 5523 to 207, or 96%.

In addition to reallocating resources, the Bureau is applying improved procedural techniques to expedite review of all assignment and transfer applications filed with it and is exploring additional ways to facilitate timely processing:

• The Bureau will screen receipt all incoming pleadings to determine whether they conform to procedural rules and to assess the seriousness of the allegations. Petitions to deny, petitions for reconsideration, and applications for review that fail to comply with relevant procedural requirements including, for example, requirements concerning standing, jurisdiction, and supporting affidavits, will be summarily dismissed unless the staff determines that consideration of the document despite its procedural flaws is in the public interest. The Bureau urges attorneys to state with specificity, and to support with facts and legal authority, how each pleading filed complies with procedural requirements in the Commission's rules.

• Though all issues raised in pleadings will be carefully and thoroughly considered, staff decisions denying petitions to deny and petitions for reconsideration will generally contain a concise statement of reasons disposing of all substantial issues raised by the petition rather than a detailed issue-by-issue analysis. Decisions denying informal objections will generally indicate only that the objection failed to present a public interest reason for denying the application. Parties may submit draft decision documents to the staff together with their authorized pleadings.

• The Bureau plans to request expansion of its delegated authority to permit waivers of the multiple ownership rules and resolution of routine EEO complaints without full Commission review.

Action by the Chief, Mass Media Bureau.

FOR FURTHER INFORMATION CONTACT: Linda Blair or Stuart Bedell at 202–418–2788 or Clay Pendarvis at 202–418–1630.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–15537 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 2080]

Petition for Reconsideration of Actions in Rulemaking Proceedings

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document are available for viewing and copying in Room 329, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed July 11, 1995. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendments of Parts 15 and 90 of the Commission's Rules Provide Additional Frequencies for Cordless Telephone. (ET Docket No. 93–235)

Number of Petition Filed: 1

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 95–15538 Filed 6–23–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1050–DR]

North Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Dakota, (FEMA–1050–DR), dated May 16, 1995, and related determinations.

EFFECTIVE DATE: June 20, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of North Dakota dated may 16, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by

the President in his declaration of May 16, 1995:

The counties of Emmons, Renville and Sargent for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 95–15581 Filed 6–23–95; 8:45 am]

BILLING CODE 6718–01–M

[FEMA–1050–DR]

North Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Dakota, (FEMA–1050–DR), dated May 16, 1995, and related determinations.

EFFECTIVE DATE: June 20, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of North Dakota dated May 16, 1995, is hereby amended to include Disaster Unemployment Assistance in the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 16, 1995:

Barnes, Benson, Bottineau, Burleigh, Cavalier, Dickey, Eddy, Foster, Griggs, Kidder, La Moure, Logan, McHenry, McIntosh, McLean, Nelson, Pembina, Pierce, Ramsey, Ransom, Rolette, Sheridan, Sioux, Steele, Stutsman, Towner, Traill, Walsh, and Wells for Disaster Unemployment Assistance under the Individual Assistance Program. (Already designated for Public Assistance)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 95–15582 Filed 6–25–95; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1052–DR]

South Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota (FEMA–1052–DR), dated May 26, 1995, and related determinations.

EFFECTIVE DATE: June 20, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 20, 1995.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 95–15583 Filed 6–23–95; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1054–DR]

Missouri; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri, (FEMA–1054–DR), dated June 2, 1995, and related determinations.

EFFECTIVE DATE: June 20, 1995.

FOR FURTHER INFORMATION CONTACT: Pouline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Missouri dated June 2, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 2, 1994:

The counties of Adair, Barry, Cooper, Jackson, Lewis, Newton, and Pemiscot for Individual Assistance.

The counties of Andrew, Atchinson, Bates, Chariton, Daviess, Dekalb, Gentry, Henry, Howard, Lafayette, Linn, Macon, Moniteau, Perry and Warren for Public Assistance.

The counties of Callaway, Cape Girardeau, Carroll, Mississippi, Montgomery, Ray, and Vernon for Public Assistance (already designated for Individual Assistance.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director,

Response and Recovery Directorate.

[FR Doc. 95–15580 Filed 6–23–95; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Argosy Shipping, Co, 5572 Lutford Circle, Westminster, CA 92683, Shuh-Liang Huo, Sole Proprietor

P.E. Burke Moving and Storage Corp. 124 Prospect Street, Waltham, MA 02154, Officers: Philip E. Burke, III, President; Gerald A. Burke, Treasure.

Dated: June 20, 1995.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–15483 Filed 6–23–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Notice of Rescheduled Meeting

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of rescheduled meeting.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) announces the rescheduling of the Labor-Management Cooperation Grants Program meeting. The committee will meet in Washington, D.C. from July 10, 1995 until July 14, 1995. It will stay in operation until the end of the fiscal year, September 30, 1995.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act, 5 U.S.C. Appx. 9, notice is given that the FMCS has established a federal advisory committee to evaluate and make recommendations to the agency about the FMCS Labor-Management Cooperation Grants Program. Congress specifically requested that FMCS conduct a review of this program for fiscal year 1995. This review will involve evaluating the overall program and issuing recommendations to improve it. The committee will also evaluate the grants process, specific applicants, and make recommendations on who should receive labor-

management committee grants. The committee will be called the Grants Program Review and Advisory Committee.

Five grant review boards will sit to evaluate the applications. Each board will focus on a review of applications of the following areas: industry labor-management committees, area labor-management committees, in-plant committees, public (state and local) committees, and public education committees. Each board will consist of three individuals selected from the following pool of committee members: three representatives from state government labor-management programs, three former grantees, one member from a national trade union association, one from a national business or industry organization, one from the National Labor-Management Association, one from a professional association such as the Industrial Relations Research Association, and five federal mediators. One federal mediator will sit on each board. The boards will then convene as the full committee to discuss their findings and make recommendations to the agency.

The scope of the committee is limited to reviewing the current process, evaluating the direction of the grants program, and issuing recommendations for actual grants. FMCS will provide the necessary support for the committee. The full committee or the individual review boards will meet as often as necessary. The advisory committee will issue a final report on its findings and recommendations. The official to whom the committee will report is the Director of the Federal Mediation and Conciliation Service. The Grants Program Manager, Peter Regner, will serve as Chairman to the Committee. The advisory committee should not be needed after September 30, 1995

TIME AND DATES OF MEETINGS: The first meeting of the Grants Program Review and Advisory Committee will begin at 9:00 A.M. on July 10, 1995. The last session is scheduled to end at 3:00 P.M. on July 14, 1995. The public part of the meetings will begin on July 13, 1995.

PLACE OF MEETINGS: The meetings will be held at the national offices of the Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC, Room 200.

STATUS OF MEETINGS: The portions of the meetings involving determinative decisions concerning specific grant applications will be closed to the public. The portions of the meetings concerning general evaluation and recommendations concerning the grants program will be open to the public.

MATTERS TO BE CONSIDERED AT MEETINGS: Review and evaluation of Labor-Management Cooperation Grants Program, and review and recommendations of labor-management grant applicants.

FOR FURTHER INFORMATION CONTACT: Peter Regner, Grants Program Manager, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC 20427, 202–606–8181.

Dated: June 21, 1995.

Peter Regner,

Manager Program Services.

[FR Doc. 95–15591 Filed 6–23–95; 8:45 am]

BILLING CODE 6372–01–M

FEDERAL RESERVE SYSTEM

Roy H. Lambert, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 10, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Roy H. Lambert, the Roy H. Lambert Revocable Trust, and James R. Thompson, all of Vero Beach, Florida; collectively to acquire an additional 2.22 percent, for a total of 10.28 percent, of the voting shares of Citrus Financial Services, Inc., Vero Beach, Florida, and thereby indirectly acquire Citrus Bank, N.A., Vero Beach, Florida.

Board of Governors of the Federal Reserve System, June 20, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-15520 Filed 6-23-95; 8:45 am]

BILLING CODE 6210-01-F

First Financial Bancorp; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than July 20, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. First Financial Bancorp, Hamilton, Ohio; to merge with Bright Financial Services, Inc., Flora, Indiana, and thereby indirectly acquire Bright National Bank, Flora, Indiana.

Board of Governors of the Federal Reserve System, June 20, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-15518 Filed 6-23-95; 8:45 am]

BILLING CODE 6210-01-F

Intervest Bancshares 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 July 10, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Intervest Bancshares Corporation, New York, New York; to engage *de novo* through its subsidiary, Intervest Bancshares Corporation, New York, New York, in making, acquiring, participating in and/or servicing loans sercured by mortgages on real estate for Applicant's account or the account of others, pursuant to § 225.25(b)(1) of of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First Business Bancshares, Inc., Madison, Wisconsin; to engage *de novo* through its subsidiary, First Madison Capital Corp., Madison, Wisconsin, in commercial finance lending, pursuant to § 225.25(b)(1)(iv) of the Board's Regulation Y; and leasing of personal property, pursuant to § 225.25(b)(5) of The Board's Regulation Y. The proposed activity will be conducted throughout the state of Wisconsin.

2. GNB Bancorporation, Grundy Center, Iowa; to engage *de novo* through its subsidiary, GNB Financial Co., Grundy Center, Iowa, in leasing activities, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 20, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–15519 Filed 6–23–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made final findings of scientific misconduct in the following case:

Farooq A. Siddiqui, Ph.D., Roswell Park Cancer Institute: The Division of Research Investigations (DRI) of the Office of Research Integrity (ORI) completed an investigation into possible scientific misconduct on the part of Dr. Siddiqui while he was an employee of Roswell Park Memorial Institute. ORI finds that Dr. Siddiqui committed scientific misconduct by misrepresenting data in a published article. The research was supported by a grant award from the National Cancer Institute, National Institutes of Health, Public Health Service (PHS).

Dr. Siddiqui agreed not to appeal the misconduct finding as part of a Voluntary Settlement Agreement under which, for a period of two years, he will not apply as a principal or coprincipal investigator in any nonprocurement transactions (grants and cooperative agreements) or as a principal or coprincipal in any contract or subcontract with the United States Government. Dr. Siddiqui also is prohibited from serving on any Public Health Service advisory committee, board, and/or peer review committee for a period of two years. Also, for a two-year period the institution where he is employed will supervise his performance of work on any covered transaction including a periodic review of primary data, and certify the accuracy of any such data used in any United States Government Public Health Service grant application, contract proposal, or which is otherwise publicly reported. He has agreed to submit a letter to the journal Biochemica et Biophysica Acta (BBA) to retract the article entitled ''Purification and Immunological Characterization of DNA Polymerase-alpha from Human Acute Lymphoblastic Leukemia Cells'' (BBA, 745:154–161, 1983).

FOR FURTHER INFORMATION, CONTACT: Director, Division of Research Investigations, Office of Research Integrity, 301–443–5330.

Lyle W. Bivens,

Director, Office of Research Integrity.

[FR Doc. 95–15475 Filed 6–23–95; 8:45 am]

BILLING CODE 4160–17–P

Administration for Children and Families

Changing the Culture of Welfare Demonstration

AGENCY: Administration for Children and Families, Department of Health and Human Services.

ACTION: Announcement of the availability of funds and request for applications to create and test various cultural change models for adoption by welfare offices throughout the nation.

SUMMARY: The Administration for Children and Families (ACF) announces the availability of Federal funding to participate in intensive joint planning and development activities that would reinforce the concept of the temporary nature of welfare, and promote self-sufficiency and employment. Funding under this announcement is authorized by section 1110 of the Social Security Act governing Social Services Research and Demonstration activities.

DATES: The closing date for submission of applications is August 25, 1995.

ADDRESSES: Application receipt point: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., 6th Floor, Mailstop 6C–462 Washington, DC 20447, William McCarron, Grants Officer.

Hand delivered applications are accepted during the normal working hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, 6th Floor, ACF Guard Station, 901 D Street S.W., Washington DC 20447.

FOR FURTHER INFORMATION CONTACT: Yvonne C. Howard, Project Officer, Administration for Children and Families, Office of Family Assistance, 370 L'Enfant Promenade, S.W., 5th Floor, Washington, DC 20447. Telephone (202) 401–4619.

SUPPLEMENTARY INFORMATION: The Administration for Children and Families (ACF) announces that competing applications are being accepted for Federal financial assistance to participate in intensive joint planning and development activities that would reinforce the concept of the temporary nature of welfare, and promote self-sufficiency and employment. An initial financial award for 12 months, for up to 8 sites will be made under this announcement. The Department will fund up to four (4) grantees who will be selected on a competitive basis to receive second year continuation grants for implementation of cultural change models. The recipients will be expected to enter into a cooperative agreement with ACF.

This program announcement consists of four parts. Part I provides background information about the Changing the Culture of Welfare (CCW) demonstration. Part II describes the activities supported by this announcement and application requirements. Part III describes the application review process. Part IV provides information and instructions for the development and submission of applications. The forms to be used for submitting an application follow Part IV.

Part I—Introduction

Current welfare reform proposals emphasize work, responsibility and the temporary nature of welfare. The focus of the Aid to Families with Dependent Children (AFDC) program is changing from providing benefits to preventing welfare dependency. There is growing consensus that AFDC benefits should be transitional, time-limited assistance, requiring a goal-oriented partnership between the welfare agency and the AFDC client. Such a partnership should be designed to help the client recognize the value of work and construct a plan to enter the job market and/or training to quickly achieve economic self-sufficiency.

Welfare reform initiatives in the 1980s and 1990s exemplify States' efforts to seek alternative methods of reducing welfare dependency. Reform has primarily been sought through waivers of statutory provisions, seen as barriers to achieving economic independence. In the welfare debate, another emerging issue has been the need for a radical culture change in the welfare system and the methods of assistance provided to the AFDC families.

Part II—Project Design

Purpose

The purpose of the demonstration project is to provide an opportunity for State/local IV–A agencies who: (1) want to design and implement cultural change strategies or (2) are already implementing cultural change strategies successfully but want to further expand their initiatives, to focus more strongly on work, and make the system more supportive of self-sufficiency efforts.

State and local welfare agencies are on the front line of the needed culture change since change must begin where the client meets the worker. In focusing on what the client needs to become self-sufficient, workers, supervisors, and administrators must view their jobs in a broader context. Workers must be empowered to participate in changing the culture of the welfare office and helping clients move from dependence to independence.

This culture change may be achieved by a variety of different approaches, including changes in management style, staff training, performance measurement and changes to the AFDC and JOBS rules which are perceived to impede the transition from welfare dependency to economic self-sufficiency.

Sites will need to create and test cultural change models and look at the impacts, costs, and benefits of their models. They will need to demonstrate how the model can be expanded and provide up-front delivery of services to promote employment opportunities and portray welfare as a transitional program.

They will need to also demonstrate how the job of the AFDC worker has changed, or will change, from one of determining eligibility and payment accuracy to one of financial consultant/customer service agent. This role includes working with the client to explore options and alternatives to public assistance, resources available in the community to meet immediate client needs, demonstrating the financial benefits of employment vs. receipt of welfare, and marketing (employment opportunities to the client, and clients to potential employers) etc.

Eligible Applicants

Financial assistance under this announcement is limited to State and local IV–A agencies. An applications from a local IV–A agency must be approved by the State IV–A agency.

ACF is interested in providing financial support to IV–A agencies with experience in, or a demonstrated commitment to changing the culture of welfare. Examples of cultural change include:

1. Training management and staff, as part of a overall process redesign geared toward employment and self-sufficiency, including customer relations training.
2. Improving and modifying technology to support the line worker's ability to service clients.
3. Implementing performance standards for evaluating staff with an emphasis on job placement standards as an important criteria.
4. Establishing new criteria and incentives to reward staff participating in and promoting cultural change activities.
5. Implementing a competency-based case management system.
6. Reclassifying personnel positions to upgrade eligibility determination staff.
7. Co-locating administrative and client service delivery staff working on AFDC and JOBS. Combining income maintenance and JOBS responsibilities in one worker.
8. Implementing more intensive interventions to accommodate harder-to-serve populations which would include individuals with learning disabilities and/or developmental disabilities.
9. Establishing with educational institutions such as community colleges, training institutions and local employers, short term competency-based training programs linked to actual jobs.

Minimum Requirements for Project Design.

In order to compete successfully in response to this announcement, the applicant should develop a plan which:

- Includes an outline and discussion of current, or planned culture change activities at the proposed demonstration sites. This outline should include a description of the specific features/components and services that are involved with, or impacted by culture change activities, relevant demographics of the demonstration site, and the level of agency commitment and community collaboration.
- Describes how the applicant proposes to expand existing culture change strategies and how these strategies will involve a coordinated, integrated approach among, at minimum, AFDC/JOBS staff.
- Demonstrates how this model will increase the experiential/research information we now have of what AFDC clients need to become self-sufficient.
- Demonstrates how the model (or parts thereof) can be replicated in other localities.

• Includes methods for measuring the effects of the demonstration on AFDC/JOBS participants, e.g. increased participation, employment/earnings; reduced welfare dependency.

• Describes how a cost/benefit analysis will compare the direct and indirect costs with the financial and non-financial benefits of the program from the point of view of the participants; the government (Federal, State, and local); and the taxpayer.

• Includes the applicant's approach for providing assistance and training to State and county demonstration project staff, as needed.

• Provides information about other (State, local, community) resources the site will use to support this effort, including financial support (if any) for the demonstration, in addition to Federal funding.

• Provides for travel to Washington, DC (2 times) and one site visit to another project for up to three people.

In recognition of the scope of the initiative, the potential difficulty in successfully implementing and operationalizing agency culture change, and the significance of the initiative for public policy, ACF has determined that a close, cooperative working relationship between the ACF and the selected States will greatly further the public interest. Therefore, the awards made under this announcement will be cooperative agreements between ACF and the selected State IV–A agencies. It is anticipated that ACF will be involved in the performance of the initiative in the following manner:

• ACF, working in cooperation with the State, will review and comment on the agency's cultural change strategies to ensure that the project meets specified goals and objectives.

• ACF will conduct site visits, teleconferences, and meetings, as appropriate, to provide technical assistance.

• ACF will facilitate information sharing and discussions across sites.

The above-cited areas of involvement are illustrative of the anticipated level of Federal involvement with the selected States in the initiative. The exact activities will be detailed in the Cooperative Agreement which will be developed with each selected State.

Project Duration

The length of the project should not exceed two years (24 months). This announcement is soliciting applications for two-year projects. Awards, on a competitive basis, will be for an initial one-year budget period for the design and planning of the project. Up to eight recipients of this initial award will compete among themselves for the four (4) continuation awards. Four awards for project implementation, beyond the one-year budget period but within the two-year project period will be entertained, subject to availability of funds, satisfactory progress of the recipient, and a determination that continued funding would be in the best interest of the Government.

Federal Share of the Project

The maximum Federal share of the Project is not to exceed $1.8 million for the two-year project period, subject to the availability of funds. The maximum Federal share for the first year budget period will be $400,000 divided among up to eight recipients. The maximum Federal share for the second year continuation grants will be $1.4 million divided among four recipients.

Matching Requirement

Applicants must provide at least five (5) percent of the total cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $50,000 in Federal funds must include a match of at least $2,632 (i.e., 5 percent of the sum of the Federal and the non-Federal cost of the project). The successful applicant's match must be met by the completion of the project period.

The recipient will be required to provide the agreed upon non-Federal share, even if it exceeds the required match stated above. Therefore, applicants should ensure that any amount proposed as matching funds is committed to the project prior to inclusion in its budget.

Anticipated Number of Projects to be Funded

Up to eight projects will be funded under this announcement.

Part III—The Review Process

A. Review Process and Funding Decisions

Timely applications from eligible applicants will be reviewed and scored competitively. Reviewers will use the evaluation criteria listed below to review and score the application.

In addition ACF may refer applications to other Federal or non-Federal funding sources when it is determined to be in the best interest of the Federal Government or the applicant. It may also solicit comments from ACF Regional Office staff, other Federal agencies, interested foundations and national organizations. These comments along with those of the reviewers will be considered by ACF in making the funding decision.

In making a funding decision, ACF may give preference to applications which reflect experience in working with the cultural change strategies since such experience on the part of a recipient has the potential to substantially improve the development of a culture change model.

B. Evaluation Criteria

Using the evaluation criteria below, reviewers will review and score each application. Applicants should insure that they address each minimum requirement listed above.

Reviewers will determine the strengths and weaknesses of each application in terms of the appropriate evaluation criteria listed below, provide comments, and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight that each criterion may be given in the review process.

Review Criteria

(1) Knowledge of Changing the Culture of Welfare (25 points)

The applicant's proposal should demonstrate a good understanding of the project design and the tasks and objectives involved in the project. The application should provide: (a) evidence of organizational experience in changing the culture of welfare and/or (b) evidence of commitment to planning and implementing agency cultural change activities. The discussion should also reflect a clear understanding of ''culture'' change and the current emphasis on work and responsibility and transitional benefits.

(2) Approach and Project Design (30 points)

The application should include: (a) an outline of the project design which takes into account specific features the applicant wishes to address, the objectives, component(s) and services that will be impacted by the culture change strategies; (b) a description of how the applicant will involve agency staff (AFDC and JOBS) in the planning process, which staff (front-line worker/management etc.), and the level of staff involvement; and (c) the applicant's approach for providing assistance and training to agency staff to enable their full participation in the planning process.

(3) Public—Private Partnerships (15 points)

In order to maximize the potential resources of the community to provide options and alternatives to the public welfare system, the applicant should provide evidence of coordination and commitments by public, private, non-profit, community organizations and businesses to support changing the culture of welfare.

(4) Methodology (5 points)

The application should describe proposed methodology for measuring the effects of the planned demonstration on AFDC/JOBS participants and the extent to which the experiential/research knowledge will be increased.

(5) Staff Skills and Responsibilities (20 points)

It has been our experience that in order for demonstrations of this scope to be successful, the support and commitment of the administrators at the highest levels of the agency are necessary. Demonstrations such as this are under tight time constraints and require innovation and flexibility. For example, it may be necessary from time to time to provide exceptions to normal administrative processes or to establish expedited processes. Thus the support and commitment of senior official to accomplish the many tasks involved is critical. The application should discuss this issue and indicate the level of commitment to the demonstration which is proposed. The application should list key individuals who will work on the project along with a short description of the nature of their contribution. Summarize the background and experience of the project director and key project staff.

(6) Budget Appropriateness (5 points)

The application should demonstrate that the project's costs are reasonable in view of the anticipated results and benefits. Applicants may refer to the budget information presented in the Standard Forms 424 and 424A.

Part IV—Instructions for the Development and Submission of Applications

This part contains information and instructions for submitting applications in response to this announcement. Application forms are provided as part of this announcement along with a checklist for assembling an application package.

A. Required Notification of the State Single Point of Contact

This program announcement is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR Part 100, Intergovernmental Review of Department of Health and Human Services Program and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Virginia, Pennsylvania, South Dakota, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs), listed at the end of this announcement. Applicants from these nineteen jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., 6th Floor, Mailstop 6C–462, Washington, D.C. 20447.

Refer to the beginning of this announcement under the heading **ADDRESSES**, for hand delivered applications.

B. Deadline for Submittal of Applications

The closing date for submittal of applications under this program announcement is found at the beginning of this announcement under the heading **DATES**. Applications shall be considered as meeting the announced deadline if they are either:

1. Received on or before the deadline date at the receipt point specified in this program announcement, or

2. Sent on or before the deadline date and received by ACF in time for the independent review. Applicants are cautioned to request a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late Applications: Applications which do not meet the criteria in 1 and 2 above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines: ACF may extend the deadline for all applicants because of acts of God, such as floods, hurricanes, etc., or when there is widespread disruption of mails. However, if ACF does not extend the deadline for all applicants, it will not extend the deadline for any applicants.

C. Instructions for Preparing the Application

In order to assist applicants in completing the application, the Standard Forms 424 and 424A, required certifications, and a list of SPOCs have been included at the end of Part IV of this announcement. Please reproduce single-sided copies of these forms from the reprinted forms and type your information onto the copies.

Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet

Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Item 1. Type of Submission—Non-Construction.

Item 2. Date Submitted and Applicant Identifier—Date application is submitted to ACF and applicant's own internal control number, if applicable.

Item 3. Date Received By State—State use only (if applicable).

Item 4. Date Received by Federal Agency—Leave blank.

Item 5. Applicant Information.

Legal Name—Enter the legal name of applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

Organizational Unit—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. If this is the same as the applicant organization, leave the organizational unit blank.

Address—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. box number unless both must be used in mailing.

Name and telephone number of the person to be contacted on matters involving this application (give area code)—Enter the full name and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given.

Item 6. Employer Identification Number (EIN)—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. Type of Applicant—Self-explanatory.

Item 8. Type of Application—New.

Item 9. Name of Federal Agency—DHHS/ACF.

Item 10. Catalog of Federal Domestic Assistance Number—93.647.

Item 11. Descriptive Title of Applicant's Project—Changing the Culture of Welfare.

Item 12. Areas Affected by Project—Leave Blank.

Item 13. Proposed Project—Enter the desired start date for the project and projected completion date. The project period must begin no later than September 30, 1995.

Item 14. Congressional District of Applicant/Project—Enter the number of the Congressional district where the applicant's principal office is located.

Items 15. Estimated Funding Levels—In completing 15a through 15f, the dollar amounts entered should reflect the total amount requested for the first 12-month budget period.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount available under this announcement for the first 12-month budget period.

Items 15b–e. Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b–e are considered cost-sharing or matching funds.

Item 15f. Enter the estimated amount of income, if any, expected to be generated from the proposed project. Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. Is Application Subject to Review By State Executive Order 12372 Process?—Check Yes if your State participates in the E.O. 12372 process. Enter the date the application was made available to the State for review. Select the appropriate SPOC from the listing provided at the end of Part IV. The review of the application is at the discretion of the SPOC.

Item 16b. Is Application Subject to Review By State Executive Order 12372 Process?—Check No if the program has not been selected by State for review.

Item 17. Is the Applicant Delinquent on any Federal Debt?—Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. To the best of my knowledge and belief, all data in this application/preapplication are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18a–c. Typed Name of Authorized Representative, Title, Telephone Number—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. Signature of Authorized Representative—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. Date Signed—Enter the date the application was signed by the authorized representative.

2. SF 424A—Budget Information—Non-Construction Programs

This is a form used by many Federal agencies. For this application, Sections A, B, C, and E are to be completed. Sections D and F do not need to be completed.

Section A—Budget Summary. Line 1:

Column (a): Enter Changing the Culture of Welfare;

Column (b): Enter 93.647.

Columns (c) and (d): Leave blank.

Columns (e), (f) and (g): Enter the appropriate amounts needed to support the project for the first budget period.

Section B—Budget Categories. This budget should include the Federal as well as non-Federal funding for the proposed project for the first 12-month budget period. The budget should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal and non-Federal) by object class category.

A separate budget justification should be included to explain fully and justify items, as indicated below. The types of information to be included in the justification are indicated under each category. The budget justification should immediately follow the second page of the SF 424A.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included on line 6h, Other.

Justification: Identify the staff, if known, specify. Specify by title or name the percentage of time allocated to the project, the individual annual salaries, and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b. Enter the total costs of fringe benefits.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included on Line 6h, Other.

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project. For grants governed by the administrative requirements of 45 CFR part 74, equipment means an article of

nonexpendable tangible personal property having an acquisition cost of $5000 or more per unit and a useful life of more than one year. For grants governed by the administrative requirements of 45 CFR part 92, equipment is tangible, nonexpendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its subgrantees must not have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and contracts with secondary recipient organizations. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line.

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide backup documentation identifying the name of contractor, purpose of contract, and major cost elements.

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited to: insurance; medical and dental costs; noncontractual fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use; training costs, including tuition and stipends; training service costs, including wage payments to individuals and supportive service payments; and staff development costs. Note that costs identified as miscellaneous and honoraria are not allowable.

Justification: Specify the costs included.

Total Direct Charges—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Charges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter none. Local and State governments should enter the amount of indirect costs determined in accordance with HHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be charged again as direct costs to the grant. In the case of training grants to other than State or local governments (as defined in title 45, Code of Federal Regulations, part 74), the Federal reimbursement of indirect costs will be limited to the lesser of the negotiated (or actual) indirect cost rate or 8 percent of the amount allowed for direct costs, exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

Justification: Enclose a copy of the indirect cost rate agreement, if applicable.

Total—Line 6k. Enter the total amounts of lines 6i and 6j.

Program Income—Line 7. Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources. This section summarizes the amounts of non-Federal resources that will be applied to the grant. On lines 8–11, list estimates for each projected budget period within the total project period (if an additional line is needed, use line 23 and label it appropriately). Enter total amounts on line 12.

In-kind contributions are defined in title 45 of the Code of Federal Regulations, Part 74.2., as the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs. Not applicable.

Section E—Budget Estimate of Federal Funds Needed For Balance of the Project. On lines 16–19, list estimates for Federal assistance required for future budget periods within the total project period. List estimated total amounts on line 20.

Section F—Other Budget Information. Not applicable.

3. Program Narrative Statement

The Program Narrative Statement should be clear, concise, and address the specific requirements mentioned under Part II. The narrative should also provide information concerning how the application meets the evaluation criteria using the following headings:

(a) *Knowledge of Changing the Culture of Welfare;*

(b) *Approach and Project Design;*

(c) *Public-Private Partnerships;*

(d) *Methodology;*

(e) *Staff Skills and Responsibilities;*

(f) *Budget Appropriateness.*

The specific information to be included under each of these headings is described in section B of Part III—Evaluation Criteria.

The narrative should be typed double-spaced. All pages of the narrative (including charts, references, footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with Organizational Experience. The length of the application, including the application forms and all attachments, should not exceed 125 pages.

4. Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—Non-Construction Programs, and the Certification Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must certify their compliance with: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities. These certifications are self-explanatory. Copies of these assurances and certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances and certifications. A signature on the SF 424 indicates compliance with Drug-Free Workplace and Debarment notices and Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994.

D. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

—One original application, signed and dated, plus two copies.
—Complete application length should not exceed 125 pages.
—A complete application consists of the following items in this order:

- Application for Federal Assistance (SF 424);
- A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424 if applicable;
- Budget Information—Non-construction programs (SF 424A);
- Budget Justification for SF 424A Section B—Budget Categories;
- Letter from the Internal Revenue Service to prove nonprofit status, if necessary;
- Copy of the applicant's approved indirect cost rate agreement, if appropriate;
- Program Narrative Statement (See Part III, Section C);
- Assurances—Non-construction programs (SF 424B); and
- Certification Regarding Lobbying.

E. Submitting the Application

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered. In order to facilitate handling, please do not use covers, binders, or tabs.

Applicant should include a self-addressed, stamped acknowledgment card. All applicants will be notified automatically about the receipt of their application.

Catalog of Federal Domestic Assistance 93.647.

Dated: May 22, 1995.

Lavinia Limon,

Director, Office of Family Assistance.

BILLING CODE 4184–01–P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*: _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   —''New'' means a new assistance award.
   —''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.
   —''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amounts(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Line 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in

accordance with generally accepted accounting standards or agency directive.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352 which prohibits discrimination on the basis of race, color or national origin: (b) Title IX of the Education Amendments of 1972, as amended (2) U.S.C. 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a–7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition if $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C 1451 *et seq.*); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 *et seq.*); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended. (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 *et seq.*) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14.Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C 2131 *et seq.*) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 *et seq.*). which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders regulations and policies governing this program.

_____

Signature of Authorized Certifying Official

_____

Applicant Organization

_____

Title

_____

Date Submitted

Executive Order 12373—State Single Points of Contact

Arizona

Mrs. Janice Dunn, ATTN: Arizona State Clearinghouse, 3800 N. Central Avenue, 14th Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315

Arkansas

Tracie L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 682–1074

California

Glenn Stober, Grants, Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Delaware

Ms. Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Rodney T. Hallman, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, N.W., Suite 500, Washington, D.C. 20005, Telephone (202) 727–6551

Florida

Florida State Clearinghouse, Intergovernmental Affairs Policy Unit, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399—0001, Telephone (904) 488–8441

Georgia

Mr. Charles H. Badger, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W., Atlanta, Georgia 30334, Telephone (404) 656–3855

Illinois

Steve Klokkenga, State Single Point of Contact, Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone (217) 782–1671

Indiana

Jean S. Blackwell, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610

Iowa

Mr. Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Maine

Ms. Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Ms. Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490

Massachusetts

Karen Arone, State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001

Michigan

Richard S. Pastula, Director, Michigan Department of Commerce, Lansing, Michigan 48909, Telephone (517) 373–7356

Mississippi

Ms. Cathy Mallette, Clearinghouse Officer, Office of Federal Grant Management and Reporting, 301 West Pearl Street, Jackson, Mississippi 39203, Telephone (601) 960–2174

Missouri

Ms. Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 687–4065, Attention: Ron Sparks, Clearinghouse Coordinator

New Hampshire

Mr. Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review, Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Gregory W. Adkins, Acting Director, Division of Community Resources, N.J. Department of Community Affairs, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613

Please direct correspondence and questions to: Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025.

New Mexico

George Elliott, Deputy Director, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Office of the Secretary of Admin., N.C. State Clearinghouse, 116 W. Jones Street, Raleigh, North Carolina 27603–8003, Telephone (919) 733–7232

North Dakota

N.D. Single Point of Contact, Office of Intergovernmental Assistance, Office of Management and Budget, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698

Rhode Island

Mr. Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0494

Tennessee

Mr. Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676

Texas

Mr. Thomas Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535

Vermont

Mr. Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010

Wisconsin

Mr. William C. Carey, Federal/State Relations, Wisconsin Department of Administration, 101 South Webster Street, P.O. Box 7864, Madison, Wisconsin 53707, Telephone (608) 266–0267

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building, 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone (307) 777–7574

Guam

Mr. Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Norma Burgos/Jose H. Caro, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802.

Please direct correspondence to: Linda Clarke, Telephone (809) 774–0750.

BILLING CODE 4184–01–P

U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

_____

Check ___ *if there are workplaces on file that are not identified here.*

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4184–01–C

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction.'' provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions.'' without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:

b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

BILLING CODE 4184–01–C

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

[FR Doc. 95–15585 Filed 6–23–95; 8:45 am]

BILLING CODE 4184–01–P

Food and Drug Administration

[Docket No. 95N–0182]

KV Pharmaceutical Co.; Proposal To Withdraw Approval of Two Abbreviated New Drug Applications and One Abbreviated Antibiotic Drug Application; Opportunity for a Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is proposing to withdraw approval of two abbreviated new drug applications (ANDA's) and one abbreviated antibiotic application (AADA) held by KV Pharmaceutical Co., 2503 South Hanley Rd., St. Louis, MO 63144 (KV). The grounds for the proposed withdrawals are (1) that the applications contain untrue statements of material fact; and (2) that based upon new information evaluated together with the evidence available when the applications were approved, there is a lack of substantial evidence that the drugs will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

DATES: A hearing request is due on July 26, 1995; data and information in support of the hearing request are due August 25, 1995.

ADDRESSES: A request for a hearing, supporting data, and other comments should be identified with Docket No. 95N–0182 and submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Harry T. Schiller, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

On February 4, 1992, FDA attempted to inspect KV to determine whether or not the firm was following current good manufacturing practice (CGMP) regulations. The firm, however, refused to provide necessary records as required under the Federal Food, Drug, and Cosmetic Act (the act). (See sections 505(k) and 704 of the act (21 U.S.C. 355(k) and 21 U.S.C. 374).) The agency, therefore, obtained inspection warrants and inspected KV between March 11 and April 23, 1992. Despite the inspection warrants, KV failed to provide all of the documents requested. FDA conducted another inspection of KV between July 31 and November 3, 1992.

During the two 1992 inspections, the agency compared documents and data found at the firm with records previously submitted to FDA in support of KV's AADA and ANDA applications. The agency discovered that KV had submitted false and misleading information in the following applications:

1. AADA 62–047, Erythromycin Ethylsuccinate Oral Suspension, 200 and 400 milligrams (mg);
2. ANDA 71–929, Disopyramide Phosphate Extended Release Capsules, 100 mg; and
3. ANDA 86–538, Nitroglycerin Extended Release Capsules, 2.5 mg.

In support of the AADA and the two ANDA's listed above, KV submitted analytical data necessary for approval and continued approval of the applications, including stability data. During its inspections of KV, the agency discovered documents that showed that KV had made untrue statements in some of the stability data it had submitted in supplements and amendments to the applications. The documents also showed that KV had made untrue statements concerning stability data in annual reports submitted to the applications.

In letters dated June 1, 1993, and November 12, 1993, FDA informed KV that the agency intended to downgrade the therapeutic equivalency rating of the products listed above in the agency's publication ''Approved Drug Products with Therapeutic Equivalence Evaluations'' (the ''Orange Book'') and to begin the administrative procedures necessary to withdraw approval of the products. Accordingly, as explained below, the Director of the Center for Drug Evaluation and Research (the Director) is proposing to withdraw approval of the products' applications.

II. Evidence That the Applications Contain Untrue Statements of Material Fact

The first ground for withdrawing the AADA and two ANDA's listed above is that the applications contain untrue statements of material fact (21 U.S.C. 355(e)(5)). This section presents FDA's general comments on untrue statements and materiality, and then sets forth the specific false and misleading information in the three abbreviated applications.

A. Untrue Statements

The untrue statements submitted by KV in its drug applications include both stability test results that are inconsistent with stability test results retained by the firm and selective or incomplete reporting of stability date.

1. Conflicts Between Information Submitted to the Agency and Information Retained by the Firm

The first type of untrue statement submitted in the drug applications listed above consists of data that differ from data and other primary source information discovered at the firm. The agency concludes in such cases that, in the absence of a satisfactory explanation, the discrepant information in the application is untrue.

Information in an AADA or ANDA, including the facts and data covered by this notice, is generally derivative information. Such information is often a restatement, summary, or copy of original data or other underlying information such as that found in laboratory notebooks not specifically included in the application. The agency believes that original or underlying data generally have a higher degree of reliability because they are the primary sources of the information that are usually created contemporaneously with the event the information describes. Restated, summarized, or copied information submitted in the

application is transcribed, calculated, or otherwise derived from the original or underlying sources and is prepared after the events actually occurred and, therefore, is generally less reliable in the event of a discrepancy or inconsistency. Errors in the original or underlying data, even if discovered during the preparation of an application, should be corrected with a proper explanation.

2. Selective Reporting

The second type of untrue statement in the KV applications listed above consists of selective or incomplete reports of stability data. Selective reporting refers to reports that contain certain passing results only. Selective reporting does not consistently contain failing results and does not consistently contain a scientific justification for rejecting the failing data. Selective reporting thus misrepresents results, introduces bias into the studies' analysis, and may result in erroneous conclusions about the stability of the product.

B. Material Fact

KV's ANDA's and AADA, filed under sections 505(j), 505(b), and 507 of the act and implementing regulations, did not require for their approval the submission of animal toxicity studies, human safety studies, and adequate and well-controlled clinical effectiveness studies. Rather, the approval of an abbreviated application is based on a showing that the generic drug is equivalent to the innovator drug on certain key chemical and pharmacologic parameters, and, thus, will be therapeutically equivalent to the innovator drug throughout the shelf life of the generic product.

A finding that the generic and innovator drugs are chemically equivalent with respect to the active ingredient and bioequivalent with respect to the extent and rate of absorption of the active ingredient includes adequate proof that the generic product will remain stable throughout its labeled shelf life. Stability is demonstrated by showing that the drug product will remain within specifications established to ensure its identity, strength, quality, and purity throughout its specified shelf life. The stability data help, therefore, to provide assurance that a generic product will retain its physical, chemical, and bioequivalent characteristics throughout its labeled shelf life.

To obtain FDA approval, an application for a generic drug must demonstrate with reliable data and information (including stability data) that the generic drug is equivalent to the innovator drug so that the toxicity, safety, and effectiveness studies supporting the approval of the innovator drug also support approval of the generic drug. Moreover, FDA must have a reasonable basis on which to conclude that data based on test batches of a generic product are representative of the proposed commercial batches of that generic product.

To maintain continued approval of a drug, the sponsor must, among other things, comply with various post-marketing reporting requirements. Under 21 CFR 314.81, a sponsor must file annual reports, which then become a part of the application; the failure to file such annual reports may be grounds for withdrawing approval of the application.

A fact is material if it has the natural tendency to influence or be capable of affecting or influencing a government function. (See *U.S.* v. *Brittain*, 931 F.2d 1413, 1415 (10th Cir. 1991); *Gonzales* v. *United States*, 286 F.2d 118, 122 (10th Cir. 1960), *cert. denied*, 365 U.S. 878 (1961); *Weinstock* v. *United States*, 231 F.2d 699, 701–702 (D.C. Cir. 1956)). The statements submitted by KV about stability data are required information for the approval or continued approval of an ANDA or AADA (see 21 U.S.C. 355(j)(2)(A)(vi), 355(b)(1)(C), 355(b)(1)(D); 21 CFR 314.50(d)(1), 314.94(a)(9), 314.94(c), and 314.81).

Statements pertaining to stability are among the many statements in an abbreviated application on which FDA relies when deciding whether or not to approve an application for a generic product (see 21 U.S.C. 355(j)(3)(A) and 355(j)(3)(F); 21 CFR 314.94 and 314.125). Similarly, when allowing a proposed tentative expiration dating period, FDA relies on the manufacturer's written commitment in the application to conduct or continue shelf life stability studies on at least the first three production batches to establish the actual expiration dating period (see 21 CFR 314.94(a)(9), 314.94(c), and 314.50(d)(1)). Moreover, FDA relies on data submitted in annual reports to determine whether an application should continue to be approved (see 21 U.S.C. 355(e), 355(k); 21 CFR 314.81, 433.1).

Because the statements in the applications that are the subject of this notice were capable of affecting or influencing FDA's review of the applications, they are material.

C. Specific Untrue Statements of Material Fact Contained in Each Application

The specific untrue statements of material fact found in each application are described below. KV received written notice of many of these untrue statements in inspectional observations on Forms FDA–483 after FDA's inspections of March 11 through April 23, 1992, and July 31 through November 3, 1992.

1. AADA 62–047, Erythromycin Ethylsuccinate Oral Suspension, 200 and 400 mg

KV was not the original holder of this AADA. KV purchased the original holder and its approved applications, including AADA 62–047, the AADA for erythromycin ethylsuccinate oral suspension (EES). EES is a drug recognized in the United States Pharmacopeia (U.S.P.), and, therefore, the drug must meet the specifications regarding strength, quality, and purity prescribed in the U.S.P. unless the deviations are stated on the label. KV's EES product is labeled to indicate conformance with such U.S.P. specifications, not deviations.

On August 2, 1989, KV submitted to FDA two supplements to AADA 62–047, seeking approval for manufacturing changes (supplement S–006 for its 200 mg EES and supplement S–007 for its 400 mg EES). After evaluating KV's submissions, FDA issued a deficiency letter on September 14, 1989, regarding a number of issues, including KV's failure to provide adequate stability data for EES manufactured by KV's proposed new process. KV amended these supplements on August 14, 1990, and again on December 19, 1990. FDA approved the supplements in a letter dated April 12, 1991.

Subsequently, during the inspections of March 11 through April 23, 1992, and July 31 through November 3, 1992, FDA compared the data submitted in these supplements with records found at the firm. The comparisons demonstrated that the data submitted in response to FDA's 1989 deficiency letter omitted failing stability results and falsely reported failing results as passing. These data were false and misleading and material to the approval of the AADA supplements.

In the August 14, 1990, amendment to its then pending AADA supplement, KV provided results from freeze/thaw cycle stability studies for lot L2072 (200 mg) and lot L2071 (400 mg), which were performed by an independent contractor. Records discovered at KV, however, showed that KV did not report failing freeze/thaw results done by KV's lab. The selectively reported data submitted to FDA are misleading because they do not reflect all of the stability testing results of the lots, and,

thus, constitute untrue statements of material fact.

In the August 14, 1990, amendment to its then pending supplement, KV also selectively reported only a passing result for a 12-month stability test for lot L2071 (400 mg) for methylparaben, an inactive ingredient, although KV's records showed an initial unreported result in which the lot failed to meet the firm's specifications approved in the AADA for methylparaben.

In the August 14, 1990, amendment to its then pending supplement, KV falsely reported that lot L2072 (200 mg) passed a 6-month stability test for methylparaben. However, KV's records for the same time and storage conditions showed that L2072 failed to meet the firm's specifications as approved in the AADA.

FDA's inspection also established that KV made untrue statements in certain annual reports by submitting false stability study results and by omitting failing stability results for EES 200 mg and 400 mg. In KV's April 30, 1991, annual report for its 200 mg EES product, the firm falsely stated that lot L2510 passed an erythromycin assay at 3 months. However, records from the outside contract laboratory that conducted the 3-month assay show that the erythromycin assay results for lot L2510 were below the U.S.P. specifications.

In KV's September 26, 1991, annual report for EES 400 mg, the firm falsely reported that the assay of the active ingredient in lot L2071 passed stability testing at 18 months. Records at the firm, however, showed that lot L2071 failed testing at 18 months because the results were below U.S.P. specifications.

Records from KV show that EES lot L1791 (200 mg) failed assays for erythromycin and for an inactive ingredient at 18 months. KV, however, did not report these failures in its April 30, 1991, annual report as required under 21 CFR 314.81. On April 28, 1992, KV recalled both strengths of EES because of recurrent stability problems. Only after this recall, in the firm's June 2, 1992, annual report, did KV report the stability test failures of EES lot L1791.

The stability failures in 1990 and 1991 were capable of affecting FDA's continued approval of the AADA because they provide evidence directly relevant to the product's safety and effectiveness. KV's omission in the April 30, 1991, annual report of the available information about the 1990 and 1991 failures misrepresented the product's quality at that time and, therefore, the applications contain untrue statements of material fact.

2. ANDA 71–929, Disopyramide Phosphate Extended Release Capsules, 100 mg

FDA's inspections of KV revealed that the firm made untrue statements about the stability of its Disopyramide Phosphate Extended Release Capsules (100 mg) in its September 10, 1992, annual report, as explained below. Disopyramide Phosphate Extended Release Capsules must meet the specifications regarding strength, quality, and purity prescribed in the approved ANDA, as amended. The stability data submitted in the annual reports and discussed below are false and misleading and are material to the continued approval of the ANDA application.

First, KV reported that in December 1991, lot V1040 passed ANDA specifications for 18-month drug release testing at 1, 4, and 8-hour intervals. Records at the firm, however, showed that the six capsules tested by KV on December 11, 1991, failed the 4-hour test both individually and collectively. These failing data were lined through and the notation ''Inconsistent with history and retest'' was added. No other notation or explanation of KV's December 11, 1991, test results was recorded. KV did not report this failure in the September 10, 1992, annual record or record an explanation for omitting this failure from the annual report. Five days later, on December 16, 1991, KV tested another six capsules, which passed the 4-hour specifications. KV selectively reported only the average of the passing test results in the annual report, and the omission of failing data in the annual report was misleading.

KV also reported in the September 10, 1992, annual report that in April 1991, the 3-month drug release test for lot V1377 passed ANDA specifications at the 4-hour interval. Records at the firm, however, showed that on April 18, 1991, the aggregate average value of the six capsules tested was below drug release specifications for the 4-hour interval. Five of the six individual capsules were also below specifications at 4 hours. These failing data were not reported in the September 10, 1992, annual report.

Four months later, on August 18 and 19, 1991, KV reassayed the lot three times and selectively reported only the results from the first reassay. Furthermore, in the September 10, 1992, annual report, KV falsely reported that the drug release test result had been obtained at 3 months, but KV's records showed that it had been obtained at 7 months.

KV also reported in the September 10, 1992, annual report that lot V1497 passed both 4 and 8 hour, 12-month drug release tests in May 1992. KV's records, however, showed that a set of six capsules failed the 8 hour, 12-month ANDA drug release test on July 21, 1992. On August 3, 1992, a second set of six capsules passed both 4 and 8 hour drug release tests. However, these results were crossed out on the firm's stability data report form. A handwritten note next to these results reads ''Void. See recal using correct shell factor.'' On August 8, 1992, KV recalculated both the 4-hour and 8-hour drug release test results. The aggregate averages for both 4 hour and 8 hour tests passed specifications. However, two of the six capsules failed at 4 hours and two of the six capsules failed at 8 hours. The notation ''Recal'' is written beside this third set of data. KV selectively reported only the passing 4 and 8 hour aggregate average results in the September 1992, annual report.

3. ANDA 86–538, Nitroglycerin Extended Release Capsules, 2.5 mg

FDA's inspections of KV revealed that the firm made untrue statements in certain annual reports about the stability of its Nitroglycerin Extended Release Capsules. These untrue statements consisted of false reporting and selective reporting of stability data, including content uniformity data, which are material to the continued conditional approval of the application.

In its April 29, 1988, annual report, KV reported that on July 28, 1987, the content uniformity test data for lot V8715 were not available at 24 months. KV's records, however, included content uniformity test results for this lot, which showed that lot V8715 failed to meet U.S.P. specifications at 24 months. Although Nitroglycerin Extended Release Capsules is not listed in the U.S.P., the standard test for content uniformity of any product is described in the U.S.P., and KV's submissions stated that it met the U.S.P. test.

In its June 6, 1989, annual report, KV reported that the 12-month assay for nitroglycerin in lot V8648 tested within the ANDA specifications. KV's records, however, showed that an assay result was outside the ANDA assay limits. The passing result KV reported was an average of the failing result and two additional assays it performed.

In the June 6, 1989, annual report, KV reported that a nitroglycerin assay purportedly conducted at 9 months after lot V9527 was within ANDA specifications. KV's records, however, showed that the KV lab test result,

which was dated March 3, 1988, failed to meet ANDA specifications. KV records also showed that the stability test result KV reported in its annual report was the average of two retests performed by KV on April 19, 1988.

In the June 6, 1989, annual report, KV falsely reported that lot V9133 conformed to U.S.P. specifications in a content uniformity test conducted 6 months after the lot was manufactured. KV's records, however, showed that the first 10 capsules of the lot failed U.S.P. relative standard deviation (RSD) specifications and contained no evidence that KV tested an additional 20 capsules. Without further testing of an additional 20 capsules, the batch failed to meet U.S.P. specifications. Therefore, lot V9133 did not conform to U.S.P. specifications.

In its May 8, 1990, annual report KV reported that lot V9432 passed a 24-month stability test in April 1989. Records at the firm, however, show that the lot failed its stability test on May 15, 1989. During retesting on June 5, 1989, the lot passed stability testing and met assay specifications twice. KV averaged the passing tests and then improperly averaged that resultant average with the failing result. This final average was reported as a passing result in the May 8, 1990, annual report.

KV reported in its May 8, 1990, annual report that lot V9527 met ANDA assay specifications, purportedly in an 18-month stability test of nitroglycerin conducted in February 1989. Records at the firm, however, show that the lot failed the first stability test on May 15, 1989. The lot passed the second and third stability tests, done on June 5, 1989. KV improperly averaged the three test results and reported in the annual report the average as a passing result. Furthermore, the retests were conducted 21 and 22 months after the batch was manufactured, but KV reported in the annual report that the tests were conducted at 18 months.

KV reported in an August 6, 1992, letter to the agency that lot V9991 passed the 24-month content uniformity test and conformed to U.S.P. specifications. Records at the firm, however, showed that the group of capsules tested failed because its RSD was above U.S.P. RSD specifications. In addition, the results of two individual capsules were below U.S.P. specifications. According to U.S.P. specifications, such failing results require testing an additional 20 capsules, which KV did not do. Therefore, this lot did not conform to U.S.P. specifications.

KV reported in an August 1, 1990, supplement that lot V9527 passed a 12-month stability test for nitroglycerin. Records at the firm, however, show that the lot failed a stability test on September 22, 1988, and thus did not meet the ANDA assay specifications. KV then conducted two retests on October 4, 1988. KV selectively reported the result of only one of the passing retests, and also falsely reported the date of the test as August 15, 1988, which was 2 months before the actual test date.

D. Conclusion

On the basis of the foregoing findings, the Director finds that KV submitted untrue statements of material fact in the AADA and two ANDA's listed above, and, therefore, proposes to withdraw the approval of these applications under section 505(e)(5) of the act.

III. Evidence That the Drugs Lack Substantial Evidence of Effectiveness

Sction 505(e)(3) of the act provides that approval of an AADA or an ANDA shall be withdrawn if, on the basis of new information, evaluated together with the evidence available when the application was approved, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have. Because KV submitted untrue statements regarding the stability of its product in annual reports, supplements, and amendments to its applications, the agency cannot be assured of the products' stability. Moreover, the agency can no longer be assured as to the accuracy and validity of any of the data used to support approval and continued approval of these applications. Thus, the discovery of these untrue statements constitutes new information demonstrating that there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

The reliability of stability data is of particular concern when, as here, the results of multiple stability tests, both reported and unreported, indicate a significant history of stability problems. Without reliable stability data, FDA cannot be assured that a drug will maintain the efficacy upon the basis of which the drug was approved. Similarly, in the case of stability problems with generic drugs, FDA cannot be assured that the drug will continue to be bioequivalent to the innovator drug over a given period of time. In either case, an unstable drug product may be more or less potent than the efficacy parameters that the agency approved.

Because there are no reliable data or information to demonstrate the stability and bioequivalence of these products to the listed drugs, the three products listed above lack substantial evidence of effectiveness.

IV. Proposed Action and Notice of Opportunity For a Hearing

The Director has evaluated the information discussed above concerning the filing of untrue statements of material fact by KV and, on the grounds stated, is proposing to withdraw approval of the following AADA and ANDA's:

1. AADA 62–047, Erythromycin Ethylsuccinate Oral Suspension, 200 and 400 mg;
2. ANDA 71–929, Disopyramide Phosphate Extended Release Capsules, 100 mg; and
3. ANDA 86–538, Nitroglycerin Extended Release Capsules, 2.5 mg.

Notice is hereby given to the holder of the AADA and ANDA's listed above and to all other interested persons that, based upon the information discussed above concerning the filing of untrue statements by KV and, on the grounds stated, the Director proposes to issue an order under section 505(e) of the act withdrawing approvals, including conditional approvals, of the foregoing AADA and ANDA's, and all amendments and supplements thereto. The Director finds that: (1) The applications contain untrue statements of material fact; and (2) on the basis of new information before her with respect to the drugs, evaluated together with the evidence available to her when the applications were approved, there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

In accordance with section 505(e) of the act and 21 CFR part 314, the applicant is hereby given an opportunity for a hearing to show why approval of the AADA and ANDA's should not be withdrawn.

An applicant who decides to seek a hearing shall file: (1) On or before July 26, 1995, a written notice of appearance and request for a hearing, and (2) on or before August 25, 1995, the data, information, and analyses relied on to demonstrate that there is a genuine issue of material fact to justify a hearing. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for a hearing, a notice of appearance and request for a hearing, submission of information

and analyses to justify a hearing, other comments, and a grant or denial of a hearing, are contained in 21 CFR 314.200 (except that the limitations imposed by 21 CFR 314.200(d)(1) and (d)(2) do not apply) and in 21 CFR part 12.

The failure of the applicant to file a timely, written notice of appearance and request for a hearing, as required by 21 CFR 314.200, constitutes an election by that person not to use the opportunity for a hearing concerning the action proposed, and a waiver of any contentions concerning the legal status of that person's drug products. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. In order to raise a genuine and substantial issue of fact justifying a hearing on the issue of whether the application contains untrue statements, the applicant must specifically identify new evidence that supports its position. Mere allegations and denials, arguments by counsel, or the unsupported articulation of possible alternate inferences will not suffice to obtain a hearing. See 21 CFR 12.24(b)(2); see also *Cooper Laboratories, Inc.* v. *Commissioner, Federal Food and Drug Administration,* 501 F.2d 772, 785 (D.C. Cir. 1974); *Pineapple Growers Ass'n* v. *Food and Drug Administration,* 673 F.2d 1083–1085 (9th Cir. 1982); *Weinberger* v. *Hynson, Westcott & Dunning, Inc.,* 412 U.S. 609, 620–621 (1973).

In order to obtain a hearing, the new evidence must do more than reaffirm the applicant's belief that the information in the application is true. As explained above, the Director's conclusion that the applications contain an untrue statement of material facts is based on: (1) Selective reporting of stability data without justification, (2) omission of failing stability test results, and (3) actual conflicts between stability data reported to FDA and stability data retained by the firm.

In order to raise an issue of fact about whether the application contains truthful information, the applicant's evidence should be directed toward the basis of the Director's conclusion that the statements in the application are untrue. The applicant's failure to present evidence identifying a genuine and substantial issue of fact with respect to the Director's conclusion that the applications listed in this notice contain untrue statements of material fact, leaves the basis for the conclusion intact, and will result in the denial of a hearing on those issues.

In addition, the submission of truthful information to replace untrue statements will not result in a finding that the previously identified untrue statements are no longer material. If corrective information could nullify the materiality of untrue statements, then applicants could simply correct all untrue statements as soon as they were discovered.

Should a hearing be held on these issues, the participants requesting the hearing will bear the burden of proof with respect to whether the applications contain untrue statements of material fact and, ultimately, whether the drugs that are the subject of the applications listed in this notice have been shown to be safe and effective (21 CFR 12.87(d)).

If it conclusively appears from the face of the data, information, and factual analyses in the request for a hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the applications, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request the hearing, making findings and conclusions, and denying a hearing.

Section 505(j)(6)(C) of the act requires that FDA remove from its approved product list contained in FDA's publication the Orange Book any drug that was withdrawn for grounds described in the first sentence of section 505(e) of the act. If the agency determines that withdrawal of the drugs subject to this notice is appropriate, FDA will announce the removal of the relevant drugs from the list in the **Federal Register** notice announcing the withdrawal of approval of the drugs.

All submissions pursuant to this notice of opportunity for hearing are to be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505 (21 U.S.C. 355)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82).

Dated: June 13, 1995.

Murry A. Lumpkin,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. 95–15539 Filed 6–23–95; 8:45 am]

BILLING CODE 4160–01–P

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of a Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meeting:

Name of SEP: Lung Specific Drug Delivery Systems for Tuberculosis Treatment.

Date: July 18, 1995.

Time: 8:00 a.m.

Place: Hyatt Regency, Bethesda, Maryland.

Contact Person: Carl A. Ohata, Ph.D., 6701 Rockledge Drive, Room 7198, Bethesda, Maryland 20892–7924, (301) 435–0297.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: June 19, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–15561 Filed 6–23–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Dental Research Special Emphasis Panel (SEP) meetings:

Name of SEP: National Institute of Dental Research Special Emphasis Panel-Delivery System for Periodontal Tissue Growth Factors (Telephone Review).

Dates: July 6, 1995.

Time: 12:00 noon.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892.

Contact Person: Dr. George Hausch, Chief, Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contact proposals.

Name of SEP: National Institute of Dental Research Special Emphasis Panel-PT Intervention-An Effective Change Agent in TMD (Telephone Conference).

Dates: August 17, 1995.
Time: 12:00 noon.
Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20893.
Contact Person: Dr. George Hausch, Chief, Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.
Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.
The meetings will be closed in accordance with the provision set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the extramural research review cycle.
(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)
Dated: June 20, 1995.

Susan K. Feldman,
Committee Management Officer, NIH.
[FR Doc. 95–15562 Filed 6–23–95; 8:45 am]
BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: Environmental Health Sciences Review Committee.
Date: July 31–August 1, 1995.
Time: 8:30 a.m. to Adjournment.
Place: National Institute of Environmental Health Sciences, Building 101 Conference Rooms A,B, & C, South Campus, Research Triangle Park, North Carolina.
Contact Person: Dr. Ethel Jackson, Scientific Review Administrator, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–7826.
Purpose: To review and evaluate grant applications.
The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
(Catalog of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Research and Manpower Development, National Institutes of Health.)
Date: June 19, 1995.

Susan K. Feldman,
Committee Management Officer, NIH.
[FR Doc. 95–15563 Filed 6–23–95; 8:45 am]
BILLING CODE 4140–01–M

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Purpose: To review grant applications.
Committee Name: National Institute of General Medical Sciences, Special Emphasis Panel—Systems and Integrative Biology.
Date: July 20.
Time: 2 p.m.–8 p.m.
Place: Juliana Hotel, 590 Bush Street, San Francisco, CA 94108.
Contact Person: Dr. Bruce Wetzel, Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–19K, Bethesda, MD 20892–6200.

Committee Name: National Institute of General Medical Sciences, Special Emphasis Panel—Trauma and Burn.
Date: July 24.
Time: 2 p.m.–8 p.m.
Place: Holiday Inn, University Center, 100 Lytton Avenue, Pittsburgh, PA 15213.
Contact Person: Dr. Bruce Wetzel, Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS-19K, Bethesda, MD 20892–6200.

Committee Name: National Institute of General Medical Sciences, Special Emphasis Panel—Pharmacology.
Date: July 28.
Time: 2 p.m.–8 p.m.
Place: Ramada Inn, 709 Spence Lane, Nashville, TN 37217.
Contact Person: Dr. Bruce Wetzel, Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS-19K, Bethesda, MD 20892–6200.
These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS].
Dated: June 19, 1995.

Susan K. Feldman,
Committee Management Officer, NIH.
[FR Doc. 95–15564 Filed 6–23–95; 8:45 am]
BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: Communication Disorders Review Committee.
Date: July 13, 1995.
Time: 8 a.m.–5 p.m.
Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD.
Contact Person: Mary V. Nekola, Ph.D, Scientific Review Administrator, NIDCD/DEA/SRB, EPS Room 400C, 6120 Executive Boulevard, MSC 7180, Bethesda, MD 20892–7180, 301/496–8683.
Purpose/Agenda: To review and evaluate small grant applications.
The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The application and/or proposal and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review cycle.
(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)
Dated: June 20, 1995.

Susan K. Feldman,
Committee Management Officer, NIH.
[FR Doc. 95–15565 Filed 6–23–95; 8:45 am]
BILLING CODE 4140–01–M

National Library of Medicine; Notice of Special Meeting of the Biomedical Library Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of a special meeting of the Biomedical Library Review Committee on August 17, 1995, convening at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.
In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., and sec. 10(d) of Pub. L. 92–463, the meeting on August 17 will be closed to the public for the review, discussion, and evaluation of individual

planning grant applications for Health Sciences Librarians' Education and Training from 8:30 a.m. to adjournment. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Scientific Review Administrator, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–4221, will provide a roster of the committee members and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health.)

Dated: June 20, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95– 15566 Filed 6–23–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

National Institutes of Health

National Library of Medicine; Notice of Special Meeting of the Biomedical Library Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of a special meeting of the Biomedical Library Review Committee on July 19, 1995, convening at 8:30 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., and sec. 10(d) of Pub. L. 92–463, the meeting on July 19 will be closed to the public for the review, discussion, and evaluation of individual grant applications for Internet Connections from 8:30 a.m. to adjournment. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Roger W. Dahlen, Scientific Review Administrator, and Chief, Biomedical Information Support Branch, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–4221, will provide a roster of the committee members and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health.)

Dated: June 19, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–15567 Filed 6–23–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Clinical Sciences.
Date: July 14, 1995.
Time: 1:00 p.m.
Place: NIH, Rockledge II, Room 4128, Telephone Conference.
Contact Person: Dr. Anshumali Chaudhari, Scientific Review Admin., 6701 Rockledge Drive, Room 4128, Bethesda, MD 20892, (301) 435–1210.

Name of SEP: Microbiological and Immunological Sciences.
Date: July 17, 1995.
Time: 1:00 p.m.
Place: NIH, Rockledge II, Room 4196, Telephone Conference.
Contact Person: Dr. Marcel Pons, Scientific Review Administrator, 6701 Rockledge Drive, Room 4196, Bethesda, MD 20892, (301) 435–1217.

Name of SEP: Clinical Sciences.
Date: July 20, 1995.
Time: 8:00 a.m.
Place: Doubletree Hotel, Rockville, MD.
Contact Person: Dr. Shirley Hilden, Scientific Review Administrator, 6701 Rockledge Drive, Room 4218, Bethesda, MD 20892, (301) 435–1198.

Name of SEP: Biological and Physiological Sciences.
Date: July 21, 1995.
Time: 8:30 a.m.
Place: Georgetown Holiday Inn. Washington, DC.
Contact Person: Dr. Cheryl Corsaro, Scientific Review Administrator, 6701 Rockledge Drive, Room 6172, Bethesda, MD 20892, (301) 435–1045.

Name of SEP: Microbiological and Immunological Sciences.
Date: July 26, 1995.
Time: 1:00 p.m.
Place: NIH, Rockledge II, Room 4178, Telephone Conference.
Contact Person: Dr. Jean Hickman, Scientific Review Administrator, 6701 Rockledge Drive, Room 4178, Bethesda, MD 20892, (301) 435–1146.

Name of SEP: Microbiological and Immunological Sciences.
Date: August 23, 1995.
Time: 2:00 p.m.
Place: NIH, Rockledge II, Room 4184, Telephone Conference.
Contact Person: Dr. Martin Slater, Scientific Review Administrator, 6701 Rockledge Drive, Room 4184, Bethesda, MD 20892, (301) 435–1149.

Name of SEP: Biological and Physiological Sciences.
Date: August 30, 1995.
Time: 1:00 p.m.
Place: Holiday Inn, National Airport, VA.
Contact Person: Dr. Everett Sinnett, Scientific Review Administrator, 6701 Rockledge Drive, Room 5124, Bethesda, MD 20892, (301) 435–1016.
Purpose/Agenda: To review Small Business Innovation Research Program grant applications.

Name of SEP: Multidisciplinary Sciences.
Date: July 27–28, 1995.
Time: 1:00 p.m.
Place: Holiday Inn, Chevy Chase, MD.
Contact Person: Dr. Harish Chopra, Scientific Review Administrator, 6701 Rockledge Drive, Room 5112, Bethesda, MD 20892, (301) 435–1169.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the grant review cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 19, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–15568 Filed 6–23–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–95–3877; FR–3855–N–02]

NOFA for the John Heinz Neighborhood Development Program; Amendment of Available Funding Amount

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability for fiscal year 1995; amendment of available funding amount.

SUMMARY: On February 24, 1995, HUD published a NOFA that announced the availability of $4,750,000 in funding for the FY 1995 John Heinz Neighborhood Development Program. The purpose of this notice is solely to advise that additional funding has been made available under the February 24, 1995 NOFA.

DATES: Except for amending the available funding amount, this notice does NOT revise, extend the application deadline set forth in the February 24, 1995 NOFA, or reopen the application period.

FOR FURTHER INFORMATION CONTACT: Ophelia Wilson or Gene Hix, Office of Community Planning and Development, Department of Housing and Urban Development, Room 7218, 451 Seventh Street SW., Washington, D.C. 20410; telephone number (202) 708–1189 and (202) 708–2562 (TDD). (These numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: On February 24, 1995 (60 FR 10438), HUD published a NOFA announcing the availability of $4,750,000 in funding for the FY 1995 John Heinz Neighborhood Development Programs. The amount appropriated for funding for this NOFA for FY 1995 was $5 million. Of this amount, $250,000 was set aside for technical assistance for the program. However, additional prior year uncommitted funds became available for use under the February 24, 1995 NOFA.

The purpose of this notice is solely to advise that additional funding in the range of $4.8 to $4.95 million was made available under this NOFA, which makes it possible to fund additional applicants responding to the February 24, 1995 NOFA.

Dated: June 21, 1995.

Mark C. Gordon,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 95–15614 Filed 6–21–95; 4:32 pm]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–014–015–1430–01; IDI–28632]

Realty Action, Exchange of Public Lands in Ada and Gem Counties, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public lands in Ada and Gem Counties.

SUMMARY: The following described lands have been examined and through the public supported land use planning process have been determined to be suitable for transfer by land exchange pursuant to section 206 of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1716). Non-Federal lands to be acquired are described as:

Boise Meridian

T. 6 N., R. 1 W., B.M., Idaho,
Sec. 34; SE¼SW¼.
Containing 40 acres more or less.

Public lands to be transferred are described as:

Boise Meridian

T. 3 N., R. 3 E., B.M., Idaho,
Sec. 7; Lot 7.
Containing 20.65 acres more or less.

The purpose of this exchange is to acquire the non-Federal lands which contain important populations of *Allium aaseae* (Aase's onion) a C1 Candidate species to prevent possible listing of the species under the Endangered Species Act. The subject lands were previously identified for acquisition in the plan amendment designating ACECs for protection of Aase's onion and determining the management prescriptions under which the lands are to be managed. The subject lands will be added to the designated ACEC and will be managed with the same restrictions as the other public lands within the ACEC to protect the critical habitat.

The value of the lands to be exchanged will be equal or a cash payment may be made to equalize values.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

Excepting and Reserving to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (26 Stat. 291; 43 U.S.C. 945).

Subject To:

1. Federal Power Commission Power Project #1971, authorized September 5, 1958, for a 150 foot wide powerline, will be subject to stipulations being provided by the Federal Energy Regulatory Commission.

ADDRESSES: Comments should be sent to the Field Manager, Bureau of Land Management, Boise District, 3948 Development Avenue, Boise, Idaho 83705.

FOR FURTHER INFORMATION CONTACT: Effie Schultsmeier, Cascade Resource Area Realty Specialist, at the above address or at (208) 384–3300.

DATES: Upon publication of this notice in the **Federal Register**, the lands described above will be segregated from appropriation under the public land laws, including the mining laws, except the exchange provision of the Federal Land Policy and Management Act. The segregative effect will end upon issuance of patent or two years from the date of publication, whichever occurs first.

COMMENTS: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, at the above address. Any adverse comments will be reviewed by the Field Manager, who may vacate or modify this realty action to accommodate the protest. If the protest is not accommodated, the comments are subject to review of the State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Dated: June 16, 1995.

Tom Dyer,

Acting Field Manager.

[FR Doc. 95–15492 Filed 6–23–95; 8:45 am]

BILLING CODE 4310–GG–P

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of extended comment period.

Extension of the Public Comment Period on a Draft Environmental Impact Report/Environmental Impact Statement for Issuance of a Permit to Allow Incidental Take of Threatened and Endangered Species within the Multiple Species Conservation Program (MSCP) Planning Area in San Diego County, California.

SUMMARY: This notice announces the extension of the public comment period on the above named draft joint Environmental Impact Report/Environmental Impact Statement (DEIR/DEIS) for the proposed incidental take of species listed pursuant to the Endangered Species Act of 1973, as amended (Act). The original public comment period that closed June 26, 1995 (60 CFR 25734), is extended by 2 weeks. The Fish and Wildlife Service (Service) has extended the comment period to allow adequate time for review and response by the public. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: The comment period is extended through July 10, 1995. Written comments on the DEIR/DEIS should be received on or before this date.

ADDRESSES: Comments should be addressed to Mr. Gail Kobetich, Field Supervisor, U.S. Fish and Wildlife Service, 2730 Loker Avenue, Carlsbad, California 92008. Comments also may be sent by facsimile to telephone (619) 431–9618.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Gilbert, Fish and Wildlife Biologist, at the above address, telephone (619) 431–9440. The Service encourages individuals to use copies of the DEIR/DEIS available at City and County libraries in the greater San Diego area; however, personal copies can be obtained by contacting Ms. Gilbert. In addition, copies of the draft MSCP Plan are available at public libraries or can be obtained by contacting the City of San Diego Clean Water Program, telephone (619) 533–4200.

Dated: June 20, 1995.

Vicki M. Finn,

Acting Deputy Regional Director, Region 1, Portland, Oregon.

[FR Doc. 95–15553 Filed 6–23–95; 8:45 am]

BILLING CODE 4310–55–P

Availability of an Environmental Assessment/Habitat Conservation Plans and Receipt of Applications for Incidental Take Permit for Construction of Single Family Residences in Williamson and Travis Counties, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

PRT–801588, PRT–801823, PRT–801837, and PRT–801838

SUMMARY: Bobby S. Thomas and Albert Graci (Applicants) have applied to the Fish and Wildlife Service (Service) for incidental take permits pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant (Thomas) has been assigned permit number PRT–801588, and Applicant (Graci) has been assigned permit numbers PRT–801838, PRT–801837, and PRT–801823. The requested permits, which are for a period of 1 year and 2 years respectively, would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*). The proposed take would occur as a result of the construction of a single family residence on each lot (Thomas) at Lot 28, Block B, Lake Georgetown Estates, Georgetown, Williamson County, Texas, and (Graci) Lot 17, 18, and 19, Six Twenty Oaks, Section 2, Travis County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plans (EA/HCP's) for the incidental take applications. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made before 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received no later than July 26 1995.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Joseph E. Johnston or Alma Barrera, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (9:00 to 4:30) U.S. Fish and Wildlife Service, Austin, Texas.

Written data or comments concerning the application(s) and EA/HCP's should be submitted to the Acting Field Supervisor, Ecological Field Office, Georgetown, Texas (see **ADDRESS** above). Please refer to the appropriate permit number when submitting comments.

FOR FURTHER INFORMATION CONTACT: Joseph E. Johnston or Alma Barrera at the above Austin Ecological Service Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant

The Applicant (Thomas) plans to construct a single family residence on Lot 28 on Hunters Point and Deer Field Drives, Lake Georgetown Estates Subdivision, Georgetown, Williamson County, Texas, and Applicant (Graci) plans to construct a single-family residence on each individual lot known as Lot 17, Lot 18, and Lot 19, Six Twenty Oaks Subdivision, Section 2, Travis County, Texas. These actions will eliminate less than one-half acre of land and indirectly impact less than one-half additional acres of golden-cheeked warbler habitat per residence. The applicants propose to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 per residence into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Alternatives to this action were rejected because selling or not developing the subject property with federally listed species present was not economically feasible.

Nancy M. Kaufman,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–15554 Filed 6–23–95; 8:45 am]

BILLING CODE 4510–55–M

Availability of Environmental Assessment/Habitat Conservation Plans and Receipt of Applications for Incidental Take Permits for Construction of Single-Family Residences Within Travis County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

PRT–803131, PRT–803132, PRT–803133, AND PRT–803135

APPLICANT: Chris R. Milam, Austin, Texas.

SUMMARY: The following Applicant has applied to the Fish and Wildlife Service (Service) for incidental take permits pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permits would authorize the incidental take of the endangered golden-cheeked warbler (*Dendroica chrysoparia).* The proposed take would occur as a result of the construction of four single-family residences on each individually owned lots within Travis County, Texas.

The Service has prepared Environmental Assessment/Habitat Conservation Plans (EA/HCP's) for the incidental take applications. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made before 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before July 26, 1995.

ADDRESSES: Persons wishing to review the application(s) may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the individual EA/HCP(s) may obtain a copy by contacting Joseph E. Johnston or Alma Barrera, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Hartland Bank Building, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (9:00 to 4:30) U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application(s) and EA/HCP(s) should be submitted to the Acting Field Supervisor, Ecological Services Field Office, Austin, Texas (see **ADDRESSES** above). Please refer to the applicable Permit Numbers when submitting comments.

FOR FURTHER INFORMATION CONTACT: Joseph E. Johnston or Alma Barrera at the above Austin Ecological Service Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The applicant plans to construct a single-family residence on each individual lots known as: Lot 3, Rimrock at River Hills Road; Lot 2, Rimrock at River Hills road; Lot 1, Rimrock at River Hills Road; and Lot 4, Rimrock at River Hills Road, Austin, Travis County, Texas. This action will eliminate less than one-half acre of land per residence and indirectly impact less than one-half additional acre per residence of golden-cheeked warbler habitat. The applicant proposes to compensate for this incidental take of golden-cheeked warbler habitat by placing $1,500 per residence into the City of Austin Balcones Canyonlands Conservation Fund to acquire/manage lands for the conservation of the golden-cheeked warbler.

Alternatives to these actions were rejected by the Applicant because selling or not developing the individually owned subject property with federally listed species present was not economically feasible.

Nancy M. Kaufman,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–15555 Filed 6–23–95; 8:45 am]

BILLING CODE 4510–55–M

Finding of No Significant Impact for Incidental Take Permits for the Construction of Single Family Residences at the Specific Site Locations Indicated Below in Travis County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared an Environmental Assessments for issuance of a Section 10(a)(1)(B) permits for the incidental take of the Federally endangered golden-cheeked warbler (*Dendroica chrysoparia*) during the construction and operation of single-family residences in Travis County, Texas.

Proposed Action

The proposed action is the issuance of permits under Section 10(a)(1)(B) of the Endangered Species Act to authorize the incidental take of the golden-cheeked warbler.

The Applicant (Bette Craddock Pressler) plans to construct a single-family residence at the specific sites indicated: Lot 5, Lot 6, Lot 4, Lot 3, Lot 1, and Lot 2, West Lake Hills, Travis County, Texas, (Permit numbers PRT–800438, PRT–800439, PRT–800440, PRT–800441, PRT–800442, and PRT–800443 respectively).

The proposed construction and operation of the single-family residences will comply with all local, State, and Federal environmental regulations addressing environmental impacts associated with this type of development. Details of the mitigation are provided in the individual Environmental Assessment/Habitat Conservation Plans. These conservation plan actions ensure that the criteria established for issuance of an incidental take permits will be fully satisfied.

Alternatives Considered

1. No action,
2. Proposed action,
3. Sale of the property, and purchase of another parcel,
4. Alternative site layouts,
5. Wait for issuance of the regional Section 10(a)(1)(B) permit,

Determination

Based upon information contained in the Environmental Assessment/Habitat Conservation Plans, the Service has determined that these actions are not major Federal actions which would significantly affect the quality of the human environment with the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, the preparation of Environmental Impact Statements on the proposed action is not warranted.

It is my decision to issue the Section 10(a)(1)(B) permits for the construction and operation of the single-family residences at the sites specified above in Travis County, Texas.

Lynn B. Starnes,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 95–15556 Filed 6–23–95; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

National Park Service

Indian Memorial Advisory Committee

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a scheduled meeting of the Indian Memorial Advisory Committee. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

MEETING DATE AND TIME: June 23–25, 1995, 8:00 a.m.–5:00 p.m.

ADDRESSES: Sheraton Billings Hotel, 27 North 27th Street, Billings, Montana 59101.

THE AGENDA OF THIS MEETING WILL BE: Review minutes of last meeting, discuss follow-up actions from previous meeting, introductions/opening remarks, review of design competition criteria and related proposal packages, and media/public relations.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with: Superintendent, Little Bighorn Battlefield National Monument, P.O. Box 39, Crow Agency, Montana 59022, telephone (406) 638–2621. Minutes of the meeting will be available for public inspection four weeks after the meeting at the Office of the Superintendent of Little Bighorn Battlefield National Monument.

SUPPLEMENTARY INFORMATION: The Advisory Committee was established under Title II of the Act of December 10, 1991, for the purpose of advising the Secretary on the site selection for a memorial in honor and recognition of the Indians who fought to preserve their land and culture at the Battle of Little Bighorn, on the conduct of a national design competition for the memorial, and ''* * * to ensure that the memorial designed and constructed as provided in section 203 shall be appropriate to the monument, its resources and landscape, sensitive to the history being portrayed and artistically commendable.''

FOR FURTHER INFORMATION CONTACT: Ms. Barbara A. Sutteer, Indian Affairs Coordinator, Intermountain Field Area Office, National Park Service, 12795 W. Alameda Parkway, P.O. Box 25287, Denver, Colorado 80225–0287, (303) 969–2511.

Dated: May 22, 1995.

Dawn A. Carey,

Designated Federal Officer, Little Bighorn Battlefield National Monument, National Park Service.

[FR Doc. 95–15533 Filed 6–23–95; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Request for Proposals

The National Institute of Corrections, U.S. Department of Justice, is seeking applications from organizations and individuals able to develop a videotape highlighting the principles of podular direct supervision and the implementation of these principles in several jails. A cooperative agreement of up to $50,000 will be awarded for a 12-month period beginning September 1, 1995. Applications must be received by July 28, 1995. For more information and application procedures, contact Ginny Hutchinson, National Institute of Corrections, Jails Division, 1960 Industrial Circle, Suite A, Longmont, CO 80501; 1–800–995–6429 or fax 1–303–682–0469.

Morris L. Thigpen,

Director.

[FR Doc. 95–15493 Filed 6–23–95; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 95–46;

Exemption Application No. D–09519, et al.]

Grant of Individual Exemptions; Westinghouse Pension Plan, 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, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Westinghouse Pension Plan (the Plan)

Located in Pittsburgh, Pennsylvania

[Prohibited Transaction Exemption 95–46; Application No. D–09519]

Exemption

The restrictions of sections 406(a)(1)(A) through (D), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the contribution of certain securities (the Securities) to the Plan on September 14, 1993 and October 29, 1993 by Westinghouse Electric Corporation (WEC), the Plan's sponsor and as such a party in interest with respect to the Plan, provided the following conditions are met:

(a) The Securities were valued at an amount which was no greater than their fair market value at the time of contribution, as established by an independent, qualified appraiser;

(b) The terms and conditions of the contributions were at least as favorable to the Plan as terms and conditions which the Plan could have obtained in a purchase of similar securities from an unrelated party;

(c) The Plan did not pay any commissions or other expenses with respect to the contributions;

(d) The fair market value of the Securities represents at all times an amount of the Plan's total assets which is consistent with the Plan's investment guidelines and objectives;

(e) Additional Plan assets are not used to purchase any new securities which are considered ''alternative investments'' to the extent that such purchases, when added to the outstanding fair market value of the Securities owned by the Plan, would cause more than 5.2 percent of the Plan's total assets to be invested in ''alternative investments'' (other than as may be occasioned merely by an increase in value); [1]

(f) Mellon Bank N.A. (Mellon), as an independent, qualified fiduciary for the Plan, determined that each contribution of the Securities to the Plan was in the best interests and protective of the Plan and its participants and beneficiaries at the time of the transactions;

(g) Mellon monitored each contribution made to the Plan and took all appropriate actions necessary to protect the interests of the Plan and its participants and beneficiaries;

(h) Mellon monitors the performance of the Securities as an investment for the Plan and takes whatever action is necessary to protect the interests of the Plan and its participants and beneficiaries;

(i) On the date on which the Plan no longer holds any of the Securities contributed by WEC on September 14 and October 29, 1993 (the Exercise Date), WEC shall contribute to the Plan the difference between the following:

(1) the sum of (i) the sales proceeds received by the Plan on the disposition of all of the Securities, plus (ii) interest accrued and interest and dividends received on the Securities; and

(2) the aggregate value of the Securities on the date that they were originally contributed to the Plan (i.e. $188,882,694), plus any adjustments to such aggregate value requested by Mellon to reflect changes in the Consumer Price Index (CPI) during the period that the Securities were held by the Plan, upon demand by Mellon as the Plan's independent fiduciary under the terms of a ''makewhole agreement'' with the Plan (the Makewhole Agreement). Mellon shall have sole authority to determine the amount due to the Plan under the Makewhole Agreement (the Makewhole Amount) at the time of the transaction;[2]

(j) On December 30, 1994, WEC made a cash contribution to the Plan in the amount of $25 million to support any amounts that may become due under the Makewhole Agreement, provided that this cash contribution is held as a separate credit balance in the Plan's funding standard account until the termination date of the Makewhole Agreement (as amended pursuant to paragraph (i) above) and is not used to offset any other funding obligation owed by WEC to the Plan until such date. Mellon, as the Plan's independent fiduciary, shall be responsible for investing the $25 million and ensuring that the Plan receives all interest and other income earned on the $25 million; and

(l) Mellon monitors the compliance by all parties with the terms and conditions of the exemption.

EFFECTIVE DATE: The exemption is effective for each contribution as of September 14 and October 29, 1993, respectively.

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 (the Proposal) published on November 14, 1994, at 59 FR 56537.

WRITTEN COMMENTS AND MODIFICATIONS: The Department received over 160 comment letters from interested persons. The matters raised in the comment letters concern: (1) Sufficiency of the notice to interested persons regarding the Proposal; (2) the decision made by WEC to contribute the Securities to the Plan rather than sell the Securities on the open market; (3) the effect of the contribution of the Securities on the Plan's funding status; (4) the investment performance of the Tops Securities since the Plan's acquisition of such Securities and the potential for losses by the Plan after the period covered by the Makewhole Agreement; and (5) the role of Mellon as the independent fiduciary for the Plan, particularly with respect to its obligations to enforce the terms and conditions of the Makewhole Agreement.

The Department notes that in a letter dated December 27, 1994, the International Brotherhood of Electrical Workers (IBEW) expressed particular concerns regarding: (i) The apparent discretionary nature of Mellon's obligations to enforce the terms of the Makewhole Agreement on behalf of the Plan; (ii) the need to extend the period covered by the Makewhole Agreement beyond September 14, 1996 for the Tops Securities owned by the Plan to prevent losses during the 8–10 year period when the Plan cannot dispose of all of the Tops Securities as a result of the timing and volume restrictions of SEC Rule 144; (iii) the need for an overall limitation on total Plan assets that can be committed to ''alternative investments'', including the Securities, which should not exceed 5.2 percent (other than as may be occasioned merely by an increase in value); and (iv) the need for the Proposal, if granted, to clarify that Mellon's decisions regarding whether to exercise the Plan's rights under the Makewhole Agreement will be fully subject to the fiduciary responsibility rules of the Act, and that the Department, by granting the exemption, would not be expressing an opinion regarding whether any actions taken by Mellon are consistent with its fiduciary obligations under the Act. Notwithstanding these concerns, the IBEW stated that it favored the granting of the exemption if modifications were made to address these issues.

By letter dated February 9, 1995, WEC responded to the issues raised by the comment letters.

With respect to the sufficiency of the notice to interested persons regarding the Proposal, WEC states that it provided the broadest possible notice to Plan participants. Notice to active employees was provided through either posting in workplaces, inter-office mail, or both. Notice was sent to retirees and vested separated participants at the most current address available to the Plan. WEC states that in the case of a benefit program as large as the Plan, it is not unusual for some participants to fail to keep current addresses on file with the Plan, especially where a plant closing has resulted in the dispersal of the local workforce. Although some of the commenters indicated that adequate and timely notice was not provided in every instance, WEC represents that it acted in good faith by taking all practicable steps to provide the required notice, as prescribed by the Department's regulations (see 29 CFR

[1] Alternative investments generally are relatively illiquid investments in an asset class other than traditional classes of cash, stock, fixed income securities and real estate.

[2] The Department notes that any decision made by Mellon as the Plan's independent fiduciary with respect to the exercise of the Plan's rights under the Makewhole Agreement shall be fully subject to the fiduciary responsibility provisions of the Act. However, by granting this exemption, the Department is not expressing an opinion regarding whether any actions taken by Mellon would be consistent with its fiduciary obligations under Part 4 of Title I of the Act. In this regard, section 404(a) of the Act requires, among other things, that a plan fiduciary act prudently, solely in the interest of the plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries when making decisions on behalf of a plan.

2570.43), and that all participants were provided with a copy of the Proposal as published in the **Federal Register**. In this regard, WEC states that the success of its notification efforts was demonstrated by the fact that the Department received over 160 comment letters, most of which raised substantive issues regarding the Proposal.

With respect to the decision made by WEC to contribute the Securities to the Plan rather than sell the Securities on the open market, WEC states that the contribution enabled the Plan to satisfy a pre-existing, independently developed investment target for ''alternative investments'' without incurring significant transaction costs. As noted in Paragraph 2 of the Summary of Facts and Representations in the Proposal (the Summary), the Plan developed investment allocation guidelines in conjunction with the Frank Russell Company in 1990. These guidelines established an allocation target of approximately 5 percent for ''alternative investments''. WEC states that such an allocation appropriately reflects the role of such investments in a prudently diversified portfolio. In addition, WEC represents that there is no intention to increase this allocation of Plan assets to ''alternative investments'' above the current 5.2 percent.

In order to address the concerns raised by the commenters, WEC has agreed to adding a new condition to the Proposal which requires that additional Plan assets will not be used to purchase new ''alternative investments'' to the extent that such purchases would cause more than 5.2 percent of the Plan's total assets to be invested in ''alternative investments'' (see condition (e) above). Paragraph 2 of the Summary states that ''alternative investments'' typically include venture capital, buyout funds, distressed companies, mezzanine financing, oil and gas programs, timberland or farmland, and economically targeted investments addressing certain social policies.

With respect to the effect of the contribution of the Securities on the Plan's funding status, WEC states that five factors indicate that this transaction has had a positive effect on the Plan's funding. First, WEC did not satisfy any current funding obligation through the contribution of the Securities. The Plan has not had to forego any legally required cash contribution; rather, the contribution of the Securities was above and beyond what WEC was legally required to contribute to the Plan at the time of the transactions.

Second, the Securities issued by Tele-Media Company of Western Connecticut (the Tele-Media Securities), representing one-third of the original value of the Securities contributed by WEC, have already been sold at a profit (see Paragraph 6 of the Summary). The Plan, by realizing the proceeds of this sale, has received $4,050,000 in additional cash as the result of the contribution of the Tele-Media Securities.

Third, the Securities issued by First Britannia Mezzanine N.V. (the First Britannia Securities), while remaining stable in asset value, have generated significant income for the Plan. The Plan has thus far received approximately $2.4 million in interest on the debt portion and approximately $9.3 million in cash dividends on the equity portion of the First Britannia Securities. All of this income accrues to the benefit of the Plan and improves the Plan's funding situation.

Fourth, the Plan is protected from diminutions in the value of the Securities through the operation of the Makewhole Agreement. Such support for the value of the Securities would be non-existent if the Plan had purchased the Securities on the open market. Therefore, WEC states that the Plan is better protected in accomplishing its previously described goals for ''alternative investments'' as the result of the contribution of the Securities than had a cash contribution been used by the Plan to invest in such securities on the open market.

Finally, in support of the Makewhole Agreement, WEC has contributed an additional $25 million in cash to the Plan. This amount is above and beyond WEC's other contribution obligations to the Plan. WEC states that this $25 million contribution was made along with a $200 million cash contribution on December 30, 1994 as part of WEC's program to improve Plan funding, even though such amounts were not legally required to satisfy any current minimum funding obligations. Under the terms of the Makewhole Agreement, the additional $25 million will not be used to reduce WEC's future contribution obligations until the end of the term of the Makewhole Agreement.

Thus, WEC represents that the Plan has benefitted from, and the Plan's funding has been improved by, the contribution of the Securities.

With respect to the investment performance of the Tops Securities and the potential for losses by the Plan after the period covered by the Makewhole Agreement, WEC states that the publicly-traded price of these Securities has fluctuated widely and is currently trading at a price significantly below the price that existed on the date that the Securities were contributed to the Plan. Because of the trading restrictions on the Tops Securities, the Plan will be able to dispose of only a small portion of the shares each year. Many of the commenters suggested that WEC extend the period covered by Makewhole Agreement regarding the Tops Securities. In addition, the Department expressed concerns to WEC regarding the absence of additional guarantees for potential losses by the Plan in connection with the continued holding of both the First Britannia Securities and the Securities issued by Federated Investors (the Federated Securities), as well as for the Tops Securities, once the three-year period covered under the Makewhole Agreement expires on September 14, 1996.

Consequently, WEC has agreed to extend the term of the Makewhole Agreement until such time as the Plan's holdings of all of the Securities are totally liquidated. Thus, the new Exercise Date under the Makewhole Agreement, as amended, will be the date on which the Plan's holdings of all of the Securities contributed by WEC on September 14 and October 29, 1993, are liquidated. WEC states that the remaining provisions of the Makewhole Agreement relating to, among other things, the calculation of the Makewhole Amount will remain unchanged, except that such calculation will no longer need to be based on any appraisals of the fair market value of the Securities remaining in the Plan because all of the Securities will have been liquidated at that time. Further, the duration of the $25 million credit balance provision, which is being used to ensure payment of the Makewhole Amount to the Plan, will also be extended until the new Exercise Date under the Makewhole Agreement.

Therefore, in response to WEC's additional representations regarding the extension of the Makewhole Agreement, the Department has modified the language of the previous condition (h) in the Proposal (which has been redesignated as condition (i) above) by deleting the reference in the opening clause to '' * * * the third anniversary of the date of the first contribution made to the Plan * * *'' and substituting therefor the phrase ''* * * the date on which the Plan no longer holds any of the Securities contributed by WEC on September 14 and October 29, 1993 (the Exercise Date) * * *'' in order to redefine the end of the Makewhole Period and create a new Exercise Date. The Department has also deleted the phrase in the previous condition (h)(2) of the Proposal and other phrases thereafter in such condition referring to the fair market value of the Securities

remaining in the Plan, and the appointment of one or more independent appraisers to determine fair market value, for purposes of establishing the Makewhole Amount.

In addition, the Department has amended the language of the previous condition (i) in the Proposal (which has been redesignated as condition (j) above) to reflect the fact that the duration of the $25 million credit balance provision, which is being used to ensure payment of the Makewhole Amount to the Plan, will be extended until the new Exercise Date under the Makewhole Agreement.

With respect to the role of Mellon as the independent fiduciary for the Plan and its obligations to enforce the terms of the Makewhole Agreement, WEC states that it was always WEC's understanding that Mellon, whether acting as a Plan trustee, an independent fiduciary or an investment manager, would be a Plan fiduciary fully subject to the fiduciary responsibility rules of the Act. In this regard, WEC notes that some commenters, including the IBEW, have questioned the provision in the Makewhole Agreement committing exercise of the Plan's rights under the Agreement to Mellon's discretion. WEC states that the sole purpose of this provision was to make clear that Mellon, not WEC, would be representing the Plan with regard to the operation of the Makewhole Agreement, including the calculation of the Makewhole Amount and the triggering of the necessary payment to the Plan.

In a separate letter submitted by Mellon in response to the concerns raised by the comment letters, Mellon represents that any actions taken by Mellon on behalf of the Plan in its role as independent fiduciary will be subject to the provisions of Part 4 of Title I of the Act. With respect to Mellon's authority under the Makewhole Agreement, as amended by WEC and Mellon in response to concerns raised by the IBEW and other commenters, the Agreement requires the following:

(i) that WEC shall contribute the Makewhole Amount to the Plan upon demand from Mellon in its role as ''the Independent Investment Manager'' for the Plan;

(ii) that Mellon shall make such a demand in the event that a Makewhole Amount is due to the Plan;

(iii) that the Makewhole Amount must be equal to the amount determined by Mellon; and

(iv) that Mellon, in its role as ''the Independent Investment Manager'' for the Plan, shall (rather than ''may'' as stated previously in the Agreement prior to the amendment) exercise the rights under this Agreement on behalf of the Plan by the delivery of a notice (the ''Notice of Exercise'') to WEC no later than the sixtieth (60th) day after the Exercise Date.

Mellon states that these provisions are intended to set forth a specific procedure for the determination and payment of the Makewhole Amount (if any), and to make it clear that Mellon, not WEC, would be acting on behalf of the Plan with regard to the Makewhole Agreement. Thus, Mellon represents that if a payment is due under the Makewhole Agreement, Mellon will, on behalf of the Plan, require WEC to make such payment.

Accordingly, upon consideration of the entire exemption application file and record, the Department has determined to grant the proposed exemption as modified.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Mellon Bank, N.A. Located in Pittsburgh, Pennsylvania

[Prohibited Transaction Exemption 95–47; Application No. D–9523]

Section I—Exemption for In-Kind Transfer of CIF Assets

The restrictions of sections 406(a) and 406(b) 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 (F) of the Code, shall not apply, as of November 5, 1993, to the in-kind transfer of assets of plans for which Mellon Bank, N.A. or any of its affiliates (Mellon) acts as a fiduciary (the Client Plans), other than plans established or maintained by Mellon for its own employees, that are held in certain collective investment funds maintained by Mellon (CIFs), in exchange for shares of the Laurel Funds [a/k/a Dreyfus or Premier Funds] (the Funds),[3] open-end investment companies registered under the Investment Company Act of 1940 (the 1940 Act), in situations where Mellon acts as investment advisor for the Fund as well as custodian, dividend disbursing agent, shareholder servicing agent, transfer agent, and/or Fund accountant, or provides some other ''secondary service'' to the Funds as defined in Section V(h), in connection with the termination or partial termination of such CIFs, provided that the following conditions and the general conditions of Section IV are met:

(a) No sales commissions or other fees are paid by the Client Plans in connection with the purchase of Fund shares through the in-kind transfer of CIF assets and no redemption fees are paid in connection with the sale of such shares by the Client Plans to the Funds.

(b) Each Client Plan receives shares of a Fund which have a total net asset value that is equal to the value of the Client Plan's pro rata share of the assets of the CIF on the date of the in-kind transfer, based on the current market value of the CIF's assets as determined in a single valuation performed in the same manner at the close of the same business day using independent sources in accordance with Rule 17a–7 of the Securities and Exchange Commission under the 1940 Act (see 17 CFR 270.17a–7) and the procedures established by the Funds pursuant to Rule 17a–7 for the valuation of such assets. Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the Friday preceding the weekend of the CIF transfers (or, in the case of any weekday CIF transfers, the day of the transfer), determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of Mellon.

(c) All or a pro rata portion of the assets of a Client Plan held in a CIF are transferred in-kind to the Funds in exchange for shares of such Funds.

(d) A second fiduciary which is independent of and unrelated to Mellon (the Second Fiduciary) receives advance written notice of the in-kind transfer of assets of the CIFs and full written disclosure of information concerning the Funds (including a current prospectus for each of the Funds and a statement describing the fee structure) and, on the basis of such information, authorizes in writing the in-kind transfer of the Client Plan's assets to a corresponding Fund in exchange for shares of the Fund.

(e) For all transfers of CIF assets to a Fund following the publication of the proposed exemption in the **Federal Register** (i.e. January 30, 1995), Mellon sends by regular mail to each affected Client Plan the following information:

(1) Within 30 days after completion of the transaction, a written confirmation containing:

[3] The applicant represents that effective October 1994, the Laurel Funds changed their name to either ''Dreyfus'' or ''Premier'' as a result of Mellon's acquisition of the Dreyfus Corporation, the sponsor of the Dreyfus Funds.

(i) The identity of each security that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4);

(ii) The price of each such security involved in the transaction;

(iii) The identity of each pricing service or market maker consulted in determining the value of such securities; and

(2) Within 90 days after completion of each transfer, a written confirmation that contains:

(i) The number of CIF units held by the Client Plan immediately before the transfer, the related per unit value, and the total dollar amount of such CIF units; and

(ii) The number of shares in the Funds that are held by the Client Plan immediately following the transfer, the related per share net asset value, and the total dollar amount of such shares.

(f) The conditions set forth in paragraphs (e), (f), and (n) of Section II below are satisfied.

Section I—Exemption for Receipt of Fees

The restrictions of section 406(a) and 406(b) 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 (F) of the Code, shall not apply, as of November 5, 1993, to the receipt of fees by Mellon from the Funds for acting as an investment advisor for the Funds as well as for providing other services to the Funds which are ''secondary services'' as defined in Section V(h), in connection with the investment by the Client Plans in shares of the Funds, provided that the following conditions and the general conditions of Section IV are met:

(a) Each Client Plan receives a cash credit of such Plan's proportionate share of all fees charged to the Funds by Mellon for investment advisory services and ''secondary services'', including any investment advisory fees paid by Mellon to third party sub-advisers, no later than the same day as the receipt of such fees by Mellon. The crediting of all such fees to the Client Plans by Mellon is audited by an independent accounting firm on at least an annual basis to verify the proper crediting of the fees to each Client Plan.

(b) The price paid or received by a Client Plan for shares in a Fund is the net asset value per share at the time of the transaction, as defined in Section V(e), and is the same price which would have been paid or received for the shares by any other investor at that time.

(c) Mellon, including any officer or director of Mellon, does not purchase or sell shares of the Funds from or to any Client Plan.

(d) No sales commissions are paid by the Client Plans in connection with the purchase or sale of shares of the Funds and no redemption fees are paid in connection with the sale of shares by the Client Plans to the Funds.

(e) The combined total of all fees received by Mellon for the provision of services to a Client Plan, and in connection with the provision of services to the Funds in which the Client Plan may invest, are not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(f) Mellon does not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions.

(g) The Client Plans are not employee benefit plans sponsored or maintained by Mellon (other than master or prototype plans sponsored by Mellon that are adopted by employers other than Mellon).

(h) The Second Fiduciary receives full and detailed written disclosure of information concerning the Funds (including a current prospectus for each of the Funds and a statement describing the fee structure) in advance of any investment by the Client Plan in a Fund.

(i) On the basis of the information described above in paragraph (h), the Second Fiduciary authorizes in writing the investment of assets of the Client Plan in each particular Fund and the fees to be paid by such Funds to Mellon.

(j) All authorizations made by a Second Fiduciary regarding investments in a Fund and the fees paid to Mellon are subject to an annual reauthorization wherein any such prior authorization referred to in paragraph (i) shall be terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by Mellon of written notice of termination. A form expressly providing an election to terminate the authorization described in paragraph (i) above (the Termination Form) with instructions on the use of the form must be supplied to the Second Fiduciary no less than annually. The instructions for the Termination Form must include the following information:

(1) The authorization is terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by Mellon of written notice from the Second Fiduciary; and

(2) Failure to return the Termination Form will result in continued authorization of Mellon to engage in the transactions described in paragraph (i) on behalf of the Client Plan.

(k) The Second Fiduciary of each Client Plan invested in a particular Fund receives full written disclosure in a Fund prospectus or otherwise of any increases in the rates of fees charged by Mellon to the Funds for investment advisory services or other services (i.e. ''secondary services'') even though such fees will be credited to the Client Plan as required by paragraph (a) above.

(l) On an annual basis, Mellon provides the Second Fiduciary of a Client Plan investing in the Funds with:

(1) A copy of the current prospectus for the Funds and, upon such fiduciary's request, a copy of the Statement of Additional Information for such Funds which contains a description of all fees paid by the Funds to Mellon;

(2) A copy of the annual financial disclosure report prepared by Mellon which includes information about the Fund portfolios as well as audit findings of an independent auditor within 60 days of the preparation of the report; and

(3) Oral or written responses to inquiries of the Second Fiduciary as they arise.

(m) With respect to each of the Funds in which a Client Plan invests, in the event such Fund places brokerage transactions with Mellon or an affiliate, Mellon will provide the Second Fiduciary of such Client Plan at least annually with a statement specifying:

(1) The total, expressed in dollars, brokerage commissions of each Fund's portfolio that are paid to Mellon by such Fund;

(2) The total, expressed in dollars, of brokerage commissions of each Fund's portfolio that are paid by such Fund to brokerage firms unrelated to Mellon;

(3) The average brokerage commissions per share, expressed as cents per share, paid to Mellon by each Fund portfolio; and

(4) The average brokerage commissions per share, expressed as cents per share, paid by each Fund portfolio to brokerage firms unrelated to Mellon.

(n) All dealings between the Client Plans and the Funds are on a basis no less favorable to the Client Plans than dealings with other shareholders of the Funds.

Section III—Exemption for Transfers of Client Plan Securities From Individual Portfolios

The restrictions of sections 406(a) and 406(b) 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 (F) of the Code, shall not apply to an exchange (the

Exchange) by a Client Plan of securities for shares of the Funds (other than an exchange covered by Section I above), and to the receipt of fees by Mellon from the Funds for acting as investment adviser for the Funds as well as providing other services to the Funds which are ''secondary services'' as defined in Section V(h), in connection with such an investment by a Client Plan in the Funds, provided that the following conditions and the general conditions in Section IV are met:

(a) The terms of the transaction are at least as favorable to the Client Plan as those obtainable in an arm's-length transaction between unrelated parties.

(b) Each Exchange is a one-time transaction between a Client Plan and the Fund.

(c) All or a pro rata portion of the assets of a Client Plan held by Mellon in an investment account or portfolio that is selected by the Second Fiduciary of such Client Plan for an Exchange are transferred in-kind to the Funds in exchange for shares of such Funds.

(d) No sales commission or dealer mark-up is paid by the Client Plan in connection with the transaction.

(e) The Exchange meets the requirements of the particular Fund for an in-kind purchase of shares of the Fund.

(f) One of the following conditions is met:

(1) The Client Plan receives a cash credit of such Plan's proportionate share of all fees (including all investment advisory fees and all secondary service fees) charged to the Funds by Mellon, less any fees paid by Mellon to parties unrelated to Mellon for services other than investment advisory services provided to the Funds, no later than the same day as the receipt of such fees by Mellon;

(2) The assets of the Client Plan invested in the Funds are excluded from the assets on which the investment management fees paid by the Client Plan to Mellon are determined; or

(3) The Client Plan pays an investment management fee to Mellon based on total Plan assets from which a credit is subtracted representing only the Client Plan's pro rata share of the investment advisory fees paid by the Funds to Mellon.

(g) For purposes of the Exchange, the price of securities is established as of the close of business on the date for the Exchange specified in the written authorization by the Second Fiduciary, as follows:

(1) If the security is described in subparagraphs (b) (1) through (3) of Rule 17a–7 under the 1940 Act (see 17 CFR 270.17a–7(b) (1)–(3)), in accordance with the valuation procedures described in those paragraphs; or

(2) If the security is not described in paragraph (g)(1) above, by the recognized, independent pricing service or services disclosed to the Second Fiduciary described in paragraph (j) below prior to its written authorization of the Exchange. If no price is available from a recognized, independent pricing service for such date, or from a sufficient number of pricing services if more than one is to be used, Mellon will determine the price by averaging the mean of the closing bid and asked quotations from each of two or more recognized, independent market markers and/or pricing services for such securities on that date.

(h) For purposes of the Exchange, the price paid or received by a Client Plan for Fund shares is the net asset value per share at the time of the transaction, as defined in Section V(e), and Mellon determines the value of the securities exchanged and the net asset value of the Funds as of the close of business on the same day.

(i) Within 30 days after the authorization of the Exchange, the Second Fiduciary receives a written confirmation that reflects the price of each of the securities involved in the Exchange. For those securities described in paragraph (g)(2) above, the confirmation will include a written disclosure of the identity of the pricing service or market markers consulted in determining the value of the securities.

(j) The Second Fiduciary acting for the Client Plan—

(1) receives advance written disclosure of information concerning the Funds (including current prospectuses for the Funds and a statement describing the fee structure to be used to comply with paragraph (f) above) and, prior to the Exchange, receives in writing (A) the reasons why Mellon may consider such Exchanges to be appropriate for the Client Plan and a list of the securities held by the Client Plan that would be accepted by one or more Funds with respect to the Exchange, (B) the date the Exchange is to occur, and (C) an explanation of the procedures that would be followed for valuing the securities for purposes of the Exchange, including the identity of the recognized, independent pricing service or services that will value any of the securities described in paragraph (g)(2) above; and

(2) on the basis of such information, authorizes in writing the investment of assets of the Client Plan in the Funds through the Exchange and the fees to be paid by the Funds to Mellon.

(k) The authorization referred to in paragraph (j) is terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by Mellon of written notice of termination. A Termination Form expressly providing an election to terminate the authorization described in paragraph (j) with instructions on the use of the form must be supplied to the Second Fiduciary no less than annually. The instructions for the Termination Form must include the following information:

(1) The authorization is terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by Mellon of written notice from the Second Fiduciary; and

(2) Failure to return the form will result in continued authorization of the investment by the Client Plan in the Funds and the payment of fees by the Funds to Mellon.

(l) If the fee structure described in paragraph (f)(2) or (f)(3) above is followed, the Second Fiduciary is notified of any change in any of the rates of the fees payable to Mellon for investment advisory services or secondary services, that had been disclosed to the Second Fiduciary as described in paragraph (j) above, at least 30 days prior to the effective date of such change, and approves in writing the continued holding of any Fund shares acquired by the Client Plan prior to such change which are still held by the Plan. Such approval may be limited solely to the investment advisory and other fees paid by the Funds in relation to the fees paid by the Client Plan and need not relate to any other aspect of such investment.

(m) The conditions set forth in paragraphs (c), (e), (f), (g), (l), (m) and (n) of Section II above are satisfied.

Section IV—General Conditions

(a) Mellon maintains for a period of six years the records necessary to enable the persons described below in paragraph (b) to determine whether the conditions of this exemption have been met, except that: (1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Mellon, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than Mellon shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b) (1) Except as provided below in paragraph (b)(2) and notwithstanding

any provisions of section 504(a)(2) of the Act, the records referred to in paragraph (a) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(ii) Any fiduciary of the Client Plans who has authority to acquire or dispose of shares of the Funds owned by the Client Plans, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of the Client Plans or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (b)(1) (ii) and (iii) shall be authorized to examine trade secrets of Mellon, or commercial or financial information which is privileged or confidential.

Section V—Definitions

For purposes of this exemption:

(a) The term ''Mellon'' means the Mellon Bank, N.A. and any affiliate thereof as defined below in paragraph (b) of this section.

(b) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''Fund'' or ''Funds'' shall include the Laurel Funds, Inc. [a/k/a the Dreyfus Funds or the Premier Funds], or any other diversified open-end investment company or companies registered under the 1940 Act for which Mellon serves as an investment adviser and may also serve as a custodian, dividend disbursing agent, shareholder servicing agent, transfer agent, Fund accountant, or provide some other ''secondary service'' (as defined below in paragraph (h) of this Section) which has been approved by such Funds.

(e) The term ''net asset value'' means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in the Fund's prospectus and statement of additional information, and other assets belonging to the Fund or portfolio of the Fund, less the liabilities charged to each such portfolio or Fund, by the number of outstanding shares.

(f) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term ''Second Fiduciary'' means a fiduciary of a Client Plan who is independent of and unrelated to Mellon. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to Mellon if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with Mellon;

(2) Such fiduciary, or any officer, director, partner, employee, or relative of the fiduciary is an officer, director, partner or employee of Mellon (or is a relative of such persons);

(3) Such fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner or employee of Mellon (or relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in (i) the choice of the Client Plan's investment adviser, (ii) the approval of any such purchase or sale between the Client Plan and the Funds, and (iii) the approval of any change in fees charged to or paid by the Client Plan in connection with any of the transactions described in Sections I, II and III above, then paragraph (g)(2) of this section shall not apply.

(h) The term ''secondary service'' means a service other than an investment management, investment advisory, or similar service, which is provided by Mellon to the Funds. However, for purposes of Sections II(a) and III(f)(1) this exemption, the term ''secondary service'' will not include any brokerage services provided to the Funds by Mellon for the execution of securities transactions engaged in by the Funds.

(i) The term ''Termination Form'' means the form supplied to the Second Fiduciary which expressly provides an election to the Second Fiduciary to terminate on behalf of a Client Plan the authorization described in paragraph (j) of Section II and paragraph (k) of Section III. Such Termination Form may be used at will by the Second Fiduciary to terminate an authorization without penalty to the Client Plan and to notify Mellon in writing to effect a termination by selling the shares of the Funds held by the Client Plan requesting such termination within one business day following receipt by Mellon of the form; provided that if, due to circumstances beyond the control of Mellon, the sale cannot be executed within one business day, Mellon shall have one additional business day to complete such sale.

EFFECTIVE DATE: The exemption is effective November 5, 1993, for those transactions described in Sections I and II above.

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 January 30, 1995, at 60 FR 5704.

NOTICE TO INTERESTED PERSONS: The applicant represents that it was unable to notify interested persons within the time period specified in the **Federal Register** notice published on January 30, 1995. The applicant states that interested persons were notified, in the manner agreed upon between the applicant and the Department, by March 22, 1995. Interested persons were advised that they had until April 21, 1995 to comment on the proposed exemption.

WRITTEN COMMENTS AND MODIFICATIONS: The applicant submitted the following comments and requests for modifications regarding the notice of proposed exemption (the Proposal).

With respect to the use of the term ''affiliate'', the applicant states that both the beginning of Sections I and V(a) define the term ''Mellon'' to include its affiliates. Therefore, the applicant notes that references in the body of the Proposal to affiliates of Mellon would appear to be unnecessary, and their presence would raise the question of whether particular conditions are intended to apply to affiliates of Mellon's affiliates. In this regard, the applicant requests that Section II(c) of the Proposal be revised to read as follows:

''* * * Mellon, including any officer or director of Mellon, does not purchase or sell shares of the Funds from or to any Client Plan.''

This revision would clarify that the condition does not extend to all affiliates of Mellon's affiliates, but does extend to Mellon and its ''affiliates'' as that term is defined in Section V(a) of the Proposal. In addition, the applicant requests that the statement ''* * * or an affiliate'', which appears after the first mention of Mellon in subparagraphs (1) and (3) of Section II(m), relating to the provision of brokerage services, is

unnecessary and should be deleted. The Department concurs with the applicant's requested clarifications and has so modified the language of the Proposal.

With respect to the use of the term ''Client Plans'' in Section II(g) of the Proposal, the applicant states that this section, which also is incorporated by reference into Section III, excludes from the term ''Client Plans'' any employee benefit plans sponsored or maintained by Mellon. Mellon's understanding of this condition is that it is meant to exclude ''in-house plans'' of Mellon (i.e. plans maintained by Mellon for its own employees) from relief under the requested exemption. However, the applicant notes that Mellon is also the sponsor of master and prototype plans that are adopted by third parties. The applicant wishes to clarify that such plans were not meant to be excluded from relief under the exemption. Therefore, the applicant proposes the following change to Section II(g):

''* * * The Client Plans are not employee benefit plans sponsored or maintained by Mellon *(other than master or prototype plans sponsored by Mellon that are adopted by employers other than Mellon).* [emphasis added]

The applicant requests that the same parenthetical language referred to above be added to the opening paragraph of Section I, following the phrase ''* * * other than plans established or maintained by Mellon''. In this regard, the Department concurs with the applicant's requested clarifications, but for the opening paragraph of Section I has added the phrase ''* * * for its own employees'' instead of the parenthetical language used in Section II(g).

With respect to the definition of the term ''Second Fiduciary'' in Section V(g) of the Proposal, the applicant notes that the language following subparagraph (3) describes an exception for when a fiduciary is considered ''independent'' for purposes of the exemption. Part (iii) of this exception refers to approvals by a ''Second Fiduciary'' as described in Sections I and II. The applicant states that this sentence in Part (iii) should also refer to Section III because that section contains an approval requirement for a ''Second Fiduciary'' as well. The Department concurs with this clarification and has so modified the language of the Proposal.

With respect to the definition of the term ''secondary service'' in Section V(h) of the Proposal, the current definition excludes from the scope of that term any brokerage services provided to the Funds by Mellon for the execution of securities transactions engaged in by the Funds. In this regard, the applicant notes that this exclusion should not prohibit Mellon from providing brokerage services to the Funds because, to the contrary, Section II(m) of the Proposal requires certain disclosures to be made based on the fact that such services may be provided. However, the applicant states that Sections II(a) and III(f)(1) require Mellon to credit to the Client Plans all fees for the ''secondary services'' it provides to the Funds. Thus, the applicant wishes to clarify that brokerage services should be specifically excluded from treatment as a ''secondary service'' under these sections, so that, consistent with the purpose behind the disclosures required in Section II(m), Mellon is not required to credit its fees for brokerage services in the same manner that it is required to credit its fees for other secondary services. Therefore, the applicant requests that the second sentence in Section V(h) of the Proposal should read as follows:

''* * * However, for purposes of *Sections II(a) and III(f)(1)* of this exemption, the term ''secondary service'' will not include any brokerage services provided to the Funds by Mellon for the execution of securities transactions engaged in by the Funds.'' [emphasis added]

The Department concurs with this clarification and has so modified the language of the Proposal.

With respect to the definition of the term ''Termination Form'' in Section V(i) of the Proposal, the current definition refers to the condition describing that form in Section II(j). However, the applicant notes that the ''Termination Form'' is also described in Section III(k) of the Proposal, so that Section V(i) should refer specifically to ''paragraph (k) of Section III'' following the reference to Section II(j). The Department concurs with the applicant's requested clarification and has so modified the language of the Proposal.

Finally, the applicant states that Section III of the Proposal, dealing with transfers of Client Plan securities from individual portfolios, provides relief for both the ''credit'' fee structure described in Section II (which provides a full cash credit of *all* Fund-level fees) and the two fee structures described in Prohibited Transaction Exemption (PTE) 77–4 (42 FR 18732, April 8, 1977).[4] With regard to the fee structures described in PTE 77–4 (the PTE 77–4 Fee Structures), any change in fees received by Mellon from a Fund must be disclosed at least 30 days prior to the effective date of the change and be approved in writing. Mellon represents that the use of an ''affirmative'' approval requirement for the PTE 77–4 Fee Structures creates a number of problems. Mellon states that the Department has previously recognized the administrative difficulties caused by an affirmative approval requirement for increases in Fund-level fees. Mellon notes that the Department has allowed, through recent individual exemptions, the use of a ''passive'' approval condition under which the independent fiduciaries of Client Plans receive notice of any increase in Fund fees at least 30 days in advance of the effective date of such increase and a ''Termination Form'' which allows a Client Plan to withdraw from the Fund.[5] If the bank does not receive a ''Termination Form'' from a Client Plan prior to the effective date of the fee increase, the independent fiduciary of the Client Plan is deemed to have approved the fee increase.[6]

Therefore, Mellon requests that the final exemption contain a ''passive'' approval condition that would apply to both in-kind and cash investments in a Fund where any PTE 77–4 Fee Structure is used.

In this regard, the Department is not prepared, at this time, to include such a material change to the conditions of the Proposal as part of the final exemption for the transactions described herein. Upon the receipt of a

[4] PTE 77–4, in pertinent part, permits the purchase and sale by an employee benefit plan of shares of a registered, open-end investment company when a fiduciary with respect to the plan is also the investment adviser for the investment company, provided that, among other things, the plan does not pay an investment management, investment advisory or similar fee with respect to the plan assets invested in such shares for the entire period of such investment. Section II(c) of PTE 77–4 states that this condition does not preclude the payment of investment advisory fees by the investment company under the terms of an investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940. Section II(c) states further that this condition does not preclude payment of an investment advisory fee by the plan based on total plan assets from which a credit has been subtracted representing the plan's pro rata share of investment advisory fees paid by the investment company.

[5] The Department notes that this approval process for increases in Fund-level fees with the use of a ''Termination Form'' by Client Plans would be similar to the arrangement previously described by Mellon, and included in Section II of the Proposal, for annual reauthorizations of Fund investments by Client Plans where credits of all Fund-level fees are made. The Department notes further that the latter arrangement involving a full credit of Fund-level fees was the particular fee structure which Mellon designed at the time of the initial in-kind transfers of CIF assets to the Funds in order to be able to represent to the affected Client Plans that no increases in fees paid by such Plans would result from the transfer of such assets to the Funds.

[6] See PTE 94–86 (Bank of California, N.A.), 59 FR 65403, December 19, 1994; PTE 95–33 (BankSouth, N.A.), 60 FR 20773, April 27, 1995.

new exemption request pertaining to this issue, the Department is willing to consider the merits of such a change in the conditions pertaining to the PTE 77–4 Fee Structures used by Mellon. Such request, when received, would be processed as an amendment to the final exemption for the subject transactions involving the Funds.

No other comments, and no requests for a hearing, were received by the Department during the comment period, as extended pursuant to the applicant's notification of interested persons as discussed herein.

Accordingly, the Department has determined to grant the proposed exemption as modified.

FOR FURTHER INFORMATION CONTACT: Mr. E. F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Norwest Bank Minnesota, N.A., Located in Minneapolis, MN

[Prohibited Transaction Exemption 95–48; Exemption Application No. D–09595]

Exemption

Section I. Exemption for the In-Kind Transfer of Assets

The restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) of the Code, shall not apply, as of September 30, 1994, to the in-kind transfer of assets of plans for which Norwest Bank Minnesota, N.A. or any of its affiliates (collectively, the Bank) serves as a fiduciary (the Client Plans), including plans established or maintained by the Bank (the Bank Plans; collectively, the Plans), that are held in certain collective investment funds (the CIFs) maintained by the Bank, in exchange for shares of the Norwest Funds (the Funds), an open-end investment company registered under the Investment Company Act of 1940 (the '40 Act), as amended, for which the Bank acts as investment adviser, custodian, and shareholder servicing agent, in connection with the termination of such CIFs provided that the following conditions are met:

(a) No sales commissions or other fees are paid by a Bank Plan or a Client Plan in connection with the purchase of shares of the Funds through the in-kind transfer of CIF assets and no redemption fees are paid in connection with the sale of such shares of the Funds.

(b) All of the assets of a Bank Plan or a Client Plan that are held in the CIFs are transferred in-kind to the Funds in exchange for shares of such Funds. A Plan not electing to participate in the Funds receives a cash payment representing a pro rata portion of the assets of the terminating CIF before the final liquidation takes place.

(c) Each Bank Plan and each Client Plan receives shares of the Funds which have a total net asset value that is equal to the value of such Plan's pro rata share of the assets of the CIF on the date of the transfer, based on the current market value of the CIF's assets, as determined in a single valuation performed in the same manner at the close of the same business day, using independent sources in accordance with the procedures set forth in Rule 17a-7(b) (Rule 17a-7) under the '40 Act and the procedures established by the Funds pursuant to Rule 17a-7 for the valuation of such assets. Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the Friday preceding the weekend of the CIF transfers, determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of the Bank.

(d) A second fiduciary who is independent of and unrelated to the Bank (the Second Fiduciary) receives advance written notice of the in-kind transfer of assets of the CIFs and full written disclosure, which includes but is not limited to, the following information concerning the Funds:

(1) A current prospectus for each portfolio of the Funds in which a Bank Plan or a Client Plan is considering investing;

(2) A statement describing (i) the fees for investment advisory or similar services that are to be credited back to a Client Plan, (ii) the fees retained by the Bank for Secondary Services, as defined in paragraph (g) of Section III below, and (iii) all other fees to be charged to or paid by the Bank Plan or the Client Plan and by such Funds to the Bank or to unrelated third parties. Such statement also includes the nature and extent of any differential between the rates of the fees.

(3) The reasons why the Bank considers such investment to be appropriate for the Bank Plan or the Client Plan;

(4) A statement describing whether there are any limitations applicable to the Bank with respect to which assets of a Bank Plan or a Client Plan may be invested in the relevant Funds, and, if so, the nature of such limitations; and

(5) Upon request of the Second Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption.

(e) On the basis of the foregoing information, the Second Fiduciary authorizes in writing the in-kind transfer of the Bank Plan's or the Client Plan's CIF assets to a Fund in exchange for shares of the Funds, the investment of such assets in corresponding portfolios of the Funds, the fees received by the Bank in connection with its services to the Funds and, in the case of a Client Plan only, the purchase by such Client Plan of additional shares of the corresponding Funds with the fees credited back to the Client Plan by the Bank. Such authorization by the Second Fiduciary will be consistent with the responsibilities, obligations and duties imposed on fiduciaries under Part 4 of Title I of the Act.

(f) For all subsequent transfers of CIF assets to a Fund following the publication of the proposed exemption in the **Federal Register**, the Bank sends by regular mail to each affected Bank Plan and Client Plan a written confirmation, not later than 30 days after the completion of the transaction, containing the following information:

(1) The identity of each security that was valued for purposes of the transaction in accordance with Rule 17a-7(b)(4) of the '40 Act;

(2) The price of each such security involved in the transaction; and

(3) The identity of each pricing service or market maker consulted in determining the value of such securities.

(g) For all subsequent transfers of CIF assets to a Fund following the publication of the proposed exemption in the **Federal Register**, the Bank sends by regular mail, no later than 90 days after completion of each transfer, a written confirmation that contains the following information:

(1) The number of CIF units held by the Plan immediately before the transfer, the related per unit value and the total dollar amount of such CIF units;

(2) The number of shares in the Funds that are held by the Plan following the conversion, the related per share net asset value and the total dollar amount of such shares.

(h) The conditions set forth in paragraphs (c), (d), (e), (o) and (p) of Section II below as they would relate to all Plans are satisfied.

Section II. Exemption for the Receipt of Fees

The restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) of the Code, shall not apply, as of November 11, 1994, to: (1) The receipt of fees by the Bank from the Funds for acting as an investment adviser to the Funds; and (2) the receipt and proposed retention of fees by the Bank from the Funds for acting as custodian or shareholder servicing agent to the Funds, as well as for any other services provided to the Funds which are not investment advisory services (i.e., the Secondary Services), in connection with the investment in shares of the Funds by the Client Plans, other than the Bank Plans, for which the Bank serves as fiduciary.

The aforementioned transactions are subject to the following conditions:

(a) No sales commissions are paid by the Client Plans in connection with the purchase or sale of shares of the Funds and no redemption fees are paid in connection with the sale of shares by the Client Plans to the Funds.

(b) The price paid or received by the Client Plans for shares in the Funds is the net asset value per share, as defined in paragraph (d) of Section III, at the time of the transaction and is the same price which would have been paid or received for the shares by any other investor at that time.

(c) Neither the Bank nor an affiliate, including any officer or director, purchases from or sells to any of the Client Plans shares of any of the Funds.

(d) The combined total of all fees received by the Bank for the provision of services to the Client Plans, and in connection with the provision of services to any of the Funds in which the Client Plans invest, are not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(e) The Bank does not receive any fees payable, pursuant to Rule 12b–1 of the 1940 Act in connection with the transactions involving the Funds.

(f) Each Client Plan receives a credit, either through cash or, if applicable, the purchase of additional shares of the Funds, pursuant to an annual election, which may be revoked at any time, made by the Client Plan, of such Plan's proportionate share of all investment advisory fees charged to the Funds by the Bank, including any investment advisory fees paid by the Bank to third party sub-advisers, within not more than one business day after the receipt of such fees by the Bank.

(g) The Second Fiduciary receives, in advance of investment by a Client Plan in the Funds, full and detailed written disclosure of information concerning the relevant Funds as set forth above in Section I(d).

(h) On the basis of the information described in paragraph (d) of Section I, the Second Fiduciary authorizes in writing:

(1) The ongoing investment of assets of the Client Plans in shares of the Funds, in connection with the transactions set forth in Section II;

(2) The investment portfolios of the Funds in which the assets of the Client Plans may be invested; and

(3) The fees to be paid by the Funds in which Client Plans invest to the Bank and the purchase of additional shares of the Funds by the Client Plan with the fees credited to the Client Plan by the Bank.

(i) The authorization referred to in paragraph (h) is terminable at will by the Client Plan, without penalty to the Client Plan. Such termination will be effected by the Bank selling the shares of the Funds held by the affected Client Plan within the period of time specified by the Client Plan but not more than one business day following receipt by the Bank from the Second Fiduciary, of the termination form (the Termination Form), as defined in paragraph (h) of Section III below, or any other written notice of termination; provided that, if due to circumstances beyond the control of the Bank, the sale cannot be executed within one business day, the Bank shall have one additional business day to complete such sale.

(j) In the event of an increase in the contractual rate of any fees paid by the Funds to the Bank regarding investment advisory services or fees for similar services that had been authorized by the Second Fiduciary in accordance with paragraph (h) of this Section II, the Bank provides written notice to the Second Fiduciary in a prospectus for the Funds or otherwise, of any increases in the contractual rate of fees charged by the Bank to the Funds for investment advisory services even though such fees will be credited to the Client Plans as required by paragraph (f) of Section II.

(k) In the event of an additional Secondary Service, as defined in paragraph (g) of Section III below, provided by the Bank to the Funds for which a fee is charged or an increase in the contractual rate of any fee due from the Funds to the Bank for any Secondary Service, as defined in paragraph (g) of Section III below, that results from an increase in the rate of such fee or from the decrease in the number or kind of services performed by the Bank for such fee over an existing rate for such Secondary Service which had been authorized by the Second Fiduciary of a Client Plan in accordance with paragraph (h) of this Section II, the Bank will, at least 30 days in advance of the implementation of such additional service for which a fee is charged or fee increased, provide written notice to the Second Fiduciary explaining the nature and amount of the additional service for which a fee is charged or the nature and amount of the increase in fees of the affected Fund. Such notice will be accompanied by the Termination Form, as defined in paragraph (h) of Section III below.

(l) The Second Fiduciary is supplied with a Termination Form at the times specified in paragraphs (k) and (m) of this Section II, which expressly provides an election to terminate the authorization, described above in paragraph (h) of this Section II, with instructions regarding the use of such Termination Form including statements that:

(1) The authorization is terminable at will by any of the Client Plans, without penalty to such Plans. The termination will be effected by the Bank selling the shares of the Funds held by the Client Plans requesting termination within the period of time specified by the Client Plan, but not later than one business day following receipt by the Bank from the Second Fiduciary of the Termination Form or any written notice of termination; provided that if, due to circumstances beyond the control of the Bank, the sale of shares of such Client Plans cannot be executed within one business day, the Bank shall have one additional business day to complete such sale; and

(2) Failure by the Second Fiduciary to return the form on behalf of the Plan will be deemed to be an approval of the additional Secondary Service for which a fee is charged or increase in the rate of any fees and will result in the continuation of the authorization, as described in paragraph (h) of this Section II, of the Bank to engage in the transactions on behalf of the Client Plan.

(m) The Second Fiduciary is supplied with a Termination Form, at least once in each calendar year, beginning with the calendar year that begins after the date of the grant of this proposed exemption is published in the **Federal Register** and continuing for each calendar year thereafter; provided that the Termination Form need not be supplied to the Second Fiduciary, pursuant to paragraph (m) of this Section II, sooner than six months after such Termination Form is supplied pursuant to paragraph (k) of this Section

II, except to the extent required by said paragraph (k) of this Section II to disclose an increase in fees.

(n) On an annual basis, the Bank will provide the Second Fiduciary of a Client Plan investing in the Funds with:

(1) A copy of the current prospectus for the Funds and upon such fiduciary's request, a copy of the Statement of Additional Information which contains a description of all fees paid by the Funds to the Bank.

(2) A copy of the annual financial disclosure report prepared by the Bank which contains information about the portfolios of the Funds and includes audit findings of an independent auditor within 60 days of the preparation of the report.

In addition, the Bank will respond to oral or written responses to inquiries of the Second Fiduciary as they arise.

(o) All dealings between the Client Plans and the Funds are on a basis no less favorable to the Client Plans than dealings between the Funds and other shareholders holding the same class of shares as the Client Plans.

(p) The Bank maintains for a period of six years the records necessary to enable the persons described below in paragraph (q) to determine whether the conditions of this exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Bank, the records are lost or destroyed prior to the end of the six year period, and

(2) No party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (q) of Section II below; and

(q)(1) Except as provided in paragraph (p)(2) and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (p) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission;

(ii) Any fiduciary of a Client Plan who has authority to acquire or dispose of shares of the Funds owned by the Client Plan, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of a Client Plan or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraphs (q)(1)(ii) and (iii) shall be authorized to examine trade secrets of the Bank, or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this exemption:

(a) The term ''Bank'' means Norwest Bank Minnesota, N.A. and any affiliate of the Bank, as defined in paragraph (b) of this Section III.

(b) An ''affiliate'' of the Bank includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the Bank. (For purposes of this paragraph, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(2) Any officer, director, employee, relative or partner in such person, and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(c) The term ''Fund'' or ''Funds'' refers to the Norwest Funds or to any diversified open-end investment company or companies registered under the '40 Act for which the Bank serves as an investment adviser and may also serve as a custodian, shareholder servicing agent, transfer agent or provide some other ''Secondary Service'' (as defined below in paragraph (g) of this Section IV) which has been approved by such Funds.

(d) The term ''net asset value'' means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in a Fund's prospectus and statement of additional information, and other assets belonging to each of the portfolios in such Fund, less the liabilities chargeable to each portfolio, by the number of outstanding shares.

(e) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or member of the ''family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(f) The term ''Second Fiduciary'' means a fiduciary of a plan who is independent of and unrelated to the Bank. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to the Bank if:

(1) Such Second Fiduciary directly or indirectly controls, is controlled by, or is under common control with the Bank;

(2) Such Second Fiduciary, or any officer, director, partner, affiliate, employee, or relative of such Second Fiduciary is an officer, director, partner or employee of the Bank (or is a relative of such persons);

(3) Such Second Fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this proposed exemption; provided, however that with respect to Bank Plans, the Second Fiduciary may receive compensation from the Bank in connection with the transactions contemplated herein, but the amount or payment of such compensation may not be contingent upon or be in any way affected by the Second Fiduciary's ultimate decision regarding whether the Bank Plans participate in such transactions.

With the exception of the Bank Plans, if an officer, director, partner, affiliate or employee of the Bank (or relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in: (i) The choice of the Plan's investment adviser, (ii) the approval of any such purchase or sale between the Client Plan and the Funds, and (iii) the approval of any change of fees charged to or paid by the Client Plan, any of the transactions described in Sections I and II above, then paragraph (f)(2) of this Section IV, shall not apply.

(g) The term ''Secondary Service'' means a service, other than investment advisory or similar services which is provided by the Bank to the Funds, including, but not limited to, custodial or shareholder services. However, the term ''Secondary Service'' does not include any brokerage services provided by the Bank to the Funds.

(h) The term ''Termination Form'' means the form supplied to the Second Fiduciary at the times specified in paragraphs (i), (k), (l) and (m) of Section II which expressly provides an election to the Second Fiduciary to terminate on behalf of a Plan the authorization described in paragraph (h) of Section II. Such Termination Form is to be used at will by the Second Fiduciary to terminate such authorization without penalty to the Plan and to notify the Bank in writing to effect such termination by selling the shares of the Fund held by the Plan requesting termination not later than one business day following receipt by the Bank of written notice of such request for termination; provided that if, due to circumstances beyond the control of the Bank, the shares of such Client Plans cannot be executed within one business

day, the Bank shall have one additional business day to complete such sale.

EFFECTIVE DATE: This exemption is effective as of September 30, 1994 with respect to the transactions described in Section I and as of November 11, 1994 with respect to the transactions described in Section II.

Written Comments

The Department received two written comments with respect to the notice of proposed exemption and no requests for a public hearing. Both comments were submitted by the Bank. The first comment clarifies Section II(f) of the exemption and the parallel language contained in the Summary of Facts and Representations (the Summary). In pertinent part, Section II(f) states the following:

> Each Client Plan receives a credit, either through cash or, if applicable, the purchase of additional shares of the Funds, pursuant to an annual election, which may be revoked at any time, made by the Client Plan, of such Plan's proportionate share of all investment advisory fees charged to the Funds by the Bank, including any investment advisory fees paid by the Bank to a third party sub-adviser, within not more than one business day after the receipt of such fee by the Bank.

The Bank represents that in the future, some of the Funds may hire a third party sub-adviser directly. In this event, the Bank states that it will comply with the fee rebate mechanism described in the notice of proposed exemption with respect to any fees paid by the Funds to the third party sub-adviser. The Department does not have any objection to the proposed hiring arrangement, given that the same fee rebate mechanism will be in place. Accordingly, the Department concurs with the applicant's clarification of Section II(f) and the corresponding language in the Summary.

The second comment pertains to notification of interested persons. In this comment, the Bank represents that it did not comply with the notice to interested persons requirement for participants in the Bank Plans within the time frame stated in the exemption application. By letter dated May 23, 1995, the Bank explains that it reposted the notice of proposed exemption for an additional 16 days ending June 5, 1995 in each of the major work sites where the notice had been originally posted. No comments were received by the Department from Bank Plan participants.

After giving full consideration to the entire record, including the written comments that were submitted by the Bank, the Department has decided to grant the exemption as described and revised above. Comment letters have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

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 March 13, 1995 at 60 FR 13457.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Paloma Securities L.P. (Paloma) and Boston Global Advisors, Inc. (BGA) Located in Boston, Massachusetts

[Prohibited Transaction Exemption 95–49; Application No. D–09660]

Exemption

The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the lending of securities to Paloma by employee benefit plans (including commingled investment funds holding plan assets) for which BGA, an affiliate of Paloma, acts as securities lending agent (or sub-agent) and to the receipt of compensation by BGA in connection with these transactions, provided that the following conditions are met:

1. Neither BGA, Paloma nor an affiliate of either has discretionary authority or control with respect to the investment of the plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3–21(c) with respect to those assets;

2. Any arrangement for BGA to lend plan securities to Paloma in either an agency or sub-agency capacity will be approved in advance by a plan fiduciary who is independent of Paloma and BGA;

3. A plan may terminate the agency or sub-agency arrangement at any time without penalty on five business days notice;

4. The plan will receive from Paloma (either by physical delivery or by book entry in a securities depository, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to Paloma, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, or irrevocable bank letters of credit issued by a person other than Paloma or an affiliate thereof, or any combination thereof, or other collateral permitted under PTE 81–6, having, as of the close of business on the preceding business day, a market value initially equal to at least 102 percent of the market value of the loaned securities and, if the market value of the collateral falls below 100 percent, Paloma will deliver additional collateral on the following day such that the market value of the collateral will again equal 102 percent;

5. All procedures regarding the securities lending activities will at a minimum conform to the applicable provisions of Prohibited Transaction Exemptions (PTEs) 81–6 and 82–63;

6. Paloma will indemnify the plan against any losses due to its use of the borrowed securities;

7. The plan will receive the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions;

8. Prior to any plan's approval of the lending of its securities to Paloma, a copy of this exemption, (and the notice of pendency) will be provided to the plan; and

9. Only plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to Paloma.

Written Comments

The applicant submitted the following comments regarding the notice of pendency.

The applicant suggests that the last sentence of paragraph 18 of the notice of pendency which stated that, ''BGA will lend securities to requesting borrowers on a first come, first served basis, as a means of assuring uniformity of treatment among borrowers,'' needs further clarification. The applicant suggests that this sentence should have been deleted and the following paragraph should have been inserted in its place, ''[w]hile BGA will normally lend securities to requesting borrowers on a first come, first served basis, as a means of assuring uniformity of treatment among borrowers, it should be recognized that in some cases it may not be possible to adhere to a first come, first served allocation. This can occur,

for instance, where: (a) The credit limit established for such borrower by BGA and/or the client-plan has already been satisfied; (b) the ''first in line'' borrower is not approved as a borrower by the particular client- plan whose securities are sought to be borrowed; or (c) the ''first in line'' borrower cannot be ascertained, as an operational matter, because several borrowers spoke to different BGA representatives at or about the same time with respect to the same security. In situations (a) and (b), loans would normally be effected with the ''second in line.'' In situation (c), securities would be allocated equitably among all eligible borrowers.'' The Department concurs with this comment.

The applicant further represents that, pursuant to discussions with the Department subsequent to the publication of the Proposal, it will make the following commitments with respect to the exempted transactions. BGA shall make and retain, for six (6) months, tape recordings evidencing all securities loan transactions with Paloma. Also, if requested by the lending customer, BGA shall provide daily confirmations of securities lending transactions; and BGA shall provide to lending customers monthly account reports, or if requested by the customer, weekly or daily reports, setting forth for each transaction made or outstanding during the relevant reporting period, the loaned securities, the related collateral, rebates and loan premiums and such other information in such format as shall be agreed to by the parties.

Accordingly, after giving full consideration to the entire record, including the written comment from the applicant, the Department has decided to grant the exemption, as described and concurred in above. In this regard, the comment letter submitted by the applicant to the Department has been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210.

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 April 14, 1995, at 60 FR 19086.

FOR FURTHER INFORMATION CONTACT: Louis Campagna of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

The First National Bank of Boston and Its Affiliates (Collectively, the Bank) Located in Boston, Massachusetts

[Prohibited Transaction Exemption 95–50; Application No. D–09682]

Section I—Exemption for Receipt of Fees

The restrictions of sections 406(a) and 406(b) 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 (F) of the Code, shall not apply as of April 1, 1994 to: (1) The receipt by the Bank of fees from the 1784 Funds (the Funds), investment companies registered under the Investment Company Act of 1940 (the 1940 Act), for acting as an investment adviser to the Funds in connection with the investment by plans for which the Bank serves as a fiduciary (the Client Plans) in shares of the Funds; and (2) the receipt and retention of fees by the Bank from the Funds for acting as custodian and accountant to the Funds as well as for any other services to the Funds which are not investment advisory services (i.e. ''secondary services'' as defined in Section III(h) below) in connection with the investment by the Client Plans in shares of the Funds, provided that the following conditions and the General Conditions of Section II below are met:

(a) No sales commissions are paid by the Client Plans in connection with the purchase or sale of shares of the Funds and no redemption fees are paid in connection with the sale of shares by the Client Plans to the Funds.

(b) The price paid or received by a Client Plan for shares in a Fund is the net asset value per share at the time of the transaction, as defined in Section III(e), and is the same price which would have been paid or received for the shares by any other investor at that time.

(c) Neither the Bank nor an affiliate, including any officer or director of the Bank, purchases or sells shares of the Funds to any Client Plan.

(d) Each Client Plan receives a credit, through a cash rebate, of such Plan's proportionate share of all fees charged to the Funds by the Bank for investment advisory services, including any investment advisory fees paid by the Bank to third party sub-advisors, no later than one business day after the receipt of such fees by the Bank. The crediting of all investment advisory fees to the Client Plans by the Bank is audited by an independent accounting firm on at least an annual basis to verify the proper crediting of the fees to each Client Plan.

(e) The combined total of all fees received by the Bank for the provision of services to a Client Plan, and in connection with the provision of services to the Funds in which the Client Plan may invest, are not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.[7]

(f) The Bank does not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions.

(g) The Client Plans are not employee benefit plans sponsored or maintained by the Bank.

(h) A second fiduciary acting for the Client Plan which is independent of and unrelated to the Bank (the Second Fiduciary) receives, in advance of any initial investment by the Client Plan in a Fund, full and detailed written disclosure of information concerning the Funds, including but not limited to:

(1) A current prospectus for each Fund in which a Client Plan is considering investing;

(2) A statement describing the fees for investment advisory or similar services, any secondary services as defined in Section III(h), and all other fees to be charged to or paid by the Client Plan and by the Funds, including the nature and extent of any differential between the rates of such fees;

(3) The reasons why the Bank may consider such investment to be appropriate for the Client Plan;

(4) A statement describing whether there are any limitations applicable to the Bank with respect to which assets of a Client Plan may be invested in the Funds, and if so, the nature of such limitations; and

(5) Upon request of the Second Fiduciary, a copy of the proposed exemption and/or a copy of the final exemption, once such documents are published in the **Federal Register**.

(i) After consideration of the information described above in

[7] In addition, the Department notes that Section 404(a) of the Act requires, among other things, that a fiduciary of a plan act prudently, solely in the interest of the plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries when making investment decisions on behalf of a plan. Thus, the Department believes that the Bank should ensure, prior to any investments made by a Client Plan for which it acts as a trustee or investment manager, that all fees paid by the Funds, including fees paid to parties unrelated to the Bank and its affiliates, are reasonable. In this regard, the Department is providing no opinion as to whether the total fees to be paid by a Client Plan to the Bank, its affiliates, and third parties under the arrangements described herein would be either reasonable or in the best interests of the participants and beneficiaries of the Client Plans.

paragraph (h) of Section I, the Second Fiduciary authorizes in writing the investment of assets of the Client Plan in each particular Fund, the fees to be paid by such Fund to the Bank, and the cash rebate to the Client Plan of fees received by the Bank from the Funds for investment advisory services.

(j) All authorizations made by a Second Fiduciary regarding investments in a Fund and the fees paid to the Bank are subject to an annual reauthorization wherein any such prior authorization referred to in paragraph (i) of Section I shall be terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by the Bank of written notice of termination. A form expressly providing an election to terminate the authorization described in paragraph (i) above (the Termination Form) with instructions on the use of the form must be supplied to the Second Fiduciary no less than annually. The instructions for the Termination Form must include the following information:

(1) The authorization is terminable at will by the Client Plan, without penalty to the Client Plan, upon receipt by the Bank of written notice from the Second Fiduciary; and

(2) Failure to return the Termination Form will result in continued authorization of the Bank to engage in the transactions described in paragraph (i) of Section I on behalf of the Client Plan.

(k) The Second Fiduciary of each Client Plan invested in a particular Fund receives full written disclosure, in a statement separate from the Fund prospectus, of any proposed increases in the rates of fees charged by the Bank to the Funds for secondary services at least 30 days prior to the effective date of such increase, accompanied by a copy of the Termination Form, and receives full written disclosure in a Fund prospectus or otherwise of any increases in the rates of fees charged by the Bank to the Funds for investment advisory services even though such fees will be rebated as required by paragraph (d) of Section I above.

(l) In the event that the Bank provides an additional secondary service to a Fund for which a fee is charged or there is an increase in the amount of fees paid by the Funds to the Bank for any secondary services resulting from a decrease in the number or kind of services performed by the Bank for such fees in connection with a previously authorized secondary service, the Bank will, at least thirty days in advance of the implementation of such additional service or fee increase, provide written notice to the Second Fiduciary explaining the nature and the amount of the additional service for which a fee will be charged or the nature and amount of the increase in fees of the affected Fund. Such notice shall be accompanied by the Termination Form, as defined in Section III(i) below. However, if the Termination Form has been provided to the Second Fiduciary pursuant to this paragraph or paragraph (k) above, then the Termination Form need not be provided again for an annual reauthorization pursuant to paragraph (j) above unless at least six months has elapsed since the form was provided in connection with the fee increase.

(m) On an annual basis, the Bank provides the Second Fiduciary of a Client Plan investing in the Funds with:

(1) A copy of the current prospectus for the Funds and, upon such fiduciary's request, a copy of the Statement of Additional Information for such Funds which contains a description of all fees paid by the Funds to the Bank;

(2) A copy of the annual financial disclosure report of the Funds in which such Client Plan is invested, which includes information about the Fund portfolios as well as audit findings of an independent auditor, within 60 days of the preparation of the report; and

(3) Oral or written responses to inquiries of the Second Fiduciary as they arise.

(n) All dealings between the Client Plans and the Funds are on a basis no less favorable to the Client Plans than dealings with other shareholders of the Funds.

Section II—General Conditions

(a) The Bank maintains for a period of six years the records necessary to enable the persons described below in paragraph (b) of Section II to determine whether the conditions of this exemption have been met, except that: (1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Bank, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than the Bank shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975(a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (b) below.

(b)(1) Except as provided in paragraph (b)(2) and notwithstanding any provisions of section 504(a)(2) and (b) of the Act, the records referred to in paragraph (a) of Section II are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(ii) Any fiduciary of the Client Plans who has authority to acquire or dispose of shares of the Funds owned by the Client Plans, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of the Client Plans or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (b)(1)(ii) and (iii) shall be authorized to examine trade secrets of the Bank, or commercial or financial information which is privileged or confidential.

Section III—Definitions

For purposes of this exemption:

(a) The term ''Bank'' means The First National Bank of Boston and any affiliate thereof as defined below in paragraph (b) of Section III.

(b) An ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''Fund'' or ''Funds'' shall include the 1784 Funds, each series thereof, or any other diversified open-end investment company registered under the 1940 Act for which the Bank serves as an investment adviser and may also serve as a custodian, Fund accountant, transfer agent or provide some other ''secondary service'' (as defined below in paragraph (h) of this Section) which has been approved by such Funds.

(e) The term ''net asset value'' means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in the Fund's prospectus and statement of additional information, and other assets belonging to the Fund or portfolio of the Fund, less the liabilities charged to each such portfolio or Fund, by the number of outstanding shares.

(f) The term ''relative'' means a ''relative'' as that term is defined in

section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term ''Second Fiduciary'' means a fiduciary of a Client Plan who is independent of and unrelated to the Bank. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to the Bank if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with the Bank;

(2) Such fiduciary, or any officer, director, partner, employee, or relative of the fiduciary is an officer, director, partner, employee or affiliate of the Bank (or is a relative of such persons);

(3) Such fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

If an officer, director, partner, affiliate or employee of the Bank (or relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in (i) the choice of the Client Plan's investment adviser, (ii) the approval of any such purchase or sale between the Client Plan and the Funds, and (iii) the approval of any change in fees charged to or paid by the Client Plan in connection with any of the transactions described in Sections I and II above, then paragraph (g)(2) of Section III shall not apply.

(h) The term ''secondary service'' means a service other than an investment management, investment advisory, or similar service, which is provided by the Bank to the Funds. However, for purposes of this exemption, the term ''secondary service'' will not include any brokerage services provided to the Funds by the Bank for the execution of securities transactions engaged in by the Funds.

(i) The term ''Termination Form'' means the form supplied to the Second Fiduciary which expressly provides an election to the Second Fiduciary to terminate on behalf of a Client Plan the authorization described in paragraph (j) of Section II. The Termination Form shall be used at will by the Second Fiduciary to terminate an authorization without penalty to the Client Plan and to notify the Bank in writing to effect a termination by selling the shares of the Funds held by the Client Plan requesting such termination within one business day following receipt by the Bank of the form; provided that if, due to circumstances beyond the control of the Bank, the sale cannot be executed within one business day, the Bank shall have one additional business day to complete such sale.

EFFECTIVE DATE: This exemption is effective as of April 1, 1994.

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 March 20, 1995 at 60 FR 14786.

WRITTEN COMMENTS AND MODIFICATIONS: The applicant submitted the following comments and requests for modifications regarding the notice of proposed exemption (the Proposal).

With respect to Section I(h) of the Proposal, the condition requires that a Second Fiduciary receive, in advance of any investment by the Client Plan in a Fund, full and detailed written disclosure of information concerning the Funds. However, the applicant states that the condition as written might be construed as requiring the disclosure of such information before every investment thereafter in the same Fund (i.e., if one reads ''any investment'' to mean ''each and every investment''). The applicant requests that, in order to avoid confusion on this point, the phrase ''* * * in advance of any investment'' be changed to read ''* * * in advance of any *initial* investment'' (emphasis added). The Department concurs with the applicant's requested clarification and has so modified the language of Section I(h) of the Proposal.

With respect to Section I(i) of the Proposal, the applicant states that this condition, which in general requires the Second Fiduciary for each Client Plan to have authorized in writing the investment of assets of the Client Plan in a particular Fund, begins with the clause ''[o]n the basis of the information described above in paragraph (h) of Section I.'' The applicant represents that while the Bank will be providing the information required by Section I(h), and anticipates that the Second Fiduciary will take such information into consideration in determining whether to approve any investment in a Fund, the Bank will not in every case be able to determine the precise basis on which a Second Fiduciary has approved use of a Fund as an investment vehicle. Thus, the applicant requests that this clause be either deleted or otherwise clarified. In this regard, the Department concurs with the applicant's requested clarification and has deleted the words ''[o]n the basis of * * *'' in the opening clause of Section I(i) and has substituted therefor the words ''[a]fter consideration of * * *''.

With respect to Section I(m)(2) of the Proposal, the condition requires that the Bank provide the Second Fiduciary of a Client Plan investing in the Fund with a copy of the ''* * * annual financial disclosure report prepared by the Bank'' which includes information about the Fund portfolios. The applicant requests that the information referred to here should be clarified to mean the annual financial reports of the Funds which are prepared by the Funds, not by the Bank. In addition, the applicant requests that the condition be clarified to require that only the annual reports of the Funds in which a Client Plan is invested need to be sent to the Second Fiduciary for that Client Plan. The Department concurs with the applicant's requested clarification and has modified the language of Section I(m)(2) by deleting the words ''* * * prepared by the Bank'' and substituting therefor the words ''* * * of the Funds in which such Client Plan is invested''.

With respect to Section III(d) of the Proposal, the applicant states that the 1784 Funds is a Massachusetts business trust with separate series recognized for tax purposes as a separate corporation, but which collectively is not recognized as a corporation. Thus, the applicant requests that the Department delete the word ''Inc.'' after the reference to the 1784 Funds in the definition contained in Section III(d). In addition, the applicant notes that references throughout the Proposal to the ''Fund'' are in fact generally meant as references to one or more of the separate series of the 1784 Funds. In this regard, the applicant requests that the definition in Section III(d) indicate that the term ''Fund'' or ''Funds'' ''* * * shall include the 1784 Fund, *each series thereof*, or any other * * *'' (emphasis added). The Department concurs with the applicant's requested clarification and has so modified the language of Section III(d) of the Proposal.

Finally, pursuant to telephone conversations with representatives of the Department, the applicant has confirmed in writing that when the Bank is engaged to provide investment advisory services for a Fund under the requested exemption, such services will be performed by the Bank or a third party sub-advisor retained by the Bank. The applicant represents that no ''sub-advisor'' to the Bank will be retained directly by a Fund. In this regard, the Bank states that the fees payable by a Fund ultimately for the account of a sub-advisor to the Bank will be rebated by the Bank to the Client Plans, as discussed in the Proposal and required by Section I(d) above.

Accordingly, based on the current exemption application file and record, the Department has determined to grant the proposed exemption as modified.

FOR FURTHER INFORMATION CONTACT: Mr. E. F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

AT&T Corporation (AT&T), and AT&T Investment Corporation (ATTIMCO) Located in New York, New York

[Prohibited Transaction Exemption 95–51; Exemption Application Nos. D–09716 & D–09717]

Exemption

Part I—Exemption for Payment of Certain Fees to Asset Managers

The restrictions of section 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 of the Code, by reason of section 4975(c)(1)(E) of the Code, shall not apply to the payment of Performance Fees by an AT&T Investment Fund to an Asset Manager in exchange for real estate management or advisory services rendered pursuant to an Agreement, provided that the conditions set forth in Parts II and III are satisfied.

Part II—General Conditions

(a) The Asset Manager is not an affiliate of AT&T and the terms of any Performance Fee are approved in writing by AT&T.

(b) The terms of any Performance Fee shall be at least as favorable to the AT&T Investment Fund as those obtainable in arm's-length transactions between unrelated parties.

(c) No AT&T Trust shall allocate, in the aggregate, more than twenty percent of its total assets to Arrangements which are the subject of this exemption, determined at the time any such Arrangement is established and at the time of any subsequent allocation of additional assets (including the reinvestment of assets) to such an Arrangement. The foregoing limitation shall not apply to an AT&T Plan Assets Entity. However, that percentage of the Assets of an AT&T Plan Assets Entity which is deemed to be ''plan assets'' of an AT&T Trust invested therein shall be treated as assets of such AT&T Trust for the purpose of applying the foregoing limitation to the AT&T Trust.

(d) AT&T shall receive the following written information with respect to assets subject to this exemption (Assets):

(1) annual audited financial statements prepared by independent certified public accountants approved by AT&T;

(2) quarterly and annual reports prepared by the Asset Manager relating to the overall financial position of the Assets (Each such report shall include a statement regarding the amount of fees paid to the Asset Manager during the period covered by such report); and

(3) annual reports indicating the fair market value of the Assets determined on the basis of the most recently available Independent Valuations.

(e) The total fees paid to an Asset Manager shall constitute no more than reasonable compensation.

(f) The Performance Fee shall be payable after Net Proceeds with respect to the Assets exceed the Threshold Amount. The Threshold Amount and the amount of the Performance Fee, expressed as a percentage (or percentages) of the Net Proceeds in excess of the Threshold Amount (or Threshold Amounts), shall be established by the Agreement. The Threshold Amount for any Performance Fee shall include at least a minimum rate of return to the AT&T Investment Fund, as described in Part III, Section (q).

(g) The provisions of this paragraph (g) shall apply only where an Asset Manager has discretion to sell Assets without prior approval of AT&T. For any sale of an Asset which gives rise to the payment of a Performance Fee to an Asset Manager prior to the Termination Date, the sales price of the Asset shall be at least equal to a Target Amount in order for the Asset Manager to sell the Asset and receive its Performance Fee without further approval. If the proposed sales price of the Asset is less than the applicable Target Amount, the proposed sale shall be disclosed to and subject to the approval of AT&T, in which event the Asset Manager shall be entitled to sell the Asset and receive its Performance Fee. If the proposed sales price is less than the applicable Target Amount and AT&T's approval is not obtained, the Asset Manager shall retain the authority to sell the Asset, provided that the Performance Fee that would have been payable to the Asset Manager by reason of the sale of the Asset shall be paid only at the termination of the Arrangement.

(h) In the event of termination of the Arrangement upon its Termination Date, the Asset Manager shall be entitled to receive a Performance Fee payable on the Termination Date. The amount of the Performance Fee upon termination shall be determined by assuming a sale for cash of the remaining Assets at their fair market value (determined on the basis of Independent Valuations) and no reinvestment of such cash in Assets subject to the Arrangement.

(i) In the event of the removal or resignation of an Asset Manager prior to the Termination Date, the Asset Manager shall be entitled to receive a Performance Fee payable on the Termination Date pursuant to this paragraph (i). The Performance Fee shall be calculated on a preliminary basis at the time of such removal or resignation by assuming a sale for cash of the remaining Assets at their fair market value (determined on the basis of Independent Valuations) and no reinvestment of such cash in Assets subject to the Arrangements. As of the Termination Date, the amount so determined on a preliminary basis shall be multiplied by a fraction, the numerator of which is the sum of: (1) The actual sales prices received by the AT&T Investment Fund on disposition of all Assets sold after the date of the Asset Manager's removal or resignation and prior to the Termination Date, and (2) in the case of Assets which have not been sold prior to the Termination Date, the value of the Assets as of the Termination Date (determined on the basis of Independent Valuations), and the denominator of which is the aggregate value of the Assets which was used in connection with the preliminary determination of the Performance Fee at the time of removal or resignation, provided that this fraction shall never exceed 1.0. The resulting amount shall be the Performance Fee payable to the Asset Manager upon the Termination Date.

(j) AT&T shall maintain or cause to be maintained with respect to the Assets, for a period of six years, the records necessary to enable the persons described in paragraph (k) of this Part II to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of AT&T, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest, other than AT&T, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or are not available for examination as required by Part III, Section (k) below.

(k) Notwithstanding any provisions of Section 504(a)(2) and 504(b) of the Act, the records referred to in Section (j) of this Part II shall be unconditionally available at their customary location for examination during normal business hours by:

(1) any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) any contributing employer to any employee benefit plan the assets of which are held in the AT&T Investment Fund which has entered into the Arrangement or any duly authorized employee or representative of such employer;

(3) any participant or beneficiary of any employee benefit plan the assets of which are held in the AT&T Investment Fund or any duly authorized representative of such participant or beneficiary; and

(4) nothing in this paragraph (k) shall authorize any of the persons described in subsections (2) and (3) to examine any trade secrets of AT&T or information which is privileged or confidential.

Part III—Definitions

(a) An ''affiliate'' of a person means:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative of, or partner of any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term ''Agreement'' means the investment management, trust or other agreement entered into between an Asset Manager and AT&T for the provision of real estate management or advisory services.

(c) The term ''Arrangement'' means a fee arrangement entered into between AT&T and an Asset Manager pursuant to an Agreement providing for the payment of Performance Fees to the Asset Manager by an AT&T Investment Fund in exchange for real estate management or advisory services.

(d) The term ''Asset Manager'' means any person or entity providing real estate management or advisory services to an AT&T Investment Fund.

(e) The term ''Assets'' means assets of an AT&T Investment Fund which are the subject of an Arrangement with an Asset Manager.

(f) The term ''AT&T'' means AT&T Corporation, AT&T Investment Management Corporation and/or any Subsidiary.

(g) The term ''AT&T Investment Fund'' means an AT&T Trust or an AT&T Plan Assets Entity.

(h) The term ''AT&T Plan Assets Entity'' means any group trust, partnership or other entity (including without limitation the Telephone Real Estate Equity Trust), the assets of which are deemed to be ''plan assets'' by reason of the application of 29 C.F.R. 2510.3–101, but only if (1) fifty percent or more of the interests in such entity are held by one or more AT&T Trusts, and (2) AT&T is the named fiduciary or manager of the assets of such entity.

(i) The term ''AT&T Trust'' means the AT&T Master Pension Trust or any other trust (other than an AT&T Plan Assets Entity), one hundred percent of the assets of which are assets of employee benefit plans maintained by AT&T.

(j) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(k) The term ''Independent Valuations'' means valuations based on independent and objective third party sources acceptable to AT&T (including without limitation NASDAQ, newspapers, or other general publications, or brokers which are independent of the Asset Manager and its affiliates), or, if such sources are not available with respect to a particular asset or at the option of AT&T, valuations conducted by an appraiser independent of the Asset Manager and its affiliates which has been approved by AT&T; provided, however, that, solely for purposes of the reports described in Part II, Section (d)(3) above, no such appraisal will be required with respect to any Asset if AT&T determines, in its sole discretion, that such an appraisal is unnecessary.

(l) The term ''Net Proceeds'' means, with respect to an Arrangement, the aggregate amount of cash and other assets (valued at fair market value as determined on the basis of Independent Valuations) which cease to be Assets which are subject to such Arrangement, in accordance with the terms of the Agreement establishing such Arrangement.

(m) The term ''Performance Fee'' means a fee which equals a pre-specified percentage (or several pre-specified percentages) of all Net Proceeds in excess of the Threshold Amount (or several Threshold Amounts), subject to such limitations, if any, as AT&T may approve or impose.

(n) The term ''Subsidiary'' means a corporation, partnership, or other entity of which (or in which) fifty percent or more of:

(1) The combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of such corporation, (2) the capital interest or profits interest of such partnership, or (3) the beneficial interest of such other entity, is owned directly or indirectly by AT&T Corporation or AT&T Investment Management Corporation.

(o) The term ''Target Amount'' means a value assigned to each Asset either (1) at the time the Asset becomes subject to the Arrangement, by mutual agreement between the Asset Manager and AT&T, or (2) pursuant to an objective formula approved by the Asset Manager and AT&T at the time the Arrangement is established. However, in no event will the value be less than the value of the Asset at the time the Asset becomes subject to the Arrangement.

(p) The term ''Termination Date'' means the date, established in the Agreement, on which the Arrangement will terminate by reason of the passage of time, as the same may be amended from time to time with the approval of AT&T.

(q) The term ''Threshold Amount'' means with respect to any Arrangement an amount which equals one hundred percent of the AT&T Investment Fund's capital invested in the Assets plus a pre-specified annual compounded cumulative rate or rates of return, each of which is at least a minimum rate of return determined as follows:

(1) A non-fixed rate which is a least equal to the rate of change in the consumer price index (CPI) during the period from the time the Assets become subject to the Arrangement until Net Proceeds equal or exceed the applicable Threshold Amount; or

(2) a fixed rate which is at least equal to the average rate of change in the CPI over some period of time specified in the Agreement, which shall not exceed ten years.

EFFECTIVE DATE: This exemption is effective as of September 19, 1994, the date on which the notice of proposed exemption was published in the **Federal Register**.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on September 19, 1994 at 59 FR 47952.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Toyota Motor Sales, U.S.A., Inc. Money Purchase Pension Plan for Bargaining Unit Employees (the Plan) Located in Torrance, California

Exemption Application No. D–09875
Prohibited Transaction Exemption 95–52;

Exemption

The restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the cash sale by the Plan (the Sale) of group annuity contract No. GA–4564 (the

GAC) issued by Mutual Benefit Life Insurance Company (Mutual Benefit), located in Newark, New Jersey, to Toyota Motor Sales, U.S.A., Inc., a California corporation, (the Employer), a party in interest with respect to the Plan; provided that: (1) The Sale is a one-time transaction for cash; (2) the Plan experiences no loss nor incurs any expense from the Sale; and (3) the Plan receives as consideration from the Sale the greater of either the fair market value of the GAC as determined by the trustee of the Plan on the date of the Sale, or an amount that is equal to the total funds expended by the Plan in acquiring and holding the GAC, plus the amount of interest earned and accrued by the Plan on the GAC to the date of the Sale, less all withdrawals from the Plan to the date of the Sale, and less all advances made to the Plan by the Employer to the date of the Sale.

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 April 27, 1995, at 60 FR 20766.

WRITTEN COMMENTS: With respect to the Notice of Proposed Exemption, the applicant noted that the last sentence in the penultimate paragraph of Section 4 under the Summary of Facts and Representations represents that the fair market value of the GAC is $2,349,840, as of September 30, 1994. The applicant believes that the fair market value of the GAC, if ascertainable, is considerably lower because of the rehabilitation proceedings affecting Mutual Benefit, which significantly restrict the withdrawal and payment provisions of the GAC.

The applicant also noted that had the Sale taken place on September 30, 1994, the Plan would have been paid approximately $2,349,840, which is the amount that would have been determined in accordance with the terms and provisions of the Proposed Exemption as of that date. Since the Sale did not take place on September 30, 1994, the Plan will receive as consideration an amount determined on the date of the Sale in accordance with the terms and provisions of the Proposed Exemption.

FOR FURTHER INFORMATION CONTACT: Mr. C.E. Beaver of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Bob Murphy, Inc. Proft Sharing Plan (the Plan) Located in Boynton Beach, FL

[Prohibited Transaction Exemption 95–53; Exemption Application No. D–09949]

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 sale of certain works of art (the Art Work) by the Plan to Robert J. Murphy, Jr., a disqualified person with respect to the Plan.[8]

This exemption is conditioned upon the following requirements: (1) All terms and conditions of the sale are at least as favorable to the Plan as those obtainable in an arm's length transaction between unrelated parties; (2) the sale is a one-time cash transaction; (3) the Plan is not required to pay any commissions, costs or other expenses in connection with the sale; and (4) the Plan receives a sales price equal to the fair market value of the Art Work on the date of the sale as determined by a qualified, independent appraiser.

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 May 10, 1995 at 60 FR 24902.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Employees' Thrift Plan of Columbia Gas System (the Plan) Located in Wilmington, Delaware

[Exemption Application No. D–09959 Prohibited Transaction Exemption 95–54]

Exemption

The restrictions of sections 406(a) and 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) The loan of funds (the Loan) to the Plan by the Columbia Gas System, Inc., the sponsor of the Plan, and its wholly-owned subsidiary, Columbia Gas Transmission Corporation, with respect to the Guaranteed Investment Contract No. 61969 (the GIC) issued by Confederation Life Insurance Company of Canada (Confederation); and (2) the potential repayment by the Plan of the Loan upon the receipt by the Plan of payments under the GIC; provided the following conditions are satisfied: (a) No interest and/or expenses are paid by the Plan in connection with the Loan; (b) all the terms and conditions of the proposed Loan are no less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party; (c) the Loan will be the accumulated book value of the GIC as of August 12, 1994, less any amounts received by the Plan from Confederation since August 12, 1994; (d) the repayment of the Loan will not exceed the total amount of the Loan; (e) the repayment of the Loan by the Plan will be restricted to funds paid to the Plan under the GIC by Confederation, or State Guaranty Funds, or other third-party sources; (f) the repayment of the Loan is waived to the extent the Loan exceeds the proceeds the Plan receives from the GIC; and (g) any proceeds or future interest credited under the GIC after August 12, 1994, in accordance with the Rehabilitation Plan by the State of Michigan, will be allocated and disbursed to the affected participants of the Plan.

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 April 27, 1995, at 60 FR 20771.

WRITTEN COMMENTS: With respect to the Notice of Proposed Exemption, the applicant noted that item 2(c) of the first paragraph of the Proposed Exemption did not take into account amounts received by the Plan since August 12, 1994, from Confederation prior to the date the Loan is made. The applicant states that Confederation has paid some limited amounts on its GICs for certain withdrawal events and may pay some more funds before the date of the Loan.

The applicant also noted that amounts received by the Plan from Confederation since August 12, 1994, were not considered in determining the amount of the Loan as described in the fourth sentence of Section 5 and item 6(c) in Section 6 of the Summary of Facts and Representations.

In consideration of the comments, item 2(c) of the Exemption is changed to reflect that the Loan will be the accumulated book value of the GIC as of August 12, 1994, less any amounts received by the Plan from Confederation since August 12, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. C.E. Beaver of the Department, telephone (202) 219–8881. (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

[8] Because Mr. Murphy and his spouse, Gail F. Murphy, are the only participants 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.

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 are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 21st day of June, 1995.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 95–15521 Filed 6–23–95; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting an expedited notice of information collection that will affect the public. Interested persons are invited to submit comments by July 24, 1995. Copies of materials may be obtained at the NSF address or telephone number shown below.

(A) *Agency Clearance Officer.* Herman G. Fleming, Division of Contracts, Policy and Oversight, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, or by telephone (703) 306–1243. Comments may also be submitted to:

(B) *OMB Desk Office.* Office of Information and Regulatory Affairs, ATTN: Jonathan Winer, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: Evaluation of the Instrumentation and Laboratory Improvement Program.

Affected Public: Not for Profit institutions.

Respondents/Reporting Burden: 1,500 respondents: average 38 minutes per response.

Abstract: This study will evaluate NSF's Instrumentation and Laboratory Improvement Program in the years 1988–1994. It will document and evaluate the scope and coverage of the program during this period and will assess its impacts on affected students, faculty, and institutions.

Dated: June 20, 1995.

Herman G. Fleming,

Reports Clearance Officer.

[FR Doc. 95–15498 Filed 6–23–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8027]

Sequoyah Fuels Corporation Facility in Gore, OK; Information Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

Information Meeting on the Remediation of Sequoyah Fuels Corporation Facility in Gore, Oklahoma.

SUMMARY: This notice is to inform the public of a meeting to share information related to the current status of and proposed decommissioning options for the Sequoyah Fuels Corporation (SFC) facility near Gore, OK. Interested individuals are invited to attend this meeting scheduled for June 27, 1995, at the Vian High School Auditorium. The purpose of the meeting is to bring together members of the U.S. Nuclear Regulatory Commission, U.S. Environmental Protection Agency (EPA) Region VI, SFC representatives, representatives from other Federal agencies, State officials, local officials, Cherokee Nation, and citizen groups to share information related to current and future actions at the SFC facility.

BACKGROUND: The Sequoyah Fuels facility is located in Sequoyah County, approximately 2 miles southeast of Gore, Oklahoma, above the Arkansas and Illinois Rivers. From 1970 through 1992, the SFC facility was used to convert uranium oxide (yellow cake) to uranium hexafluoride (UF_6) and from 1987 through 1993 to convert depleted UF_6 to depleted uranium tetrafluoride. In 1993, SFC ceased operations and submitted to NRC a preliminary plan that described a proposed remediation plan of the site.

During the operational period, radioactive materials generated at the Sequoyah Fuels facilities were disposed of on-site in accordance with the former 10 CFR 20.304, chemical and radioactively contaminated materials were transferred to on site ponds, and sludge and other process materials were disposed of by burial on-site. One remediation alternative under consideration by the licensee is an on-site disposal cell based on the criteria used at uranium mill tailings sites (10 CFR Part 40, Appendix A). SFC (the licensee) will be required to meet the NRC's decommissioning criteria, as described the Site Decommissioning Management Plan Action Plan (57 FR 13389, dated April 16, 1992) or the final requirements to be established through Enhanced Participatory Rulemaking (proposed rule published on August 22, 1994 [59 FR 43200]).

In 1990 and 1991, the licensee conducted characterization of the areas in the vicinity of the main process and solvent extraction buildings and the ponds. Results of this characterization effort are documented in the ''Facility Environmental Investigation Findings Report'' that was issued in July 1991. The licensee is currently performing characterization activities for the remainder of the site and will submit a Resource Conservation and Recovery Act Facility Investigation Report to EPA in December 1995, and a Site Characterization Report (SCR) to NRC in January 1996.

CONDUCT OF MEETING: NRC will conduct the first in a series of meetings on June 27, 1995, in the Vian High School Auditorium, 100 School St., Vian, OK (Exit 297 North from I–40). The meeting will begin at 7:00 p.m. and will end at 10:00 p.m. The meeting will be facilitated by F.X. Cameron, Special Counsel for Public Liaison at NRC. The purpose of this meeting is to share, with representative stakeholders and the public, information about the status of

current actions at the SFC facility, projected schedules and plans for the decommission of the site, and the responsibilities of the NRC and other regulatory agencies in the decommissioning process. The meetings will consist of invited representatives from the following groups: NRC; EPA; other Federal agencies; State officials; Cherokee Nation; the licensee; local officials; and local citizen groups.

Invited representatives will present their views on the Sequoyah Fuels facility in a facilitated round-table discussion. An agenda for the meeting will be prepared and distributed to all invited representatives, as well as placed in the local public document room in advance of the meeting. Time will be provided for public comment during the meetings. Comments and questions will generally be limited to topics contained in the agenda. Future Information Meetings will be held periodically concerning other issues related to the SFC facility.

FOR FURTHER INFORMATION CONTACT: Jim Shepherd, Project Manager, Division of Waste Management, U.S. Nuclear Regulatory Commission, Mail Stop T7–F27, Washington, DC 20555, telephone (301) 415–6712.

Dated at Rockville, MD, this 16th day of June 1995.

For the U.S. Nuclear Regulatory Commission.

Michael F. Weber,

Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–15532 Filed 6–23–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–282, 50–306, and 72–10]

Northern States Power Co.; Prairie Island Nuclear Generating Plant Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by letter dated June 5, 1995, the Nuclear Information and Resource Service (NIRS) and the Prairie Island Coalition Against Nuclear Storage (PICANS) request that the U.S. Nuclear Regulatory Commission (NRC) take immediate action with regard to primary pressure boundary examinations, the retrievability of irradiated (spent) fuel, and the retrievability of the reactor core at the Prairie Island Nuclear Generating Plant.

The Petitioners request immediate suspension of the operating licenses of Northern States Power Company's (NSP's) Prairie Island Units 1 and 2 until several actions are taken, including an examination of the Prairie Island Units 1 and 2 primary pressure boundaries, a safety analysis of the irradiated fuel retrievability plan and proper approval of the plan, additional crane testing, and, if any of their requests are denied, an evening public hearing in the geographic vicinity of the Prairie Island facility.

As the basis for this request, the Petitioners state that the Prairie Island steam generators are suffering from tube degradation and may rupture unless proper testing is conducted and corrective actions are taken. As additional basis, the Petitioners state that the Prairie Island reactor vessel head penetrations have stress corrosive cracks, which if not found and corrected may result in a catastrophic accident involving the reactor control rods. The Petitioners also raise concerns regarding the irradiated fuel retrievability plan and the use of the reactor core/spent fuel pool transfer channel. Finally, the Petitioners state that the physical integrity of the crane and its cable mechanisms are now in question due to the load of the cask hanging over the reactor pool for an extended period of time.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by 10 CFR 2.206, appropriate action will be taken on this Petition within a reasonable time. By letter dated June 19, 1995, the Director denied the request for immediate suspension of the operating licenses of the Prairie Island Units 1 and 2.

A copy of the Petition and the Director's letter are available for inspection at the Commission's Public Document Room at 2120 L Street, NW, Washington, DC, and at the Local Public Document Room, Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 19th day of June 1995.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 95–15531 Filed 6–23–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–247 and 50–286]

Consolidated Edison Company of New York Power Authority of the State of New York; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by a Petition dated May 18, 1995, the Westchester People's Action Coalition (WESPAC) requests that the U.S. Nuclear Regulatory Commission (NRC) suspend the operating license of Indian Point Units 2 and 3 until completion of all the actions requested in NRC Generic Letter (GL) 95–03 ''Circumferential Cracking of Steam Generator Tubes.'' WESPAC also asks that the NRC hold a public meeting to explain its response to the suspension request.

As the basis for this request, WESPAC notes that the NRC has issued GL 95–03 in response to the discovery of previously undetected steam generator tube cracks at the Maine Yankee plant. WESPAC further notes that although the GL calls for comprehensive examinations of steam generator tubes, it apparently permits licensees to postpone the examinations until the next scheduled steam generator tube inspections. On the basis that testing for cracks in steam generator tubes is both difficult and serious, in that a tube rupture could result in a radiological release from the primary system to the environment, WESPAC concludes that the additional time and expense resulting from completing the actions outlines in the GL now rather than at the next scheduled outages at Indian Point are outweighed by the risk of a core-melt accident.

WESPAC's requests are being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The Petition has been referred to the Director of Nuclear Reactor Regulation (NRR). As provided by Section 2.206, appropriate action will be taken on this Petition within a reasonable time. By letter dated June 16, 1995, the Director denied Petitioner's request for immediate suspension of the Indian Point operating licenses.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street NW., Washington, DC 20001.

Dated at Rockville, Maryland, this 16th day of June 1995.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 95–15530 Filed 6–23–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 21141; File No. 812–7271]

G.T. Global Growth Series, et al.; Notice of Application

June 16, 1995,

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the investment company act of 1940 (the ''Act'').

APPLICANTS: G.T. Global Growth Series, G.T. Investment Funds, Inc., G.T. Investment Portfolios, Inc. (collectively, the ''Investment Companies''), and G.T. Capital Management, Inc. (the ''Adviser'').

RELEVANT ACT SECTIONS: Applicants request an exemption under section 6(c) of the Act from section 15(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit the Adviser to have served as investment adviser to the Investment Companies for approximately one month under interim advisory agreements, without a shareholder vote, following a change in its ownership and to receive from the Investment Companies fees earned under interim advisory agreements.

FILING DATE: The application was filed on March 15, 1989, and amended on February 17, 1995 and May 2, 1995. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

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 July 11, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: 50 California Street, San Francisco, CA 94111.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574 or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulations).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Investment Companies are registered open-end management investment companies. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 and provides investment advisory services to the Investment Companies. The Adviser is an indirect subsidiary of G.T. Management PLC of London, England (''GTM'').

2. On January 31, 1989, GTM and the Bank of Liechtenstein Aktiengesellschaft (the ''Bank'') announces terms for the acquisition of GTM by the Bank through an offer (the ''Offer'') for all the shares of GTM to be made on behalf of the Bank and its subsidiaries. (The Bank and its subsidiaries collectively are referred to as ''BIL.'') On March 23, 1989, BIL acquired a majority ownership interest in GTM, and thus acquired ''control'' over GTM and its various subsidiaries. The acquisition of such control resulted in the assignment of the investment advisory agreements of the Investment Companies, thus terminating such agreements in accord with their terms.

3. GTM and BIL had concluded, in light of the disruptions that could occur if an advisory firm announced the existence of acquisition negotiations, that the existence of negotiations and the terms be kept strictly confidential. Accordingly, access to the knowledge that negotiations were underway was restricted by GTM and BIL. Moreover, negotiations between GTM and BIL were subject to the secrecy rules under the United Kingdom law and the City Code on Takeovers and Mergers (the ''U.K. Code''). Those rules required GTM and its subsidiaries, including the Adviser, to limit knowledge of the existence and substance of these negotiations to the maximum extent possible. Thus, during the period of negotiation, the Adviser's personnel were limited in their knowledge of the status and contents of the negotiations. Further, it was not certain that an agreement would be reached and approved by the GTM board until such agreement was reached and approval was obtained.

4. Once the Offer was made public, the board of directors took all reasonable steps to evaluate the probable impact of the purchase on the provision of investment advisory services to the Investment Companies and to secure the continued provision of such services in the event the purchase was consummated and an assignment of former advisory agreements (the ''Former Advisory Agreements'') occurred. The timing for the Offer and the purchase was dictated by the provisions of the U.K. Code. Those considerations did not allow applicants the ability to utilize a time schedule that assured the solicitation of shareholder approval of the new advisory agreements prior to the consummation of the purchase. These factors necessitated the use of interim investment advisory agreements (the ''Interim Advisory Agreements'') between the Investment Companies and the Adviser as a fair and reasonable solution to this unforeseen situation. Applicants request an exemption from section 15(a) of the Act that would permit the Adviser to have served as investment adviser to each of the Investment Companies during the period in which the Interim Advisory Agreements were in effect (from March 23, 1989 to April 19, 1989, the ''Interim Period'')[1] and to receive from each Investment Company fees for providing advisory services under the Interim Advisory Agreements.

5. On February 3, 1989, the board of directors of each Investment Company, including a majority of the members who were not ''interested persons'' of the Investment Company as that term is defined in section 2(a)(19) of the Act, approved the relevant Interim Advisory Agreements in compliance with the requirements of section 15(c) of the Act. The board of directors requested and evaluated the anticipated effects of the purchase on the Adviser's ability to provide investment advisory services to the Investment Companies. The Adviser and BIL assured the board of directors that there would be no diminution in the scope and quality of advisory and other services provided by the Adviser under the Interim Advisory Agreements, and that the services would be provided in the same manner by essentially the same personnel as they were before March 23, 1989. Applicants believe that there was no diminution in the scope and quality of services provided by the Adviser to the Investment Companies during the Interim Period.

6. The board of directors also concluded that the payment of advisory fees earned during the Interim Period

[1] The filing of the amended application has been delayed by a number of factors, including a change in General Counsel and a change in outside counsel to G.T. Capital during the period from March 15, 1989 to February 17, 1995.

would be fair considering that, among other things, (a) the Offer arose out of business considerations unrelated to the relationships between the Investment Companies and the Adviser, (b) because of the relatively short time frame involved, there was not reasonably sufficient time to seek shareholder approval of the Interim Advisory Agreements, and (c) the nonpayment of such fees would be unduly harsh result to the Adviser in view of the services provided by the Adviser under the Interim Advisory Agreements. Each Interim Advisory Agreement that was in effect during the Interim Period contained the same terms and conditions as the applicable Former Advisory Agreement. In addition, the amount payable to the Adviser under each Interim Advisory Agreement was unchanged from the fees paid under each Former Advisory Agreement. Fees earned during the Interim Period were placed in an escrow account pending ratification of the Interim Advisory Agreements by the Investment Companies' shareholders and issuance by the SEC of an order granting the relief requested herein. If the fees are not paid to the Adviser, the fees will revert to the Investment Companies.

7. On February 24, 1989, the board of directors approved new advisory agreements. Applicants held shareholders meetings of each Investment Company on April 19, 1989, at which the shareholders approved the Interim Advisory Agreements as well as new advisory agreements. The Adviser has paid or will pay, as applicable, the costs of preparing and filing this application and the allocable costs of the meeting of each Investment Company's shareholders necessitated by the assignment of the Former Advisory Agreement, including the cost of proxy solicitations.

Applicants' Legal Conclusions

1. Section 15(a) prohibits an investment adviser from providing investment advisory services to an investment company except pursuant to a written contract approved by a majority of the voting securities of the investment company. The section further requires that such written contract provide for its automatic termination in the event of an assignment.

2. Under section 2(a)(4) of the Act, an assignment includes any direct or indirect transfer of a contract by the assignor or of a controlling block of the assignor's voting securities. Under Section 2(a)(9), a beneficial owner of more than 25 percent of the voting securities of a company is presumed to control such company. Because BIL acquired more than 25 percent of GTM, the Investment Companies' investment advisory agreements were assigned and, consequently, terminated pursuant to their terms.

3. Rule 15a–4 provides that, among other things, if an investment adviser's investment advisory contract is terminated by assignment, the adviser may continue to act as such for 120 days at the previous compensation rate if a new contract is approved by the board of directors of the investment company, and if the investment adviser or a controlling person of the investment adviser does not directly or indirectly receive money or other benefit in connection with the assignment. Because many of GTM's shareholders, including all its board of directors who owned GTM stock, received a benefit in connection with the assignment of the contracts, applicants may not rely on rule 15a–4.

4. Applicants believe that the exemptive relief requested is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Because the change of control of the Adviser caused the termination of the Former Advisory Agreements, the board of directors were required to consider appropriate actions in the best interests of the Investment Companies and their respective shareholders. Appplicants believe that approval of the Interim Advisory Agreements by the board of directors was in accord with the general views of the SEC that an investment adviser has a fiduciary duty to seek to avoid disruption to the operations of an investment company client during any ''interim period'' and that advisory services should continue to be provided. The Adviser and the board of directors concluded that denying the Adviser its fees during the Interim Period would be a harsh result and would not afford shareholders of the Investment Companies any extra protection or long-term benefit. Applicants represent that their respective Interim Advisory Agreements had the same terms, conditions and fees as the respective Former Advisory Agreements.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–15500 Filed 6–23–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21144; 812–8756]

Hercules Funds Inc.; Notice of Application

June 19, 1995.

AGENCY: Securities and Exchange Commission (the ''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Hercules Funds Inc.

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 17(b) granting an exemption from section 17(a).

SUMMARY OF APPLICATION: Applicant seeks an exemption to permit certain securities dealers that are affiliated persons of affiliated persons (''second-tier affiliates'') of each present or future portfolio of applicant (each a ''Fund'') to engage in principal transactions with a Fund solely because of subadvisory relationships with one or more other Funds.

FILING DATES: The application was filed on January 4, 1994, and amended on January 17, 1995, and June 16, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 17, 1995, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 222 South Ninth Street, Minneapolis, Minnesota 55402–3804.

FOR FURTHER INFORMATION CONTACT: James J. Dwyer, Staff Attorney, at (202) 942–0581, or C. David Messman, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

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 a Minnesota corporation registered under the Act as an open-end management investment

company. Applicant has eight existing Funds: Hercules European Value Fund, Hercules Pacific Basin Value Fund, Hercules Latin American Value Fund, Hercules World Bond Fund, Hercules Global Short-Term Fund, Hercules North American Growth and Income Fund, Hercules Emerging Markets Debt Fund, and Hercules Money Market Fund.

2. Hercules International Management L.L.C. (''Hercules'') serves as investment adviser for each Fund. Hercules was organized under Delaware law and is owned equally by Piper Jaffray Companies Inc. (''Piper'') and Midland Walwyn Capital Corporation (''MWCC'').

3. Hercules has retained the services of several advisory organizations to serve as subadvisers to the individual Funds (each a ''Subadviser''). The current Subadvisers are Pictet International Management Ltd., Edinburgh Fund Managers plc, Bankers Trust Company (''Bankers Trust''), Salomon Brothers Asset Management Limited, Salomon Brothers Asset Management Inc, Piper Capital Management Incorporated (''PCM''), Acci, and AGF Investment Advisors, Inc. Each Subadviser, pursuant to an agreement with Hercules, directs the investments of the Fund it subadvises in accordance with applicable law and the Fund's investment objectives, policies, and restrictions. The activities of the Subadvisers are subject to the supervision of Hercules, which has ultimate responsibility to select the Subadvisers.

4. On April 13, 1995, applicant's board of directors approved applicant entering into a new investment advisory and management agreement with PCM, subject to approval by shareholders of the Funds. A new agreement is necessary because Piper and MWCC have determined to dissolve Hercules. On the same date, the board approved PCM entering into new subadvisory agreements with the current Subadvisers, subject to approval by the shareholders of each Fund. The new agreement will be identical to the existing agreements in all material respects except that PCM will be substituted for Hercules as a party to the agreements. The term ''Adviser'' as used herein refers to Hercules, PCM, or such person that in the future serves as principal investment adviser to the Funds.

5. Applicant requests relief to permit an ''Eligible Dealer,'' as defined below, to engage in principal transactions with a Fund in the ordinary course of business. An Eligible Dealer is a Subadviser of one or more Funds not engaging in the transaction that conducts advisory and securities dealer operations via the same legal entity that is a second-tier affiliate of the Fund engaging in the transaction solely by reason of being a Subadviser of one or more of the other Funds. An Eligible Dealer is not (a) an affiliated person of the Fund engaging in the transaction, (b) the Adviser, or an affiliated person of the Adviser, or (c) an officer, director, employee, promoter, or principal underwriter of any Fund, or an affiliated person of such officer, director, employee, promoter, or principal underwriter. Bankers Trust, as the only Subadviser that conducts advisory and dealer operations through the same legal entity, is currently the only Subadviser that satisfies the definition of an Eligible Dealer.

Applicant's Legal Analysis

1. Section 17(a), among other things, prohibits an affiliated person, principal underwriter, or promoter of a registered investment company, or any affiliated person of such persons, acting as principal, from (a) selling to or purchasing from such registered company, or any company controlled by such company, any security or other property, or (b) borrowing money or other property from such company. Section 2(a)(3) defines ''affiliated person'' of another person as including a person controlling, controlled by, or under common control with such other person, and, when such other person is an investment company, the investment adviser thereof.

2. Applicant asserts that the Funds may be affiliated persons of each other because they may be under the common control of (a) the Adviser, which makes decisions and fashions policies that impact all of the Funds, and (b) a single board of directors that overseas such policies. A Subadviser is an affiliated person of the Fund or Funds that it subadvises, and a second-tier affiliate of each other Fund. When such a Subadviser conducts dealer operations via the same entity, the dealer component also would be a second-tier affiliate of the Funds not subadvised by the Subadviser. Accordingly, relief from section 17(a) is required for an Eligible Dealer to engage in principal transactions with a Fund.

3. Applicant submits that the primary purpose of section 17(a) is to prevent persons with the power to control an investment company from using that power to such person's own pecuniary advantage, *i.e.*, to prevent self-dealing. Applicant believes that no element of self-dealing would be involved in the proposed transactions because the Subadviser recommending the transaction would be dealing with an entity that in economic reality is a competitor of the Subadviser. Each transaction between a Fund and an Eligible Dealer would be the product of arms-length bargaining, and the Subadviser recommending the transaction can neither lose nor gain financially on the basis of whether the transaction is beneficial or detrimental to the Eligible Dealer.

4. Section 17(b) provides that the SEC may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act. Applicant believes that the proposed transactions will meet the standards of section 17(b). Because the pecuniary interests of a Subadviser would be solely and directly aligned with those of the Fund it subadvises, it is reasonable to conclude that the consideration to be paid to or received by such Fund in connection with a principal transaction with an Eligible Dealer will be reasonable and fair.

5. Section 6(c) provides that the SEC may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act or of any rule thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant asserts that the proposed transactions would be consistent with the policies of the Fund involved. Further, applicant submits that the broader the universe of persons with which a Fund may engage in principal transactions, the easier it is to achieve best price and execution on such transactions and the better will be the Fund's overall investment performance.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–15501 Filed 6–23–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–21143; 812–9436]

Pacific Mutual Life Insurance Company, et al.; Notice of Application

June 19, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Pacific Mutual Life Insurance Company (''Pacific Mutual''), Separate Account A (the ''Separate Account''), and Pacific Equities Network (''PEN'').

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) of the Act granting an exemption from sections 26(a)(2)(C) and 27(c)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order permitting Pacific Mutual to deduct a mortality and expense risk charge from the assets of the Separate Account or any other separate account that Pacific Mutual establishes to fund certain individual flexible premium combination fixed/variable annuity contracts (the ''Contracts'').

FILING DATE: The application was filed on January 17, 1995, and was amended on June 13, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested person 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 July 14, 1995, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Robin Yonis Sandlaufer, Esq., Pacific Mutual Life Insurance Company, 700 Newport Center Drive, Newport Beach, California 92660.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: 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. Pacific Mutual, a mutual life insurance company, is organized in California, and is authorized to do business in the District of Columbia and all states except New York.

2. The Separate Account was established by Pacific Mutual as a funding medium for the Contracts. The Separate Account is registered with the SEC as a unit investment trust under the Act. Units of interest in the Separate Account under the Contracts will be registered under the Securities Act of 1933. Pacific Mutual is the depositor and sponsor of the Separate Account. Applicants request that the relief sought herein also apply to any other separate account (''Other Account'') established by Pacific Mutual to fund the Contracts, as well as other contracts that are substantially similar in all material respects to the Contracts (''Future Contracts'').

3. The Separate Account currently is divided into eleven subaccounts (''Subaccounts''), each of which will invest solely in shares of a corresponding series of Pacific Select Fund (the ''Fund''), an open-end management investment company. Other series of the Fund, other investment companies or series of other investment companies, or other investment vehicles may be available for investment in the future through additional subaccounts and/or Other Accounts.

4. PEN, an indirect wholly-owned subsidiary of Pacific Mutual, will serve as principal underwriter of the Contracts. PEN is registered as a broker-dealer under the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers, Inc. (''NASD''). Applicants request that the relief sought herein also apply to any other entity that is registered with the SEC as a broker-dealer, is a member of the NASD and that may, in the future, serve as the principal underwriter of the Contracts or any Future Contracts.

5. The Contracts, which include the Pacific Portfolios Contract and the Pacific One Contract, are individual flexible premium combination fixed/variable annuity contracts. They may be purchased on a non-tax qualified basis, or in connection with certain retirement plans that qualify for special federal income tax treatment under the Internal Revenue Code of 1986.

6. Each Contract requires certain minimum initial purchase payments and requires a certain minimum for any additional payments. A Pacific Portfolios Contract may be purchased with a minimum initial purchase payment of $5,000 in the case of a non-tax qualified Contract, or $2,000 in the case of a tax-qualified Contract. Minimum purchase payment requirements are waived in certain cases. Additional payments may be made at any time, but must be at least $250 ($25 in the case of a tax-qualified Contract). A Pacific One Contract may be purchased with a minimum initial purchase payment of $25,000. Additional payments must be at least $1,000. Purchase payments or amounts already allocated to the Subaccounts or the fixed option (these allocated amounts plus any amount held in Pacific Mutual's loan account to secure contract debt may be referred to as the ''Contract Value'') may be allocated to one or more of the Subaccounts of the Separate Account which have been established to support the Contracts or to the fixed option, which is funded by Pacific Mutual's general account.

7. Several annuity payout options, including both fixed and variable payment options, are available under the Contracts. Each Contract also will provide for a death benefit if the annuitant dies during the accumulation period. Generally, the death benefit will equal the greater of (a) total purchase payments (less prior withdrawals), or (b) the Contract Value. Death benefits may be higher under certain circumstances.

8. Pacific Mutual incurs certain costs in connection with the distribution of the Pacific Portfolios Contracts and the Pacific One Contracts. No sales charges are deducted from purchase payments under the Contracts prior to their allocation to the Contract Value.

9. Purchase payments on Pacific Portfolios Contracts are subject to a contingent deferred sales charge (''CDSC'') on withdrawals prior to annuitization. The CDSC is calculated as a percentage of the total withdrawal subject to the CDSC and, in the case of partial withdrawals. is deducted from the Contract Value remaining after the Contract owner is paid the amount requested. The amount of the CDSC imposed on withdrawal will depend on the ''age'' of the amount withdrawn that is subject to the CDSC, as follows:

Age of payment	Deferred sales charge (percent)
1	7
2	7
3	6
4	5
5	3

Age of payment	Deferred sales charge (percent)
6	1
7 or more	0

A purchase payment is considered to have an ''age'' of 1 from the day it is effective until the next succeeding Contract anniversary. No CDSC is imposed on annuitized Contract Value or in connection with payment of death benefits. Nor will a CDSC be assessed (a) on earnings under a Contract, or (b) on withdrawals in any Contract year aggregating up to 10% of the Contract owner's purchase payments otherwise subject to a CDSC, measured at the time of withdrawal. In calculating any CDSC, or in calculating the 10% available for free withdrawal, Pacific Mutual will assume that a Contract owner's earnings are withdrawn first, followed by the Contract owner's purchase payments in the order in which they are paid. Pacific Mutual does not expect that the CDSC will be sufficient to cover the sales expenses of Pacific Portfolios Contracts. Pacific Mutual will pay any additional sales expenses relating to Pacific Portfolios Contracts.

10. Pacific One Contracts are not subject to sales charges. Pacific Mutual will pay sales expenses relating to Pacific One Contracts from its general account, which may include amounts derived from the mortality and expense risk charge.

11. Pacific Mutual may deduct a charge for premium taxes. The tax rates currently range from 1% to 4%. A premium tax may be imposed upon purchase payments at the time they are made, on Contract Value upon fully or partial withdrawals, upon annuitization, or when converted into another benefit payment.

12. Pacific Mutual does not currently impose a transaction charge on the Contracts for the administrative costs of transfers among the Subaccounts and to the fixed option, and withdrawals, but reserves the right to do so. These charges may be up to $15 on each transfer in excess of 15 transfers in any Contract year, and $15 on each partial withdrawal in excess of 15 partial withdrawals in any Contract year.

13. Pacific Mutual will charge an annual fee of $40 against each Contract to compensate it for administering the Contract, maintaining records, and preparing and distributing annual reports and statements. The annual fee will be assessed each anniversary of the Contract and at the time of a full withdrawal of any Contract Value not annuitized only if, in either case, the Contract Value is less than a specified amount on that date. The annual fee is guaranteed not to increase for the life of the Contract.

14. Pacific Mutual will impose a charge against the assets in the Separate Account to compensate it for issuance and administration of the Contracts and operation of the Separate Account. This charge will accrue daily against the value of the net assets of each Subaccount attributable to the Pacific Portfolios and Pacific One Contracts, at an annual rate guaranteed for the life of the Contract not to exceed .15%.

15. Applicants represent that the charges for administration of the Contracts and operation of the Separate Account, including any annual fee, the administrative fee, and any future transfer or withdrawal transaction fees, will be deducted from the Subaccounts or from the Contract Value allocated to the Subaccounts in reliance on rule 26a–1 under the Act, and will not be greater than the cost of the administrative services to be provided over the life of the Contract. Pacific Mutual does not expect or intend to make a profit from the annual fee, administrative fee, or any future transfer or withdrawal transaction fees.

16. Pacific Mutual proposes to assess a charge against the Contract Value allocated to the Subaccounts to compensate it for bearing certain mortality and expense risks under the Contracts. The aggregate mortality and expense risk charge will be equal, on an annual basis, to 1.25% of the value of the net assets in each Subaccount. Of this amount, approximately .80% will be charged to cover mortality risk and approximately .45% will be charged to cover expense risk. This rate of 1.25% will be guaranteed not to increase for the duration of a Contract.

17. The mortality risk arises from Pacific Mutual's contractual obligation, where a Contract owner selects an annuity option with a life contingency, to make periodic annuity payments regardless of how long all annuitants or any individual annuitant lives. Contract owners are thus assured that neither an annuitant's greater-than-expected longevity nor a greater-than-expected improvement in life expectancy generally will adversely affect the number or amount of annuity payments the annuitant will receive under the Contracts. Where a Contract has been purchased and a life contingency annuity option selected, this eliminates the annuitant's risk of outliving the accumulated funds. Pacific Mutual assumes a mortality risk in connection with payment of the death benefit under each Contract because the death benefit could exceed the Contract Value. Pacific Mutual also incurs a mortality risk in connection with the ''step-up'' of the guaranteed minimum amount of death benefits under each Contract under certain circumstances. There is no extra charge for this guarantee. The expense risk assumed by Pacific Mutual is that its actual expenses in issuing and administering the Contracts and operating the Separate Account will exceed the amount anticipated or recovered through the annual administrative charges.

18. If the mortality and expense risk charge is insufficient to cover the assumed risk, Pacific Mutual will bear the loss. Conversely, if the mortality and expense risk charge exceeds the amount necessary to cover the assumed risk, the excess may be used for, among other things, the payment of distribution, sales, and other expenses. Pacific Mutual currently anticipates a profit from the mortality and expense risk charge.

Applicants' Legal Analysis

1. Applicants request an exemption under section 6(c) of the Act from sections 26(a)(2)(C) and 27(c)(2) of the Act to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account or any Other Account under the Contracts or Future Contracts.

2. Sections 26(a)(2)(C) and 27(c)(2), in relevant part, prohibit a principal underwriter for, or depositor of, a registered unit investment trust from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, on such certificates are deposited with a qualified trustee or custodian, within the meaning of section 26(a)(1), and are held under arrangements that prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the SEC may prescribe, for performing bookkeeping and other administrative duties normally performed by the trustee or custodian. Pacific Mutual's deduction of a mortality and expense risk charge from the assets of the Separate Account may be deemed to be a payment prohibited by sections 26(a)(2)(C) and 27(c)(2).

3. Section 6(c) authorizes the SEC, by order upon application, to conditionally or unconditionally grant an exemption from any provision of the Act, or any rule or regulation promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly

intended by the policy and provisions of the Act.

4. Applicants believe that the requested order meets the standards of section 6(c). With respect to the exemption requested in connection with any Other Account and/or Future Contracts, applicants believe that the requested order would promote efficiency and competitiveness in the market for variable annuities by reducing the administrative costs and delay incurred by Pacific Mutual in seeking, what is essentially, redundant relief. Applicants believe that no incremental benefit or protection would inure to investors if Pacific Mutual were required to seek such further exemptive relief.

5. Applicants believe that Pacific Mutual is entitled to reasonable compensation for its assumption of mortality and expense risks. Applicants represent that the proposed mortality and expense risk charge is consistent with the protection of investors because it is a reasonable and proper insurance charge. The charge is a reasonable one to compensate Pacific Mutual for the risks that: (a) Annuitants under the Contracts will live longer individually or as a group than has been anticipated in setting the annuity rates guaranteed in the Contracts; (b) the Contract Value will be less than the death benefit; and (c) administrative expenses will be greater than amounts derived from the administrative charges.

6. Pacific Mutual represents that the 1.25% mortality and expense risk charge under the Contracts is within the range of industry practice for comparable annuity products. This representation is based upon Pacific Mutual's analysis of publicly available information about similar industry products, taking into consideration such factors as the current charge levels, existence of charge level guarantees, any death benefit guarantees, guaranteed annuity rates, and other policy options. Pacific Mutual will maintain at its administrative offices, and make available to the SEC upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

7. Pacific Mutual also represents that the mortality and expense risk charge under any Future Contract will be within the range of industry practice for comparable annuity products at the time such Future Contract is first offered. Pacific Mutual will maintain at its administrative offices, and make available to the SEC upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey undertaken in connection with such Future Contract.

8. Applicants acknowledge that, if a profit is realized from a mortality and expense risk charge, all or a portion of such profit may be available to pay Pacific Mutual's distribution expenses. Pacific Mutual has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements for the Contract will benefit the Separate Account or Other Accounts and the Contract owners. The basis for that conclusion is set forth in a memorandum that will be maintained by Pacific Mutual at its administrative offices and will be made available to the SEC upon request. Pacific Mutual will not offer any Future Contract subject to a mortality and expense risk charge unless and until it has concluded that there is a reasonable likelihood that the distribution financing arrangements proposed for such Future Contract will benefit the Separate Account or the applicable Other Account and the owners of such Future Contract. Pacific Mutual will maintain at its administrative offices, and will make available to the SEC upon request, a memorandum setting forth the basis for that conclusion.

9. Pacific Mutual represents that the Separate Account and any other Account will invest only in those management investment companies that undertake, in the event such company should adopt a plan under rule 12b–1 under the Act to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not ''interested persons'' of such company, formulate and approve any such plan.

Conclusion

For the reasons set forth above, applicants believe that the requested exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–15502 Filed 6–23–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21142; 811–6470]

Smith Barney Shearson FMA® Trust; Notice of Application

June 19, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Smith Barney Shearson FMA® Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on May 24, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 17, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 388 Greenwich Street, New York, New York 10013.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a business trust under the laws of the Commonwealth of Massachusetts. On November 11, 1991, applicant registered under the Act, and on November 12, 1991, applicant filed a registration statement under section 8(b) of the Act and under the Securities Act of 1993. Applicant's Registration Statement became effective on January 24, 1992.

2. Applicant never made a public offering of its shares. Applicant's only shareholder was its sponsor, Shearson Lehman Brothers, which invested $100,000 in applicant as initial capital.

3. The Trustees of applicant, including the Trustees who are not interested persons, unanimously approved a Plan of Dissolution, Liquidation and Termination (the ''Plan'') providing for the dissolution of applicant, the liquidation of the applicant's assets and the distribution of all proceeds of such liquidation. Applicant's sole shareholder approved the Plan on July 21, 1994. Pursuant to the Plan, applicant's net assets were distributed in cash to applicant's sole shareholder.

4. No expenses of the Plan were borne by the shareholders of applicant. All such expenses were borne by applicant's adviser and administrator. Applicant has no known debts or other liabilities which remain outstanding.

5. Applicant has no shareholders and no assets. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged in, nor does it propose to engage in, any business activities other than those necessary to wind up its affairs. Applicant intends to file a Certificate of Cancellation with the Commonwealth of Massachusetts to terminate its existence.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–15503 Filed 6–23–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21151; 812–9484]

American Partners Life Insurance Company, et al.

June 20, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: American Partners Life Insurance Company (''American Partners Life''), APL Variable Annuity Account 1 (the ''Variable Account''), and American Express Financial Advisors Inc. (''American Express Financial'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act that would exempt applicants from sections 26(a)(2)(C) and 27(c)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit American Partners Life to deduct a mortality and expense risk charge from the assets of the Variable Account in connection with the offering of certain flexible premium individual deferred variable annuity contracts as well as other variable annuity contracts.

FILING DATE: The application was filed on February 16, 1995, and amended on June 6, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 17, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street N.W., Washington, D.C. 20549. Applicants, c/o Mary Ellyn Minenko, Counsel, American Partners Life Insurance Company, IDS Tower 10, Minneapolis, MN 55440.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563, or Robert A. Robertson, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. American Partners Life is a wholly-owned subsidiary of IDS Life Insurance Company (''IDS Life''). IDS Life is a stock life insurance company organized under the laws of the State of Minnesota. IDS Life is a wholly-owned subsidiary of American Express Financial Corporation, a Delaware corporation.

2. The Variable Account was established as a separate account under the laws of the State of Arizona to fund variable annuities issued by American Partners Life. The Variable Account is registered as a unit investment trust under the Act. The Variable Account has filed with the SEC a registration statement on Form N–4 in connection with the offering of certain flexible premium individual deferred variable annuity contracts (''Contracts'') issued by American Partners Life. The Variable Account will be used to fund these Contracts.

3. Applicants request that exemptive relief permit the deduction of a mortality and expense risk charge from the assets of any subaccounts or variable accounts established by APL to support future individual deferred variable annuity contracts that are substantially similar in all material respects to the Contract.

4. Each subaccount of the Variable Account will invest solely in the shares of one of the corresponding funds of a registered investment company (the ''Funds''). Currently, there are six subaccounts that will invest in the shares of six corresponding Funds. The Funds currently available for investment by the subaccounts are registered open-end management investment companies managed by IDS Life. American Partners Life plans to create additional subaccounts and/or variable accounts to invest in additional Funds which will be available as future investment options.

5. American Express Financial is the principal underwriter of the Variable Account. American Express Financial is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

6. The Contracts are individual deferred combination fixed/variable annuity contracts. The Contracts allow the owners to elect to have contract values accumulate in the Variable Account as well as in a fixed account.

7. Contract owners must make an initial lump sum purchase payment or set up installment payments. Contract owners may make additional purchase payments under the Contracts. The initial purchase payment must be at least $2,000 for nonqualified Contracts and $1,000 for qualified Contracts. The installment payments must be set up for at least $100 monthly or $50 biweekly. Installment payments must total at least $1000 in the first year. After making the initial purchase payment or setting up the installment payments, Contract owners may make additional payments of at least $100 for nonqualified and qualified Contracts. The maximum first year payment(s) is $1 million up to age 75; $500,000 for ages 76–85; and $50,000 for ages 86–90. The maximum is based on the Contract owner's age or the age of the annuitant (whomever is older) on the effective date of the Contract. The maximum payment for each subsequent year is $50,000. American Partners Life reserves the right to increase maximum limits or reduce age limits. The Contracts provide for allocation of purchase payments to

the subaccounts of the Variable Account and/or to a fixed account in even 1% increments. There is no minimum value requirement of a Contract owner's investment in a subaccount of the Variable Account or in the fixed account.

8. Prior to the annuity start date, the Contract owner can, at any time, surrender all or part of the Contract value held in one or more of the subaccounts of the Variable Account and the fixed account. There is no charge for a partial or total surrender. Upon retirement, annuity payments will be made on a fixed basis. Retirement benefits may be made in a lump sum, under one of five annuity payment plans or under any other arrangement acceptable to American Partners Life.

9. American Partners Life will assess an annual contract administrative charge of $30 for the Contracts on each contract anniversary. American Partners Life waives this contract administrative charge for any contract year where the total purchase payments (less partial surrenders) on the current contract anniversary is $10,000 or more or if, during the contract year, a death benefit is payable or the Contract is surrendered in full. This charge reimburses American Partners Life for the administrative services attributable to the Contracts. The annual contract administrative charge does not apply after retirement payments begin. This charge represents reimbursement for only the actual administrative costs expected to be incurred over the life of the Contracts. American Partners Life reserves the right to increase the administrative charges up to $50 if warranted by the expenses incurred. American Partners Life also reserves the right to assess the contract administrative charge against all Contracts.

10. American Partners Life and the Variable Account rely on rules 0–1(e), 6c–8, 26a–1, and 26a–2 under the Act in connection with the deduction of the contract administration charge and certain other charges under the Contracts. American Partners Life does not expect to profit from the contract administrative charge. In some cases, American Partners Life may expect to incur lower sales and administrative expenses or perform fewer services. In those cases, American Partners Life may, in its discretion, reduce or eliminate the contract administrative charge. American Partners Life expects this to occur infrequently, if at all.

11. Prior to the annuity start date, the Contract owner can, at any time, transfer all or part of the contract value held in one or more of the subaccounts of the Variable Account and fixed account to another one or more of the subaccounts. The minimum amount to be transferred to any one subaccount is $100. American Partners Life reserves the right to impose or change limits to amount and frequency of transfers. There is no charge for the first 12 transfers in a contract year, but American Partners Life will charge $25 for each transfer in excess of 12.

12. American Partners Life will make a charge against the contract value for any premium taxes to the extent the taxes are payable. No charges are currently made for federal, state or local taxes other than premium taxes. American Partners Life reserves the right to deduct such taxes from the Variable Account in the future.

13. To compensate American Partners Life for assuming mortality and expense risks, it will apply a daily mortality and expense risk charge to the Variable Account. This charge equals 1% of the average daily net assets of the subaccounts of the Variable Account on an annual basis. American Partners Life estimates that approximately two-thirds of this charge is for assumption of the mortality risk and one-third is for the assumption of the expense risk. This charge cannot be increased during the life of the Contracts.

14. American Partners Life assumes certain mortality risks by its contractual obligation to continue to make retirement payments for the entire life of the annuitant under annuity obligations which involve life contingencies. This assures each annuitant that neither the annuitant's own longevity nor an improvement in life expectancy generally will have an adverse effect on the retirement payments received under the Contracts. This relieves the annuitant from the risk of outliving the amounts accumulated for retirement. American Partners Life assumes additional mortality and certain expense risks under the Contracts by its contractual obligation to pay a death benefit in a lump sum (or in the form of an annuity payment plan) upon the death of the owner or the annuitant prior to the annuity start date. In addition, American Partners Life assumes an expense risk because the contract administrative charge may be insufficient to cover actual administrative expenses.

15. If the contract administrative charge and the mortality and expense risk charge are insufficient to cover the expenses and costs assumed, the loss will be borne by American Partners Life. Conversely, if the amount deducted proves more than sufficient, the excess will represent a profit to American Partners Life. American Partners Life does expect to profit from the mortality and expense risk charge.

Applicants' Legal Analysis

1. Applicants request an exemption under section 6(c) of the Act from sections 26(a)(2)(C) and 27(c)(2) of the Act to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account under the Contracts.

2. Sections 26(a)(2)(C) and 27(c)(2) of the Act prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (except such amounts as are deducted for sales load) are deposited with a trustee or custodian having the qualifications prescribed by Section 26(a)(1) of the Act and held under an agreement which provides that no payment to the depositor or principal underwriter shall be allowed except as a fee, not exceeding such reasonable amount as the SEC may prescribe, for bookkeping and other administrative services. American Partners Life's deduction of a mortality and expense risk charge from the assets of the Variable Account may be deemed to be a payment prohibited by sections 26(a)(2)(c) and 27(c)(2).

3. Section 6(c) authorizes the SEC to exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants represent that the requested relief is appropriate in the public interest because it would promote competitiveness in the variable annuity market by eliminating the need for American Partners Life to file redundant exemptive applications, thereby reducing its administrative expenses and maximizing the efficient use of its resources. The delay and expense involved in having to request exemptive relief repeatedly would impair American Partners Life's ability to effectively take advantage of business opportunities that arise. Applicants represent that, for the same reasons, the requested relief is consistent with the purposes of the Act and the protection of investors. If American Partners Life were required to seek exemptive relief repeatedly with respect to the same issues addressed in this application,

investors would not receive any benefit or additional protection thereby. Indeed, they might be disadvantaged as a result of American Partners Life's increased overhead expenses.

5. Applicants represent that the level of the mortality and expense risk charge is within the range of industry practice for comparable variable annuity products. American Partners Life has reviewed publicly available information about other annuity products taking into consideration such factors as current charge levels, charge guarantees, sales loads, surrender charges, availability of funds, investment options available under annuity contracts, and market sector. American Partners Life represents that it will maintain at its executive office, and make available on request of the SEC or its staff, a memorandum setting forth its analysis, including its methodology and results.

6. American Partners Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements made with respect to the Contracts will benefit the Variable Account and investors in the Contracts. The basis for such conclusion is set forth in a memorandum which will be maintained by American Partners Life at its service office and will be available to the SEC or its staff on request.

7. American Partners Life represents that the Variable Account will invest only in an underlying mutual fund which, in the event it should adopt any plan under rule 12b–1 of the Act to finance distribution expenses, would have such a plan formulated and approved by a board of directors, a majority of the members of which are not interested persons of such fund within the meaning of Section 2(a)(19) of the Act.

Conclusion

For the reasons set forth above, applicants believe that the requested exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–15570 Filed 6–23–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21154; 811–4887]

SLH Convertible Securities Fund; Notice of Application

June 20, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: SLH Convertible Securities Fund.

RELEVANT ACT SECTION: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring it has ceased to be an investment company.

FILING DATES: The application was filed on May 23, 1995 and amended on June 26, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving 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 July 17, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 388 Greenwich Street, New York, NY 10013.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a registered open-end, diversified, management investment company under the Act and is organized as a business trust under the laws of the Commonwealth of Massachusetts. On October 24, 1986, applicant filed a Notification of Registration on Form N–8A pursuant to section 8(a) of the Act and a registration statement on Form N–1A under section 8(b) of the Act and under the Securities Act of 1933. The registration statement was declared effective on February 6, 1987 and applicant's initial public offering commenced shortly thereafter.

2. On March 27, 1990, applicant's Board of Trustee (the ''Board'') unanimously determined that applicant's continuation was no longer in the best interest of applicant or its shareholders. The Board determined that applicant's shareholders would be better served by a liquidation of applicant's assets. In making this determination, the Board considered a number of factors including the relatively small size of applicant's assets, applicant's resulting high expense ratio, and the improbability that sales of applicant's shares could be increased to raise applicant's assets to a more viable level. The Board voted to approve an Agreement and Plan of Liquidation and Termination (the ''Plan'') whereby the assets of applicant would be distributed in cash to applicant's shareholders in complete liquidation of applicant on June 13, 1990 (the ''Liquidation Date'').

3. On March 28, 1990, preliminary and definitive proxy materials were filed with the SEC. On April 11, 1990, definitive proxy materials were distributed to applicant's shareholders. On June 13, 1990, applicant's shareholders approved the Plan.

4. On the Liquidation Date, immediately preceding the liquidation, applicant had a total of 380,315.076 shares of beneficial interest outstanding. At such time, applicant's aggregate and per share net asset value was $3,460,867.19 and $9.10, respectively.

5. On the Liquidation Date, applicant reduced its assets to cash and transferred the proceeds to its shareholders at fair market value in cancellation of their shares. All assets of applicant were distributed to applicant's shareholders in connection with the liquidation after the payment of all outstanding obligations, taxes, and other accrued or contingent liabilities. No sales charge was imposed in connection with the transaction.

6. All expenses incurred in connection with applicant's liquidation was borne by the Smith Barney Inc., formerly Shearson Lehman Brothers Inc. (''Shearson''), applicant's principal underwriter. Such expenses, totalling $90,000, including legal, accounting, printing, and administrative fees. At the time of its liquidation, applicant had amortized all but approximately $49,370 of its organizational expenses. Such organizational expenses were absorbed by Shearson.

7. As of the date of the application, applicant had no assets, debts, or shareholders. Applicant is not a party to any litigation or administrative proceeding. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding-up of its affairs.

8. Applicant will terminate its existence as a business trust under Massachusetts law.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–15571 Filed 6–23–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21153; No. 812–9498]

United of Omaha Life Insurance Company, et al.

June 20, 1995.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order under the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: United of Omaha Life Insurance Company (''United of Omaha''), United of Omaha Separate Account C (''Separate Account'') and Mutual of Omaha Investors Services, Inc. (''Services'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 2(a)(32), 22(c), 26(a)(2)(C), 27(c)(1), and 27(c)(2) of the 1940 Act and Rule 22c–1 thereunder.

SUMMARY OF APPLICATION. Applicants seek an order to permit the deduction of a mortality and expense risk charge and an enhanced death benefit charge from the assets of the Separate Account or any other separate account (''Other Accounts'') established by United of Omaha to support certain flexible premium individual deferred variable annuity contracts (''Contracts'') as well as other variable annuity contracts that are substantially similar in all material respects to the Contracts (''Future Contracts''). In addition, Applicants propose that the order extend to any broker-dealer other than Services, that may in the future serve as principal underwriter for the Contracts or Future Contracts, the same exemptions granted to Services (''Future Broker-Dealers''). Any such broker-dealer will register under the Securities Exchange Act of 1934 (''1934 Act'') as a broker-dealer and will be a member of the National Association of Securities Dealers, Inc. (''NASD'').

FILING DATE: The application was filed on February 27, 1995, and was amended and restated on June 12, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the Application will be issued unless the Commission 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 July 14, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, Thomas J. McCusker, Esq., Law Division—3rd Floor, United of Omaha Life Insurance Company, Mutual of Omaha Plaza, Omaha, Nebraska 68175–1008.

FOR FURTHER INFORMATION CONTACT: Pamela K. Ellis, Attorney, or Wendy Friedlander, Deputy Chief, both at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representatives

1. United of Omaha, a stock life insurance company, is organized in Nebraska and licensed to do business in the District of Columbia, all states except New York, and several foreign countries. United of Omaha is a wholly-owned subsidiary of Mutual of Omaha Insurance Company.

2. The Separate Account is a separate account established by United of Omaha to fund the Contracts. The Separate Account is registered with the Commission as a unit investment trust under the 1940 Act, and the Contracts are registered as securities under the Securities Act of 1933.

3. United of Omaha will establish for each investment option offered under the Contract a Separate Account subaccount (''Subaccount''), which will invest solely in a specific corresponding portfolio of certain designated investment companies (''Funds''). The Funds will be registered under the 1940 Act as open-end management investment companies. Each Fund series will have separate investment objectives and policies.

4. Services will serve as the distributor and principal underwriter of the Contracts, and also may serve in these capacities for the Future Contracts. Services, an affiliate of United of Omaha, is registered under the 1934 Act as a broker-dealer and a member of the NASD.

5. In addition, broker-dealers other than Services also may serve as distributors and principal underwriters of certain of the Contracts as well as the Future Contracts. Future broker-dealers will be registered under the 1934 Act as broker-dealers and will be members of the NASD.

6. The Contracts are individual flexible premium variable deferred annuity contracts. They may be purchased on a non-tax qualified basis (''Non-Qualified Contracts'') or they may be purchased and used in connection with retirement plans that qualify for favorable federal income tax treatment (''Qualified Contracts''). Both the Non-Qualified Contracts and the Qualified Contracts may be purchased with an initial premium of $5,000, except under the electronic fund transfer program where the minimum initial purchase payments is $2,000.[1] The minimum subsequent premium for both the Unqualified and Qualified Contracts is $500 (or $100 if made in connection with the electronic fund transfer program). Net purchase payments may be allocated to one or more of the Separate Account Subaccounts that have been established to support the Contracts. The Contracts also provide for the allocation of net purchase payments to the general account of United of Omaha, where such purchase payments are credited with a predetermined fixed rate of interest.

7. The Contracts provide for a series of annuity payments beginning on the annuity date. The Contract owner may select from several payout options which provide periodic annuity payments on a fixed basis.

8. The Contracts provide for a death benefit if the annuitant dies during the accumulation period. Any applicable premium taxes not previously deducted will be deducted from the death benefit payable. The standard death benefit is the greater of: (1) The accumulation value (without deduction of the CDSC, as defined below) on the later of the date on which due proof of death or an election of payout option is received by

[1] United of Omaha reserves the right to increase or decrease this amount.

United of Omaha's service office less any charge for applicable premium taxes; or (2) the sum of all net purchase payments, less any partial withdrawals. If the Contract owner elected the enhanced death benefit and dies before age 81, United of Omaha will provide an enhanced death benefit that will equal the greater of: (1) The accumulation value as of the end of the valuation period during which due proof of death and an election of a payout option are received by United of Omaha's service center; (2) the greatest anniversary value,[2] plus any subsequent net purchase payments and less any subsequent partial withdrawals; and (3) the sum of all net purchase payments less any partial withdrawals, accumulated at a 4.5% annual rate of interest, up to a maximum of two times each purchase payment. If the Contract owner elected the enhanced death benefit and dies after attaining age 81, the enhanced death benefit under the Contract will equal the greatest of: (1) The accumulation value as of the end of the valuation period during which due proof of death and an election of a payout option are received by United of Omaha's service center; (2) the greatest anniversary value up to the last Contract anniversary before the Contract owner attains age 81, plus any subsequent purchase payments and less any subsequent partial withdrawals; and (3) the sum of all net purchase payments paid prior to the last Contract anniversary before the Contract owner attained age 81, less any partial withdrawals, accumulated at a 4.5% annual rate of interest, up to a maximum of two times each purchase payment.

9. Certain charges and fees are assessed under the Contracts. There is no transfer fee charged for transfers from the fixed account or for the first 12 transactions from Subaccounts of the Separate Account in each Contract year. Subsequent transfers within a Contract year, however, will be assessed a fee of $10 per transfer.

10. United of Omaha will deduct an administration charge from each Subaccount of the Separate Account. The charge is equal, on an annual basis, to .20% of the net asset value of each Subaccount.

11. An annual policy fee of $30 will be charged against each Contract. This charge will be deducted pro rata from each Subaccount in which the Contract owner is invested at the end of each Contract year prior to the annuity starting date (and upon a complete surrender) to compensate United of Omaha for the administrative services provided to Contract owners. Currently, this fee is waived if the accumulation value exceeds $50,000.

12. Applicants represent that the transfer fee, administration charge, and the annual policy fee will not increase regardless of the actual cost incurred. In addition, Applicants represent that these charges are at cost with no anticipation of profit.

13. A contingent deferred sales charge (''CDSC'') may be imposed on certain withdrawals. The amount of the CDSC decreases annually from 7% to 0% over 8 Contract years. For the purposes of determining the CDSC, withdrawals will be allocated first to premiums on a first-in, first-out basis so that all withdrawals are allocated to premiums to which the lowest (if any) CDSC applies, then to earnings. In addition, there is a free withdrawal amount equal to up to 15% of accumulation value each Contract year.[3] Applicants state that the CDSC will not increase.

14. United of Omaha proposes to deduct a daily mortality and expense risk charge. United of Omaha represents that this charge is equal to an effective annual rate of 1.00% of the net asset value of the Separate Account, and that it will not increase. Of this amount, approximately .75% is for mortality risks and .25% is for expense risks.

15. United of Omaha assumes the mortality risk that the life expectancy of the annuitant will be greater than that assumed in the guaranteed annuity purchase rates, thus requiring United of Omaha to pay out more in annuity income than it had planned. Additional mortality risks assumed by United of Omaha are that it will waive the CDSC in the event of the death of the owner and United of Omaha's contractual obligation to provide a standard and an enhanced death benefit prior to the annuity date. Thus, United of Omaha assumes the risk that it may not be able to cover its distribution expenses and that the owner may die at a time when the amount of the death benefit payable exceeds the then net surrender value of the Contracts. The expense risk assumed by United of Omaha is that the contract administration charge will be insufficient to cover the cost of administering the Contracts.

16. In the event the mortality and expense risk charges are more than sufficient to cover United of Omaha's costs and expenses, any excess will be a profit to United of Omaha. The cost of distributing the Contracts will be met from funds derived from the CDSC and from United of Omaha's general account, which may include amounts derived from the mortality and expense risk charge.

17. There will be a charge made each year for expenses related to the enhanced death benefit. United of Omaha deducts this charge through the cancellation of accumulation units at each Contract anniversary and at surrender to compensate it for the increased risks associated with providing the enhanced death benefit. The charge at full surrender will be a pro-rata portion of the annual charge. United of Omaha guarantees that this charge will never exceed an annual rate of .35% of the average death benefit amount.[4]

18. Should the owner live in a jurisdiction that levies a premium tax, United of Omaha will pay the taxes when due. United of Omaha represents that state premium taxes may range up to 3.5% of purchase payments and are subject to change. United of Omaha reserves the right to deduct the amount of the tax either from the premiums as they are received, upon payment in connection with the surrender of the Contract, upon death of any owner, or upon application of proceeds to a payout option.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

[2] The anniversary value equals the accumulation value on the Contract anniversary and subsequent purchase payments less subsequent partial withdrawals and premium tax not yet deducted.

[3] United of Omaha may waive the CDSC under certain circumstances.

[4] The average death benefit amount is the mean of the death benefit amount on the most recent Contract anniversary and the death benefit amount on the immediately preceding Contract anniversary.

3. Applicants request exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction from the net assets of the Separate Account and the Other Accounts in connection with the Contracts and Future Contracts of the 1.00% charge for the assumption of mortality an expense risks, and .35% of the average death benefit amount for the enhanced death benefit charge, and to exempt Future Broker-Dealers.

4. Applicants assert that the terms of the relief requested with respect to any Future Contracts funded by the Separate Account or Other Accounts, as well as for Future Broker-Dealers, are consistent with the standards enumerated in Section 6(c) of the 1940 Act. Without the requested relief, Applicants would have to request and obtain exemptive relief for each new Other Account it establishes to fund any Future Contract, as well as for each Future Broker-Dealer that distributes the Contracts or the Future Contracts. Applicants submit that any such additional request for exemption would present no issues under the 1940 Act that have not already been addressed in this application, and that investors would not receive any benefit or additional protections thereby.

Applicants submit that the requested relief is appropriate in the public interest, because it would promote competitiveness in the variable annuity contract market by eliminating the need for Applicants to file redundant exemptive applications, thereby reducing their administrative expenses and maximizing the efficient use of their resources. The delay and expense involved in having repeatedly to seek exemptive relief would reduce Applicants' ability effectively to take advantage of business opportunities as they arise.

Applicants further submit that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. Applicants thus believe that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

5. Applicants represent that the 1.00% per annum mortality and expense risk charge is within the range of industry practice for comparable annuity contracts. This representation is based upon an analysis of publicly available information about similar industry products, taking into consideration such factors as, among others, the current charge levels and benefits provided, the existence of expense charge guarantees, guaranteed death benefits, and guaranteed annuity rates. United of Omaha will maintain at its principal offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, Applicants' comparative review.

6. Applicants also assert that the charge equal to an annual rate of .35% of the average death benefit amount for Contracts and Future Contracts issued with the enhanced death benefit is reasonable in relation to the risks assumed by United of Omaha. In arriving at this determination, United of Omaha projected its expected cost in providing this benefit by using the price of put options which could be used to hedge the risk inherent in providing the enhanced death benefit. United of Omaha undertakes to maintain at its home office a memorandum, available to the Commission, setting forth in detail the methodology used in determining that the risk charge equal to an annual rate of .35% of the average death benefit amount under certain Contracts and Future Contracts for the enhanced death benefit is reasonable in relation to risks assumed by United of Omaha under the Contracts and Future Contracts.

7. United of Omaha has concluded that there is a reasonable likelihood that the Separate Accounts and Other Accounts' proposed distribution financing arrangements will benefit the Separate Accounts and their investors. United of Omaha represents that it will maintain and make available to the Commission upon request a memorandum setting forth the basis of such conclusion.

8. The Separate Account and Other Accounts will be invested only in management investment companies that undertake, in the event the company should adopt a plan for financing distribution expenses pursuant to Rule 12b–1 under the 1940 Act, to have such plan formulated and approved by the company's board members, the majority of whom are not ''interested persons'' of the management investment company within the meaning of Section 2(a)(19) of the 1940 Act.

9. Section 2(a)(32) of the 1940 Act defines a redeemable security as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(c)(1) of the 1940 Act and Rule 22c–1 thereunder, in pertinent part, prohibit a registered investment company, its depositor, or principal underwriter, from selling periodic payment plan certificates unless such certificates are redeemable securities.

10. Applicants request exemptions from Sections 2(a)(32), 22(c), and 27(c)(1) of the 1940 Act, and Rule 22c–1 thereunder, to permit the deduction upon surrender of the prorated enhanced death benefit equal to .35% of the average death benefit.

11. Applicants assert that the enhanced death benefit charge is assessed to compensate United of Omaha for the increase risk it bears if the Contract owner elects the enhanced death benefit. The death benefit represents an optional insurance benefit that United of Omaha may provide through the life of the Contract or Future Contract for which it is entitled to receive compensation. Normally, the enhanced death benefit charge accrues each Contract year and is deducted retroactively on each Contract anniversary, for that prior Contract year. By deducting a prorated enhanced death benefit charge upon a Contract owner's surrender, the Contract owner compensates United of Omaha for the additional risk the company bears during the period between the last Contract anniversary and the date of surrender.

12. Applicants further assert that the assessment of the prorated enhanced death benefit charge upon surrender does not alter a Contract owner's current net asset value. As previously discussed, United of Omaha deducts the enhanced death benefit charge through the cancellation of a Contract owner's accumulation units. Accordingly, the assessment of the prorated enhanced death benefit charge upon surrender, or at any other time during the life of a Contract or Future Contract, will not alter the Contract or Future Contract's current net asset value.

13. In addition, Applicants assert that the assessment of a prorated enhanced death benefit charge upon a Contract owner's surrender, which is fully disclosed in the prospectus for the Contract, should not be construed as a restriction on redemption. Applicants maintain that the Contracts and Future Contracts are and will be redeemable securities and that the imposition of the prorated enhanced death benefit charge upon surrender represents nothing more than the proportionate deduction of an insurance charge that could otherwise be deducted daily through the life of the Contract or Future Contract. Moreover, as stated previously, Applicants only assess the charge if the Contract owner has elected the enhanced death benefit.

Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–15572 Filed 6–23–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21152; 812–9592]

Van Kampen American Capital Equity Opportunity Trust, Series 10

June 20, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Van Kampen American Capital Equity Opportunity Trust, Series 10.

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act that would exempt applicant from section 12(d)(3) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order on behalf of itself and subsequently established series (the ''Series'') to permit each Series to invest up to 10.5% of its total assets in securities of issuers that derived more than 15% of their gross revenues in their most recent fiscal year from securities related activities.

FILING DATE: The application was filed on May 10, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 17, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Van Kampen American Capital Distributors, Inc., One Parkview Plaza, Oakbrook Terrace, Illinois 60181.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563, or Robert A. Robertson, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

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. Each Series will be a series of applicant, a unit investment trust registered under the Act. Van Kampen American Capital Distributors, Inc. is applicant's depositor (the ''Sponsor'').

2. Each Series will invest approximately 10%, but in no event more than 10.5%,[1] of the value of its total assets in each of the ten common stocks in the FT Index or the Hang Seng Index, as the case may be, having the highest dividend yields in such respective index for a specified period (e.g. approximately one year).

3. The FT Index is comprised of 30 companies representative of British industry and commerce. The average shares outstanding for each FT Index company is 187,894,000. All of the FT Index companies are listed and traded on the London Stock Exchange. The Hang Seng Index is comprised of 33 companies representative of Hong Kong industry. The average number of shares outstanding for each Hang Seng Index company is 2,016,013.

4. The portfolio securities deposited in each Series will be chosen solely according to the formula described above, and will not necessarily reflect the research opinions or buy or sell recommendations of the Sponsor. The Sponsor will have no discretion as to which securities are purchased. Securities deposited in a Series may include securities of issuers that derived more than 15% of their gross revenues in their most recent fiscal year from securities related activities.

5. During the 90-day period following the initial date of deposit, the Sponsor may deposit additional securities, maintaining to the extent practicable the original proportionate relationship among the number of shares of each stock in the portfolio. Deposits made after the 90-day period following the initial date of deposit generally must replicate exactly the proportionate relationship among the face amounts of the securities comprising the portfolio at the end of the initial 90-day period, whether or not a stock continues to be among the ten highest dividend yielding stocks.

6. A Series's portfolio will not be actively managed. Sales of portfolio securities will be made in connection with redemptions and at termination of the trust on a date specified a year in advance. The Sponsor does not have discretion as to when securities will be sold except that the Sponsor is authorized to sell securities in extremely limited circumstances. For example, if an issuer defaults on the payment on any of its outstanding obligations or the price of a security has declined to such an extent or other such credit facts exist so that in the opinion of the Sponsor the retention of such securities would be detrimental to the Series, the Sponsor may sell the securities. The adverse financial condition of an issuer will not necessarily require the sale of its securities from a Series' portfolio.

Applicant's Legal Analysis

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security in any company which is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1 under the Act exempts the purchase of securities of an issuer that derived less than 15% of its gross revenues in its most recent fiscal year from securities related activities, provided that, among other things, immediately after such acquisition, the acquiring company has invested not more than 5% of the value of its total assets in securities of the issuer.

2. Section 6(c) of the Act provides that the SEC may exempt a person from any provision of the Act or any rule thereunder, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicant requests an exemption under section 6(c) from section 12(d)(3)

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[1] The objective for each Series is to purchase securities so that each of the ten common stocks represents approximately 10% of the value of the Series' total assets on the initial date of deposit. However, the Sponsor generally purchases the securities for each Series in 100 share lots; if necessary to come closer to having each stock represent 10% of the value of a Series' assets, it will purchase securities in 50 share lots. It is most efficient to buy securities in 100 share lots and 50 share lots because it allows each of the ten common stocks of any Series to represent close to 10% of the value of a Series' total assets, while still permitting the Sponsor to obtain the best price for the securities. Therefore, in order to accommodate these purchase requirements, at the time of deposit into a Series' portfolio, some stocks may represent up to 10.5% of the value of the Series' assets, while others may represent less than 10%.

to permit any Series to invest up to approximately 10%, but in no event more than 10.5%, of the value of its total assets in securities of an issuer that derives more than 15% of its gross revenues from securities related activities. Each Series undertakes to comply with all of the conditions of rule 12d3–1, except that each Series seeks to invest up to approximately 10%, but in no event more than 10.5%, of that value of any Series' assets at its initial date of deposit in the securities of any company that is an issuer of any of the ten highest dividend yielding stocks in the FT Index or the Hang Seng Index.

4. Section 12(d)(3) was intended to prevent investment companies from exposing their assets to the entrepreneurial risks of securities related businesses to prevent potential conflicts of interests, and to eliminate certain reciprocal practices between investment companies and securities related businesses. One potential conflict could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling fund shares, rather than solely on investment merit. Applicant believes that this concern does not arise in connection with its application because neither applicant nor the Sponsors have discretion in choosing the portfolio securities or percentage amount purchased. The security must first be included in the FT Index or the Hang Seng Index, which indexes are unaffiliated with the Sponsors and applicant, and must also qualify as one of the ten highest dividend yielding securities.

5. Applicant also believes that the effect of a Series's purchase on the stock of parents of broker-dealers would be *de minimis.* The common stocks of securities related issuers represented in the FT Index or the Hang Seng Index are widely held, have active markets, and applicant believes that the purchases by any Series would represent an insignificant amount of the outstanding common stock and the trading volume of any of these issues. Accordingly, applicant believes that it is highly unlikely that Series purchases of these securities would have any significant impact on the securities' market value.

6. Another potential conflict of interest could occur if an investment company directed brokerage to a broker-dealer in which the company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though that broker-dealer may not offer the best price and execution. To prelude this type of conflict, applicant and each Series agree, as a condition of this application, that no company held in a Series's portfolio nor any affiliate thereof will act as a broker for any Series in the purchase or sale of any security for its portfolio. In light of the above, applicant believes that its proposal meets the section 6(c) standards.

Applicant's Condition

Applicant and each Series agrees that any order granted under this application may be conditioned upon no company held in a Series's portfolio nor any affiliate thereof acting as broker for any Series in the purchase or sale of any security for a Series's portfolio.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–15573 Filed 6–23–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35864; File No. SR–PHLX–95–31]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Compliance With Position and Exercise Limits for Non-PHLX Listed Options

June 19, 1995.

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 March 22, 1995, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Currently, PHLX Rule 1001, ''Position Limits,'' [1] applies only to transactions by PHLX members or member organizations in Exchange-listed options. The PHLX proposes to amend PHLX Rules 1001 and 1002, ''Exercise Limits,'' [2] to require PHLX members who trade non-PHLX listed options and who are not members of the exchange where the options transactions are effected to comply with the applicable option position and exercise limits of the exchange where the options transactions are effected.

The text of the proposed rule change is available at the Office of the Secretary, PHLX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposal is to eliminate a loophole in position and exercise limit jurisdiction among the option exchanges. According to the Exchange, a PHLX member entering into an opening transaction on another exchange in an option not listed on the PHLX and who is not a member of the exchange where the transaction is effected escapes the jurisdiction of both the PHLX and the other exchange for purposes of position limit compliance. The PHLX notes that Exchange Rule 1001 does not apply because the rule is limited to options dealt in on the PHLX. Likewise, if the transaction is effected by a non-member of the other exchange, the other exchange cannot enforce its position limit rule.

The PHLX believes that the proposed amendments to PHLX Rule 1001 should enable the PHLX to exercise jurisdiction over a PHLX member violating the position limit in a non-PHLX listed option. The PHLX believes that the same is true for exercise limits. The proposal applies to both equity options and index options.

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[1] Position limits impose a ceiling on the number of option contracts which an investor or group of investors acting in concert may hold or write in each class of options on the same side of the market (*i.e.*,) aggregating long calls and short puts or long puts and short calls).

[2] Exercise limits prohibit an investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class within five consecutive business days.

In pursuing such position limit violations, the PHLX will apply the applicable position limit of the other exchange, together with any applicable exemption, interpretation or policy, to transactions in non-PHLX options by a PHLX member. When a PHLX member enters into an opening transaction on another exchange in a PHLX-listed option, the PHLX will continue to apply the position limits and exemptions set forth in the PHLX's rules.

The PHLX anticipates that the other options exchanges will file substantially similar proposals with the Commission.

The Exchange believes that the proposal is consistent with Section 6 of the Act, in general, and, in particular, with Section 6(b)(5), in that it is designed to remove impediments to and perfect the mechanism of a free and open market as well as to protect investors and the public interest by expanding option exchange position and exercise limit jurisdiction to uniformly cover excessive transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either received or requested.

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 longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested person are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 17, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–15569 Filed 6–23–95; 8:45 am]

BILLING CODE 8010–01–M

[3] 17 CFR 200.30–3(a)(12) (1994).

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0261]

Pacific Capital, Limited Partnership; Notice of Issuance of a Small Business Investment Company License

On December 8, 1994, a notice was published in the Federal Register (59 FR 63399) stating that an application had been filed by Pacific Capital, Limited Partnership, 109 Westpark Drive, Suite 260, Brentwood, Tennessee, 37027–5032, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1994)) for a license to operate as a small business investment company. Interested parties were given fifteen days from the date of Notice publication to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 04/04–0261 on May 22, 1995 to Pacific Capital, Limited Partnership to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 20, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–15490 Filed 6–23–95; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 2224]

United States International Telecommunications Advisory Committee (ITAC); Notice of Meeting

The Department of State announces that a meeting of the United States International Telecommunications Advisory Committee (ITAC) will be held July 13, 1995, 10:00 a.m.–1:00 p.m., in the East Auditorium of the Department of State, 2201 ''C'' Street NW., Washington, D.C.

The purpose of ITAC is to advise the Department on policy, technical and operational matters and to provide strategic planning recommendations, with respect to international telecommunications and information issues. The agenda of this meeting will include: (1) consideration of report from ITAC's task group to examine ITU's relationship with other forums and organizations (particularly the Internet Society); (2) report of ITU Council actions (June 21–30), including decisions on the Policy Forum; (3) report of ITU Review Committee on Rights and Obligations of Members (May 29–31), and follow-up work program; (4) establishment of task group to consider the international implications of auctions for managing the radio frequency spectrum and other telecommunications resources (e.g., numbers); and (5) general discussion of ITAC activities with a view to improving efficiency and effectiveness. Questions regarding the agenda or ITAC in general may be directed to Richard Shrum, Department of State (202–647–0050).

Members of the general public may attend the meetings and join in the discussions, subject to the instructions of the chair and seating availability. In this regard, entry to the building is controlled. If you wish to attend please call 202–647–0201 not later than 5 days before the scheduled meetings. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, U.S. government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the ''C'' Street Main Lobby.

Dated: June 14, 1995.

Richard E. Shrum,

ITAC Executive Director.

[FR Doc. 95–15495 Filed 6–23–95; 8:45 am]

BILLING CODE 4710–45–M

[Public Notice 2225]

United States International Telecommunications Advisory Committee (ITAC) Standardization Sector, U.S. Study Group A and U.S. ITAC–T Study Group; Meeting Notice

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Telecommunications Standardization Sector (ITAC–T) Study Group A and the U.S. Study Group for ITAC–T (formerly the USNC) will meet on the following dates and times at the U.S. Department of State, 2201 C Street NW. Washington, D.C. 20520:

Study Group A, July 26, 1995, 930–300, Room 1205

ITAC–T National Group, August 23, 1995, 930–300, Room 1205

Study Group A, August 24, 1995, 930–300, Room 1205.

Detailed agendas will be provided prior to the meeting to the most recent attendees of the two U.S. ITAC–T Groups. The ITAC–T group agenda will deal primarily with preparations for the September meeting of the Telecommunications Standardization Advisory Group (TSAG) including any discussions relating to the joint RAG/TSAG refinement meeting (September 15 & 18) while the ITAC–T Study Group A meetings will include a debriefing of the Geneva, May 1995 ITU–T Study Group 1 meeting and the June ITU–T Study Group 3 meeting, plus preparations for the upcoming September meetings of CITEL's PCC–1 and ITU–T Study Group 2 meeting.

Members of the General Public may attend the meetings and join in the discussions, subject to the instructions of the chair. Admittance of public members will be limited to the seating available. In this regard, entrance to the Department of State is controlled. If you wish to attend please call 202–647–0201 not later than 5 days before the scheduled meetings. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, U.S. government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the ''C'' Street Main Lobby.

Dated: June 8, 1995.

Earl S. Barbely,

Chairman, U.S. ITAC for Telecommunication Standardization.

[FR Doc. 95–15496 Filed 6–23–95; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement on the Long Island Transportation Corridor in New York City, New York

AGENCY: Federal Transit Administration (FTA), DOT; Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FTA, the FHWA and the MTA Long Island Rail Road (LIRR), are issuing this notice to advise the public and all other interested parties that in accordance with the National Environmental Policy Act (NEPA), they intend to prepare an Environmental Impact Statement (EIS) for transportation improvements in the Long Island Transportation Corridor of New York, Kings, Queens, Nassau and Suffolk Counties, New York. The Draft EIS (DEIS) will include a Major Investment Study (MIS) in accordance with 49 CFR part 613 and will be coordinated with other affected agencies. The LIRR will ensure that the EIS also satisfies the requirements of the New York State Environmental Quality Review Act (SEQRA) and serves as the Environmental Impact Statement (EIS) required by SEQRA.

Among the alternatives that the MIS/DEIS will evaluate are the No-Action and Transportation System Management (TSM) alternatives, reasonable highway alternatives and extensions of the existing LIRR transit network to a new East-Midtown Manhattan rail terminal. Any new alternatives generated through the scoping process in addition to the study goals, evaluation criteria and other relevant issues and comments will also be considered.

Scoping will be accomplished through correspondence with interested persons, organizations, and federal, state and local agencies, and through three public meetings.

COMMENT DUE DATES: Written comments on the scope of alternatives and impacts to be considered should be sent by September 5, 1995 to Ms. Pamela Burford, Director Special Projects, Long Island Rail Road, Jamaica Station Mail Code 1145, Jamaica, New York 11435.

SCOPING MEETINGS: Public scoping meetings will be held on Tuesday July 18, 1995 at 7:00 pm at the Long Island Association Headquarters, 80 Hauppauge Road, Commack, New York; Wednesday July 19, 1995 at 7:00 pm in the Nassau County Board of Supervisors Meeting Room, Nassau County Executive Building, 1 West Street, Mineola, New York; and on July 20, 1995 at 5:30 pm in the MTA's Fifth Floor Board Room, 347 Madison Avenue, New York, NY.

FOR FURTHER INFORMATION CONTACT: Letitia A. Thompson, Deputy Regional Administrator, Federal Transit Administration 26 Federal Plaza, New York, NY 10278, Phone: (212) 264–8162, Fax: (212) 264–8973, Harold J. Brown, Division Administrator, Federal Highway Administration, Leo W. O'Brien Federal Building, Albany, New York 12207, Phone: (518) 431–4127, Fax: (518) 431–4121, Pamela Burford, Director Special Projects, Long Island Rail Road, Jamaica Station Mail Code 1145 Jamaica, NY 11435, Phone: (718) 558–7520, Fax: (718) 558–8180.

SUPPLEMENTARY INFORMATION: FTA, FHWA and the MTA Long Island Rail Road invite interested individuals, organizations, and federal, state and local agencies to participate in defining the alternatives to be evaluated in the MIS/DEIS and identifying any social, economic, or environmental issues related to the alternatives. An information packet describing the purpose of the project, the proposed initial set of alternatives, the impact areas to be evaluated, the citizen involvement program, and the preliminary project schedule is being mailed to affected federal, state and local agencies and to interested parties on record. Others may request the scoping materials by contacting Ms. Pamela Burford at the address above or by calling her at (718) 558–7520. Scoping comments may be made verbally at the public scoping meetings or in writing. See the **SCOPING MEETING** section above for locations and times. During scoping, comments should focus on identifying specific social, economic or environmental concerns to be evaluated and suggesting alternatives which are less costly or less environmentally damaging while achieving similar transportation objectives. Scoping is not the appropriate time to indicate a preference for a particular alternative. Comments or preferences should be communicated after the MIS/DEIS has been completed. If you wish to be placed on the mailing list to review further information as the projects develops, contact Ms. Pamela Burford as previously described.

Description of Study and Area Project Need

Within the context of the Long Island Transportation Corridor MIS/DEIS the study corridor is self-defining to a great extent owing to the geographic configuration of Long Island. The Long Island Study Corridor is therefore composed of the two suburban counties, Nassau and Suffolk; the two New York City counties, Queens and Kings (Brooklyn); and that portion of the New York County Central Business District generally referred to as Midtown Manhattan. Excluding the Mid-town Manhattan (CBD) portion of the study corridor the study area covers approximately 1377 square miles of land area with a population density of 6.8 million people.

The Long Island Study Corridor's access to the Mid-town Manhattan CBD is provided by the MTA Long Island Rail Road, an extensive highway network consisting of Interstate highways, expressways, parkways and the local street grid, the MTA New York City Transit and a number of private bus and ferry services as well as private automobiles.

Overall the above transportation facilities are operating at or above their respective design capacities during peak travel periods and experience excessive levels of congestion resulting in increased travel time, lost productivity, customer dissatisfaction and contravention of National Ambient Air Quality Standards. The region's high utilization of existing facilities, high population density and the physical constraints associated with the separation of Manhattan Island and Long Island by the East River necessitating bridge or tunnel connections all contribute to creating a problematic environment for addressing the Long Island Study Corridors mobility issues.

Currently, the LIRR has only one Manhattan terminal at Pennsylvania Station (Penn Station) on the West Side of Manhattan between 31st and 33rd Streets and 7th and 8th Avenues. However, this facility currently operates at capacity and is shared by three railroads—LIRR, New Jersey Transit (NJT), and Amtrak—each of which is seeking additional capacity for its present and projected patronage. Moreover, surveys indicated that a significant number of LIRR customers have East Midtown destinations and are therefore not adequately served by a Penn Station destination.

The primary goals of the Long Island Rail Road (LIRR) are to provide transport capacity, enhance mobility and reduce the number of vehicles on the region's congested highway, bridges and tunnels; unfortunately, the LIRR's ability to meet these goals is constrained by capacity limitations during peak hours, particularly at Pennsylvania Station. Therefore, the LIRR is impeded in its ability to attract and serve new riders, in the peak period.

The major highway corridors in Long Island Study Corridor are noted for their major congestion problems. According to the findings of the LIRR Network Strategy Study, 52% of the New York State's total vehicle hours of delay occurs on Long Island roadways. These conditions inhibit the region's ability to attain compliance under the federally imposed National Ambient Air Quality Standards (NAAQS) as required under the Clean Air Act.

All of the MTA New York City Transit's (NYCT) 25 subway routes serve portions of the Long Island Study Corridor including the busiest trunk lines in the city—the number 4, 5 and 6 services on the Lexington Avenue Line, the number 7 service on the Flushing Line, and the E, F and R services on the Queens Boulevard Line. Portions of the subway system parallel portions of the LIRR in Queens and Brooklyn. However, while these subway and LIRR routes parallel one another they do not necessarily compete with one another—the LIRR principally carries customers from Nassau and Suffolk Counties and the far eastern portion of Queens while the subways principally serve inner city passengers of Queens and Brooklyn.

The Queens Boulevard Line, which offers connecting express subway services at LIRR's Jamaica Station, is currently one of the top two most heavily used subway lines in the NYCT system. During the morning peak hour, approximately 30 trains per peak hour carry in excess of 66,000 passengers per hour, at a volume/capacity ration of 1.296 or 30% over capacity.

The Flushing Line, which offers connecting service at LIRR stations at Hunterspoint Avenue, Long Island City and Woodside Queens, is currently operating above capacity, carrying approximately 36,700 passengers into Manhattan at a volume/capacity ration of 1.083 or 8.3% over capacity.

Based upon U.S. Bureau of the Census data and New York Metropolitan Transportation Council (NYMTC) projections, population, labor force and employment in the five county Long Island Study Corridor have all experienced a net growth from 1980 to the present, and all are projected to continue to grow in the future. The increases indicated by these trends will increase the number of trips made, including commutation travel between the residential communities on Long Island and the commercial hub of Manhattan.

Alternatives

The alternatives proposed for evaluation include: No-action which involves no change to transportation services or facilities in the corridor beyond already committed projects of the 1992–1996 MTA Capital Program; the TSM alternative, which consists of low-to-medium cost improvements to the facilities and operations of the LIRR, NYCT and the highway network in addition to the currently planned highway and transit improvements in the corridor. All other reasonable alternatives proposed through the study scoping process will be considered.

Probable Effects

FTA, FHWA and the LIRR plan to evaluate in the MIS/DEIS all social, economic, and environmental impacts of the alternatives. Among the possible issues to be investigated are the potential increase in transit ridership, impacts on highway use, the capital outlays needed to implement an alternative, the cost of operating and maintaining the facilities created by an alternative, and the financial impacts on the funding agencies. Environmental and social impacts, both positive and negative, proposed for analysis include environmental justice, land use and neighborhood impacts, traffic, parking, and pedestrian impacts near stations, visual impacts, impacts on cultural resources, and noise and vibration impacts. Impacts on natural areas, rare and endangered species, air and water quality, ground water, hazardous waste and geologic forms will also be covered. The impacts will be evaluated both for the construction period and for the long-term period of operation. Measures to mitigate significant adverse impacts will be considered.

FTA and FHWA Procedures

In accordance with the Federal Transit Laws, the Federal Aid Highway Act and FTA/FHWA policy, the DEIS/MIS will be prepared in conjunction with an analysis of alternatives and Conceptual Engineering. After its publication, the MIS/DEIS will be available for public and agency review and comment, and a public hearing will be held. On the basis of the MIS/DEIS and the comments received, and with input from the Project Steering Committee, the Technical Advisory Committee, the Citizens Advisory Committee and the Metropolitan

Transportation Authority Board, the MTA Long Island Rail Road will select a locally preferred alternative for its major investment strategy and seek approval from FTA and FHWA to continue with Preliminary Engineering and preparation of the Final EIS.

Issued on: June 20, 1995.

Thomas J. Ryan,

Regional Administrator, Federal Transit Administration.

[FR Doc. 95–15393 Filed 6–23–95; 8:45 am]

BILLING CODE 4910–57–P

[Docket No. 95–40; Notice 1]

National Highway Traffic Safety Administration

Vector Aeromotive Corporation Receipt of Application From Federal Motor Vehicle Safety Standard No. 208

Vector Aeromotive Corporation of Jacksonville, Florida, has applied to be exempted from paragraph S4.1.4 of Federal Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*. The basis of the application is that compliance will cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith.

This notice of receipt of an application is published in accordance with the requirements of 49 U.S.C. 30113(b)(2) and does not represent any judgment of the agency on the merits of the application.

Vector intends to begin production of a two-seat high performance sport car in September 1995 called the ''Vector Avtech SC (''Avtech''). Design concept specifications were developed several years ago for the Avtech, and a prototype shown at the Geneva Automobile Show in March 1992. During this time, Vector produced a sports car called the Vector W8. This car went out of production in early 1993 after a run of 22 vehicles, and Vector has produced no motor vehicles since.

Vector's single largest shareholder is V'Power Corp., a Bahamian Corporation, which is also the controlling shareholder of Automobili Lamborghini S.p.A. Lamborghini, which manufactured 1,475 cars between 1989 and 1994, was recently granted a temporary exemption from Motor Vehicle Safety Standard No. 214 *Side Impact Protection* (59 FR 59458). V'Power will provide Vector with $5.5 million in funds to finance Vector's proposed development schedule over the next 12 months. Vector's cumulative net losses in the three years preceding the filing of its application were approximately $12,400,000.

Vector has received airbag development program cost estimates of approximately $1,500,000 from airbag suppliers. It has already spent $56,000 in pursuit of the project and an estimated 1000 man hours. Vector estimates that a year will be required in order to complete development, and that vehicles conforming to Standard No. 208 will be available in the time period June - September 1996. However, to allow for development problems, Vector has asked for an exemption until May 1, 1997. In the meantime, the Avtech will be equipped ''with an active, three point, seat belt system that meets, or exceeds, all FMVSS performance requirements.''

The applicant argues that an exemption would be in the public interest as its development and production ''will result in additional employment at the factory, vendor, dealer, and service levels.'' Its success ''should establish the US as a major source for ultrahigh performance vehicles and technology''. The Avtech will be equipped with ''the only twelve cylinder engine offered by a US manufacturer.'' An exemption would be consistent with traffic safety objectives because the vehicle will otherwise comply with all applicable Federal motor vehicle safety standards. In addition, the company's production will be limited. It estimates sales of 60 cars through the second quarter of 1996.

Interested persons are invited to submit comments on the application described above. Comments should refer to the docket number and the notice number, and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below 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.

Notice of final action on the application will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: July 26, 1995.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–15527 Filed 6–23–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Changes to the List of Specially Designated Nationals of Cuba

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice of additions and deletions to the list of blocked persons and specially designated nationals.

SUMMARY: The Treasury Department is designating four entities as specially designated nationals of Cuba and adding these entities to the List of Blocked Persons and Specially Designated Nationals. In addition, the Treasury Department is removing an entity previously designated from the list.

EFFECTIVE DATE: June 21, 1995.

FOR FURTHER INFORMATION: J. Robert McBrien, Chief, International Programs, Tel.: (202) 622–2420; Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on The Federal Bulletin Board the day of publication in the **Federal Register**. By modem dial 202/512–1387 and type ''/GO/FAC'' or call 202/512–1530 for disks or paper copies. This file is available in Postscript, WordPerfect 5.1 and ASCII formats.

Background

The Office of Foreign Assets Control (''FAC'') is designating four entities as Specially Designated Nationals of Cuba and adding these entities to the List of Blocked Persons and Specially Designated Nationals and removing one entity from the list that was previously designated.

The Director of FAC has determined that the designated entities are owned or controlled by or act or purport to act directly or indirectly on behalf of the Government of Cuba and, therefore, pursuant to § 515.306 of the Cuban Assets Control Regulations, 31 CFR part 515 (the ''Regulations''), are subject to the prohibitions applicable to the Government of Cuba. All unlicensed transactions with these entities or

transactions in property in which they have an interest are prohibited unless otherwise exempted or generally licensed in the Regulations.

Determinations that persons are Specially Designated Nationals of Cuba are effective upon the date of determination by the Director of FAC, acting under authority delegated by the Secretary of the Treasury. Public Notice of such a determination is effective upon the date of **Federal Register** publication or upon earlier actual notice.

The List of Blocked Persons and Specially Designated Nationals is not definitive or all-inclusive, and new **Federal Register** notices with regard to specially designated nationals or blocked persons may be published at any time. The absence of any particular person from the list is not to be construed as evidence that the person is not a component agency of a government subject to sanctions; or organized or located in a country subject to economic sanctions; or owned and controlled by persons that are organized or located in, or are nationals of, a country subject to economic sanctions; or owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the government of a country subject to economic sanctions. The Treasury Department regards it as incumbent upon all U.S. persons or persons subject to U.S. jurisdiction, depending upon the sanctions program, to take reasonable steps to ascertain for themselves whether persons with whom they enter into transactions fall into one of these categories.

Users are advised to check the **Federal Register** and The Federal Bulletin Board routinely for additional names or other changes to the list. Entities and individuals on the list are occasionally licensed by the Office of Foreign Assets Control to transact business with U.S. persons or persons subject to U.S. jurisdiction in anticipation of removal from the list or because of foreign policy considerations in unique circumstances. Current information on licenses issued with regard to blocked persons or specially designated nationals may be obtained by calling the Office of Foreign Assets Control, Licensing Division (202/622–2480).

The following name is removed from the List of Specially Designated Nationals and Blocked Persons and is no longer considered a specially designated national of Cuba:

COMPAGNIA MERCANTILE INTERNAZIONALE (a.k.a. COMEI SPA), Milan, Italy.

The following names are added to the List of Specially Designated Nationals and Blocked Persons as specially designated nationals of Cuba:

COBALT REFINERY CO. INC., Fort Saskatchewan, AB, Canada.

INTERNATIONAL COBALT CO. INC., Fort Saskatchewan, AB, Canada.

LA COMPANIA GENERAL DE NIQUEL (a.k.a. GENERAL NICKEL SA), Cuba.

MOA NICKEL SA, Cuba.

Dated: June 7, 1995.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: June 19, 1995.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 95–15624 Filed 6–21–95: 4:57 pm]

BILLING CODE 4810–25–P

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency under the terms and conditions of the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256. USIA is requesting approval for revisions made to the Office of Arts America, Artistic Ambassador Program, United States Information Agency, Artistic Ambassador Program Application under OMB control number 3116–0172 which expires May 31, 1995. The proposed revisions are suggested to enhance clarity of required information. Estimated burden hours per response is 1½ hours. Respondents will be required to respond only one time.

DATES: Comments are due on or before July 26, 1995.

COPIES: Copies of the Request for Clearance (OMB 83–1), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Jeannette Giovetti, United States Information Agency, M/ADD, 301 Fourth Street SW., Washington, D.C. 20547, telephone (202) 619–4408; and OMB review: Mr. Jefferson Hill, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 1002, NEOB, Washington, D.C. 20503, telephone (202) 395–3176.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information (Paper Work Reduction Project: OMB No. 3116–0172) is estimated to average 1½ hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the United States Information Agency, M/ADD, 301 Fourth Street SW., Washington, D.C. 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, D.C. 20503.

TITLE: Office of Arts America Artistic Ambassador Program United States Information Agency Artistic Ambassador Application Form.

FORM NUMBER: IAP–121.

ABSTRACT: The USIA form IAP–121 is intended to obtain information in order to evaluate an applicant's musical background and to assess his or her potential to serve successfully as a spokesperson for the United States in cross-cultural situations.

PROPOSED FREQUENCY OF RESPONSES: No. of Respondents–60; Total Annual Burden—105.

Dated: June 21, 1995.

Rose Royal,

Federal Register Liaison.

[FR Doc. 95–15507 Filed 6–23–95; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 122
Monday, June 26, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, June 27, 1995, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Final amendments to Part 360 of the Corporation's rules and regulations, entitled ''Receivership Rules,'' which clarify that post-closing and certain pre-closing expenses may be paid as administrative expenses of the receiver in connection with the liquidation or other resolution of FDIC-insured institutions.

Memorandum and resolution re: Proposed amendments to Part 309 of the Corporation's rules and regulations, entitled ''Disclosure of Information,'' which would revise the rules setting forth the procedures to be used by members of the public in requesting records maintained by the Corporation, the amount of fees charged by the Corporation for responding to requests, the procedures to be used when appealing a decision to deny access to records or for a waiver of fees, circumstances and procedures under which exempt records might be disclosed, and the method by which a party can serve legal process on the Corporation in order to obtain information.

Discussion Agenda:

Memorandum and resolution re: Proposed amendments to Part 346 of the Corporation's rules and regulations, entitled ''Foreign Banks,'' which would restrict the amount and types of initial deposits of less than $100,000 which could be accepted by an uninsured state-licensed branch of a foreign bank.

Memorandum and resolution re: (1) Final amendments to Part 325 of the Corporation's rules and regulations, entitled ''Capital Maintenance,'' which revise the risk-based capital standards to specify that evaluations of a bank's capital adequacy would include an assessment of the exposure to declines in the economic value of the bank's capital due to changes in interest rates, and (2) a request for comment on a proposed joint agency policy statement which would establish a uniform supervisory framework for measuring banks' interest rate risk exposures.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 942–3132 (Voice); (202) 942–3111 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Jerry L. Langley, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: June 20, 1995.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 95–15683 Filed 6–22–95; 11:29 am]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION BILLING CODE: 6715–01–M

''FEDERAL REGISTER'' NUMBER: 95–15499.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, June 29, 1995, 10:00 a.m. Meeting Open to the Public.

THE FOLLOWING ITEM WAS ADDED TO THE AGENDA: Buchanan for President, Inc. Committee, Proposed Final Repayment Determination and Statement of Reasons (LRA #441).

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjories W. Emmons,

Secretary of the Commission.

[FR Doc. 95–15765 Filed 6–22–95; 3:27 am]

BILLING CODE 6715–01–M

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

DATE AND TIME: June 28, 1995, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro 633rd Meeting—June 28, 1995, Regular Meeting (10:00 a.m.)

CAH–1.
Docket No. P–2570–024, Ohip Power Company
CAH–2.
Docket No. P–2337–034, Pacificorp
CAH–3.
Docket No. P–3407–042, Magic Reservoir Hydroelectric, Inc.
CAH–4.
Docket No. P–10551–044, City of Oswego, New York
CAH–5.
Docket No. P–10058–007, Elaine Hitchcock
CAH–6.
Docket No. P–2506–002, Mead Corporation, Publishing Paper Division
CAH–7.
Docket No. P–2607–001, Duke Power Company
CAH–8.
Omitted

Consent Agenda—Electric

CAE–1.
Docket No. ER95–980–000, Pacific Gas and Electric Company
CAE–2.
Docket No. ER95–1007–000, Logan Generating Company, L.P.
CAE–3.
Docket No. ER95–111042–000, System Energy Resources, Inc.
CAE–4.
Docket No. ER95–615–000, Western Resources, Inc.
CAE–5.
Docket No. FA92–8–001, Pennsylvania Power & Light Company
CAE–6.
Docket No. EL91–32–004, Power Authority of the State of New York, et al., V. Long Island Lighting Company
Other Nos. EL91–34–004, Power Authority of the State of New York, et al., V. Long Island Lighting Company
CAE–7.

Docket No. ER95–181–002, Florida Power & Light Company
CAE–8.
Docket No. ER93–19–001, San Diego Gas & Electric Company V. Tucson Electric Power Company and Century Power Corporation
Other Nos. FA90–34–002, Tucson Electric Power Company
CAE–9.
Docket No. ER93–540–003, American Electric Power Service Corporation
Other Nos. EC94–7–002, El Paso Electric Company and Central and South West Services, Inc.
ER93–465–016, Florida Power & Light Company
ER94–475–002, Wisconsin Power & Light Company
ER94–898–002, El Paso Electric Company and Central and South West Services, Inc.
ER94–1045–004, Kansas City Power & Light Company
ER94–1113–002, Northern States Power Company (Minnesota and Wisconsin)
ER94–1348–002, Southern Company Services, Inc.
ER94–1380–005, Louisville Gas & Electric Company
ER94–1518–002, Commonwealth Electric Company
ER94–1561–002, Citizens Utilities Company
ER94–1637–002, Cinergy Services, Inc.
ER94–1639–002, Wisconsin Public Service Corporation
ER95–1698–003, Kentucky Utilities Company
ER95–112–003, Entergy Services, Inc.
ER95–203–002, Utilicorp United, Inc.
ER95–264–002, Wisconsin Electric Power Company
ER95–371–003, Commonwealth Edison Company
CAE–10.
Omitted
CAE–11.
Docket No. ER94–1348–001, Southern Company Services, Inc.

Other Nos. EL94–85–001, Southern Company Services, Inc.
CAE–12.
Docket Nos. AC93–117–000, Portland General Electric Company
CAE–13.
Docket No. EL94–92–000, Portland General Electric Company
CAE–14.
Omitted
CAE–15.
Docket No. EL95–41–000, Metropolitan Edison Company and Pennsylvania Electric Company
CAE–16.
Docket No. EL94–75–000, The Cleveland Electric Illuminating Company v. the City of Cleveland, Ohio; the City of Cleveland, Ohio v. the Cleveland Electric Illuminating Company; the City of Cleveland, Ohio v. the Cleveland Electric Illuminating Company
CAE–17.
Docket No. EL91–13–000, Northern States Power Company (Minnesota) v. Southern Minnesota Municipal Power Agency
CAE–18.
Omitted

Consent Agenda—Gas and Oil

CAG–1.
Docket No. RP92–137–038, Transcontinental Gas Pipe Line Corporation
Other Nos. RP93–136–006, Transcontinental Gas Pipe Line Corporation
CAG–2.
Docket No. RP95–315–000, ANR Pipeline Company
Other Nos. RP95–181–001, ANR Pipeline Company
CAG–3.
Docket No. RP95–316–000, ANR Pipeline Company
CAG–4.
Docket No. RP95–317–000, ANR Pipeline Company
Other Nos. RP95–241–000, ANR Pipeline Company
CAG–5.
Docket No. RP95–323–000, Southern Natural Gas Company
Other Nos. RP95–324–000, Southern Natural Gas Company
CAG–6.
Docket No. RP95–294–000, Northern Border Pipeline Company
CAG–7.
Docket No. RP95–303–000, Williams Natural Gas Company
CAG–8.
Docket No. RP95–313–000, Northern Natural Gas Company
CAG–9.
Docket No. RP95–326–000, Natural Gas Pipeline Company of America
CAG–10.
Omitted
CAG–11.
Omitted
CAG–12.
Omitted
CAG–13.
Docket No. RP95–331–000, Noram Gas Transmission Company
CAG–14.
Omitted
CAG–15.
Omitted
CAG–16.
Docket No. TM95–4–49–000, Williston Basin Interstate Pipeline Company
CAG–17.
Docket No. PR93–10–000, Louisiana State Gas Corporation
Other Nos. PR93–10–001, Louisiana State Gas Corporation
CAG–18.
Docket No. PR94–12–000, Overland Trail Transmission Company
Other Nos. PR94–12–000, Overland Trail Transmission Company
CAG–19.
Docket No. RP94–251–003, National Fuel Gas Supply Corporation
CAG–20.
Docket No. RP95–112–000, Tennessee Gas Pipeline Company
Other Nos. RP95–88–000, Tennessee Gas Pipeline Company
RP–95–88–001, Tennessee Gas Pipeline Company
RP–95–112–001, Tennessee Gas Pipeline Company
RP–95–112–002, Tennessee Gas Pipeline Company
RP–95–112–006, Tennessee Gas Pipeline Company
CAG–21.
Docket No. RP95–304–000, North Penn Gas Company
CAG–22.
Omitted
CAG–23.
Omitted
CAG–24.
Omitted
CAG–25.
Docket No. RP95–14–000, Noram Gas Transmission Company
Other Nos. RP94–343–009, Noram Gas Transmission Company
RP94–343–010, Noram Gas Transmission Company
RP95–14–001, Noram Gas Transmission Company
RP95–14–002, Noram Gas Transmission Company
RP95–53–001, Noram Gas Transmission Company
RP95–53,002, Noram Gas Transmission Company
CAG–26.
Docket No. RP95–210–000, Transwestern Pipeline Company
CAG–27.
Docket No. TM94–5–49–001, Williston Basin Interstate Pipeline Company
CAG–28.
Docket No. RP85–209–000, Koch Gateway Pipeline Company, et al.
CAG–29.
Docket No. RP94–164–006, Trunkline Gas Company
Other Nos. AC94–49–000, Trunkline Gas Company
CP92–498–000, Trunkline Gas Company
RP94–374–000, Trunkline Gas Company
RP94–374–001, Trunkline Gas Company
RP95–19–000, Trunkline Gas Company
CAG–30.
Docket No. RP94–43–013, ANR Pipeline Company
Other Nos. RP95–58–002, ANR Pipeline Company
CAG–31.
Docket No. RP94–43–014, ANR Pipeline Company
CAG–32.
Docket No. RP92–133–005, Gas Research Institute
CAG–33.
Docket No. RP94–365–004, Williams Natural Gas Company
CAG–34.
Docket No. RP95–216–002, Tennessee Gas Pipeline Company
CAG–35.
Docket No. RP95–231–001, Columbia Gas Transmission Corporation
CAG–36.
Docket No. RP95–31–005, National Fuel Gas Supply Corporation
CAG–37.

Omitted
CAG–38.
Omitted
CAG–39.
Docket No. RP93–187–010, Equitrans, Inc.
Other Nos. CP88–546–008, Equitrans, Inc.
RP93–62–013, Equitrans, Inc.
CAG–40.
Omitted
CAG–41.
Docket No. IS95–31–000, Kaneb Pipe Line Operating Partnership, L.P.
CAG–42.
Docket No. IS95–32–000, Explorer Pipeline Company
CAG–43.
Docket No. IS95–33–000, Colonial Pipeline Company
CAG–44.
Docket No. OR90–2–000, Conoco, Inc. and Oxy USA, Inc. v. Trans Alaska Pipeline System
CAG–45.
Docket No. MG92–3–002, Pacific Gas Transmission Company
CAG–46.
Omitted
CAG–47.
Docket No. CP95–11–002, William Natural Gas Company
Other Nos. CP95–12–001, Williams Gas Processing—Kansas Hugoton Company
CAG–48.
Docket No. CP93–505–005, Panhandle Eastern Pipeline Company
Other Nos. CP93–506–005, Panhandle Gathering Company
RP95–162–001, Panhandle Eastern Pipe Line Company
CAG–49.
Omitted
CAG–50.
Docket No. CP95–92–000, Atlantic Gas Systems, Inc.
CAG–51.
Docket No. CP95–94–000, Koch Gateway Pipeline Company
CAG–52.
Docket No. CP95–130–000, Northern Natural Gas Company
CAG–53.
Docket No. CP94–137–000, Tennessee Gas Pipeline Company
CAG–54.
Docket No. RP95–319–000, Iroquois Gas Transmission System, L.P.
CAG–55
Docket No. RP94–416–000, Northern Natural Gas Company
CAG–56.
Docket No. RP95–226–000, Mississippi River Transmission Corporation
CAG–57.
Docket No. CP94–682–002, Southern Natural Gas Company
CAG–58.
Docket No. CP95–304–000, Shell Western E&P Inc.
CAG–59.
Docket No. TM95–3–49–000, Williston Basin Interstate Pipeline Company

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Docket No. ER95–19–000, Northwest Regional Transmission Association. Order on Regional Transmission Group

Oil and Gas Agenda

I.
Pipeline Rate Matters
PR–1.
Reserved
II.
Pipeline Certificate Matters
PC–1.
Reserved

Lois D. Cashell,

Secretary.

[FR Doc. 95–15684 Filed 6–22–95; 11:36 am]

BILLING CODE 6717–01–M

Corrections

Federal Register

Vol. 60, No. 122

Monday, June 26, 1995

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

Natural Resources Conservation Service

7 CFR Chapter VI and Part 620

RIN 0578-AA15

Wetlands Reserve Program

Correction

In rule document 95–13161 beginning on page 28511, in the issue of Thursday, June 1, 1995, make the following corrections:

1. On page 28511, in the third column, under **SUMMARY:**, in the first line, insert a comma after ''Food''.

2. On the same page, in the same column, in the same paragraph, in the eighth line, ''secretary'' should read ''Secretary''.

3. On the same page, in the same column, in the same paragraph, in the 14th line, remove the comma after ''1994''.

4. On the same page, in the same column, in the same paragraph, in the 16th line, ''service'' should read ''Service''.

§620.2 [Corrected]

5. On page 28515, in the third column, in §620.2, in the definition for *Wetland functions and values*, in paragraph (1), in the first line, ''Habit'' should read ''Habitat''.

§620.4 [Corrected]

6. On page 28516, in the third column, in §620.4 (d) (3), in the fifth line, ''is'' should be removed.

7. On page 28517, in the first column, in §620.4 (d) (3) (iv), in the fifth line, ''neutral'' should read ''natural''.

8. On the same page, in the same column, in §620.4 (f), in the third line, ''WKP'' should read ''WRP''.

§620.12 [Corrected]

9. On page 28519, in the second column, in §620.12 (a) (1), in the third line, ''manual'' should read ''mutual''.

§620.14 [Corrected]

10. On the same page, in the third column, in §620.14 (d), in the first line, ''states'' should read ''States''.

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2525-004, 2595-005, 2522-002, 2546-001, 2560-001, 2581-002]

Wisconsin Public Service Corp.; Notice of Intent to Prepare a Multiple-Project Environmental Impact Statement and to Conduct Site Visits and Public Scoping Meetings

Correction

In notice document 95–14970 beginning on page 32148, in the issue of Tuesday, June 20, 1995, in the third column, the project numbers should read as set forth above.

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Electronic Filing of Part 84 Respirator Approval and Certification Applications; Meeting

Correction

In notice document 95–14493 appearing on page 31319 in the issue of Wednesday, June 14, 1995, make the following corrections:

In the second column:

(A) The *Date* entry of the June 29, 1995, meeting should correspond to the *Place* entry ''Lakeview Resort & Conference Center, Governor's Ball Rooms 1-3, Morgantown, West Virginia 26505.

(B) The *Date* entry of the June 30, 1995, meeting should correspond to the *Place* entry ''NIOSH Facility, 1095 Willowdale Road, Room 138, Morgantown, West Virginia 26505''.

BILLING CODE 1505–01–D

federal register

Monday
June 26, 1995

Part II

Nonprocurement Debarment and Suspension; Notice and Final Rule and Interim Final Rule; and FAR Debarment and Suspension; Final Rule

Office of Management and Budget

Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Department of the Treasury
Department of Veterans Affairs
African Development Foundation
Corporation for National and Community Service
Environmental Protection Agency
Federal Emergency Management Agency
Federal Mediation and Conciliation Service
General Services Administration
Inter-American Foundation
International Development Cooperation Agency
Agency for International Development
National Aeronautics and Space Administration
National Archives and Records Administration
National Foundation on the Arts and Humanities
National Endowment for the Arts
National Endowment for the Humanities
Institute of Museum Services
National Science Foundation
Office of National Drug Control Policy
Office of Personnel Management
Peace Corps
Small Business Administration
United States Information Agency

Department of Defense
General Services Administration
National Aeronautics and Space Administration

OFFICE OF MANAGEMENT AND BUDGET

Memorandum for the Heads of Executive Departments and Agencies; Governmentwide Nonprocurement Suspension and Debarment

June 12, 1995.

The Office of Management and Budget (OMB) is further amending its guidelines governing implementation of Executive Order (E.O.) 12549, ''Debarment and Suspension,'' to conform to the amendments to the agencies' governmentwide common rule.

In 1986, the President signed E.O. 12549 to establish governmentwide effect for an agency's nonprocurement debarment and suspension actions. Section 6 of this Order directed OMB to issue guidelines governing implementation of the Order, and section 3 of this Order directed the departments and agencies to promulgate final rules, consistent with these guidelines. In 1987, OMB issued its final guidelines (52 FR 20360).

In 1988, OMB amended its guidelines to conform to the agencies' governmentwide common rule (53 FR 19160). In 1989, the President signed E.O. 12689 to establish regulations providing for reciprocal governmentwide effect across procurement and nonprocurement for each agency's debarment and suspension actions, after technical differences between the procurement and nonprocurement regulations governing debarments and suspensions are resolved. On October 13, 1994, President Clinton signed the Federal Acquisition Streamlining Act. Section 2455 of that Act provides that the debarment, suspension, or other exclusion of a participant in a procurement activity under the Federal Acquisition Regulation (FAR), or in a nonprocurement activity under regulations issued pursuant to E.O. 12549, shall be given reciprocal governmentwide effect.

On December 20, 1994, the agencies proposed a common rule to ensure reciprocal governmentwide effect (59 FR 65607). Now, the agencies are amending both the FAR and the nonprocurement governmentwide common rule to achieve reciprocity. In connection with these actions, OMB is amending its guidelines to conform to the governmentwide common rule.

John A. Koskinen,

Deputy Director for Management.

[FR Doc. 95–14724 Filed 6–23–95; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 970

DEPARTMENT OF AGRICULTURE

7 CFR Part 3017

DEPARTMENT OF ENERGY

10 CFR Part 1036

SMALL BUSINESS ADMINISTRATION

13 CFR Part 145

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1265

DEPARTMENT OF COMMERCE

15 CFR Part 26

OFFICE OF NATIONAL DRUG CONTROL POLICY

21 CFR Part 1404

DEPARTMENT OF STATE

22 CFR Part 137

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 208

PEACE CORPS

22 CFR Part 310

UNITED STATES INFORMATION AGENCY

22 CFR Part 513

INTER-AMERICAN FOUNDATION

22 CFR Part 1006

AFRICAN DEVELOPMENT FOUNDATION

22 CFR Part 1508

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 24

DEPARTMENT OF JUSTICE

28 CFR Part 67

DEPARTMENT OF LABOR

29 CFR Part 98

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1471

DEPARTMENT OF THE TREASURY

31 CFR Part 19

DEPARTMENT OF DEFENSE

32 CFR Part 25

DEPARTMENT OF EDUCATION

34 CFR Parts 85, 668, and 682

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1209

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 44

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 32

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–68

DEPARTMENT OF THE INTERIOR

43 CFR Part 12

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 17

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 76

NATIONAL SCIENCE FOUNDATION

45 CFR Part 620

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Part 1154

National Endowment for the Humanities

45 CFR Part 1169

Institute of Museum Services

45 CFR Part 1185

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2542

DEPARTMENT OF TRANSPORTATION

49 CFR Part 29

Nonprocurement Debarment and Suspension

AGENCIES: Department of Agriculture; Department of Commerce; Department of Defense; Department of Education; Department of Energy; Department of Health and Human Services; Department of Housing and Urban Development; Department of the Interior; Department of Justice; Department of Labor; Department of State; Department Transportation; Department of the Treasury; Department of Veterans Affairs; African Development Foundation; Agency for International Development, International Development Cooperation Agency; Corporation for National and Community Service; Environmental Protection Agency; Federal Emergency Management Agency; Federal Mediation and Conciliation Service; General Services Administration; Institute of Museum Services, National Foundation on the Arts and Humanities (NFAH); Inter-American Foundation; National Aeronautics and Space Administration; National Archives and Records Administration; National Endowment for the Arts, NFAH; National Endowment for the Humanities, NFAH; National Science Foundation; Office of National Drug Control Policy; Office of Personnel Management; Peace Corps; Small Business Administration; United States Information Agency.

ACTION: Final Regulations and, for the Department of Transportation only, Interim Final Regulations with an opportunity to comment.

SUMMARY: This revision to the nonprocurement common rule is issued in response to Executive Order (E.O.) 12689 and section 2455 of the Federal Acquisition Streamlining Act of 1994. E.O. 12689 requires agencies to establish regulations for reciprocal governmentwide effect across procurement and nonprocurement debarment and suspension actions, after technical differences between the procurement and nonprocurement regulations governing debarments and suspensions are resolved. Section 2455 provides that the debarment, suspension, or other exclusion of a participant in a procurement activity under the Federal Acquisition Regulation, or in a nonprocurement activity under regulations issued pursuant to Executive Order 12549, shall be given reciprocal governmentwide effect. The final regulation establishes reciprocity between the procurement and nonprocurement debarment and suspension systems.

DATES: These final regulations and the Department of Transportation's (DOT's) interim final regulations become effective August 25, 1995. For comment

information on DOT's interim final regulations, see DOT's agency-specific preamble.

FOR FURTHER INFORMATION CONTACT: See preambles of individual agencies below.

SUPPLEMENTARY INFORMATION: On December 20, 1994, all but one of the agencies participating in the development of this final rule published a notice of proposed rulemaking (NPRM) that proposed to make changes to the nonprocurement debarment and suspension Common Rule (Common Rule) to provide for reciprocal effect between procurement and nonprocurement debarments, suspensions, and other exclusionary actions. The history of the nonprocurement debarment and suspension system and of the effort to establish reciprocity between the procurement and nonprocurement debarment and suspension systems was described in the December 20, 1994 NPRM. See 59 FR 65607.

The Department of Transportation, which did not join in publishing the NPRM, is joining in the publication of this regulation as an interim final rule. See the Department of Transportation's preamble to this regulation for a discussion regarding its participation in the Common Rule.

Technical changes to the regulations are generally not discussed in this preamble. The notice of proposed rulemaking (NPRM) proposed amendments to the Common Rule only as necessary to achieve the objectives of reciprocity or to correct printing errors in the original regulations. The NPRM used this approach to focus attention on those substantive matters that were directly affected by the reciprocity rule. In this final regulation, fuller text is provided, including, at a minimum, the entire paragraph where any change is made, so that readers may see the amendments in context. The text of the Common Rule amendments is set out at the end of this preamble and is followed by the agency-specific preambles and any agency-specific amendments to the Common Rule.

Response to Comments

Five commenters provided their views on the proposed amendments to the Common Rule. Eight comments were also submitted regarding the effect of the proposed rule on specific agencies or regarding specific additional changes to the Common Rule that were proposed by certain agencies. Those comments are addressed in the agency-specific preambles that follow the amendments to the Common Rule.

Request for Future Rulemaking

The Administrative Conference of the United States (ACUS) submitted a comment supporting the proposed reciprocity amendments and asked that the agencies participating in this rulemaking effort initiate a subsequent rulemaking effort to consider additional changes to the Common Rule and the Federal Acquisition Regulation (FAR), consistent with ACUS Recommendation 95–2, which that agency adopted on January 19, 1995. Another commenter mentioned the ACUS recommendation and asked that it be considered in a future rulemaking action, noting particularly that part of the recommendation regarding the need for agencies to consider mitigating and aggravating circumstances. The agencies participating in this rulemaking action agree that additional changes to the Common Rule should be considered and will consider Recommendation 95–2 along with other proposed changes to the Common Rule before the end of this year.

Should the FAR be amended so that proposed debarments would not be effective?

Comment: Three of the commenters were concerned about a difference between the procurement and nonprocurement rules that was not addressed by the NPRM. Under the FAR subpart 9.4, *Debarment, Suspension, and Ineligibility,* a proposed debarment has the effect of excluding a party from receiving a contract. In contrast, under the Common Rule, a proposed debarment has no effect on a person's eligibility to participate in a nonprocurement program. In each of the three comments, the commenter asked that the FAR rule be amended so that proposed debarments under subpart 9.4 would have no effect.

Discussion: While the three comments request changes to the FAR and do not technically request any change to the Common Rule, the agencies participating in this rulemaking action agree that there is no need to change either rule so that the effect of a proposed debarment is the same under both debarment and suspension systems. The request to make the two rules the same on this matter misconstrues the purpose and effect of the reciprocity effort.

The purpose of the proposed reciprocity rule is to ensure that, once one agency takes action to exclude a person and that person is placed on the *List of Parties Excluded from Federal Procurement and Nonprocurement Programs,* all agencies will honor that determination. In deciding whether to take an action to exclude a person, the agency considers whether a person's present responsibility is affected such that the person poses a risk to the Federal Government. The agencies did not intend that the decision to give reciprocity would require the agencies to change the two debarment and suspension systems and establish identical procedures for excluding persons under both the FAR and the Common Rule.

Change: None.

Comment: One commenter thought that the nonprocurement common rule's recognition of proposed debarments under the FAR went beyond the authority in section 2455 of the *Federal Acquisition Streamlining Act,* which provides that ''Regulations shall be issued providing that provisions for the debarment, suspension, or other exclusion of a participant in a procurement activity under the Federal Acquisition Regulation (FAR), or in a nonprocurement activity under regulations issued pursuant to Executive Order 12549, shall have government-wide effect.'' The commenter pointed out that this statute does not list proposed debarments specifically and, therefore, argued that the nonprocurement rule could not give effect to proposed debarments entered under the FAR. The commenter suggested that the phrase ''other exclusion'' probably referred to voluntary exclusions under section _____.210 of the common rule.

Discussion: Section 2455 does not limit, as suggested by the commenter, the scope of the amendments that agencies may make to the Common Rule. The passage quoted by the commenter states that agencies shall give effect under the Common Rule to ''debarment, suspension, *or other exclusion* of a participant in a procurement activity under the Federal Acquisition Regulation (FAR)'' (emphasis added). A proposed debarment is an exclusion under the FAR, thus, section 2455 of the Streamlining Act authorizes agencies to promulgate nonprocurement rules that give effect to proposed debarments under the FAR. The commenter's suggestion that ''other exclusion'' referred to voluntary exclusions does not bear weight. There is no history that Congress intended to limit that term to a unique exclusion that exists in only one system. Rather, ''other exclusion'' must refer to any exclusion that has effect under either system.

Change: None.

Comment: One commenter raised a hypothetical situation which it believed demonstrated a difficulty between the

two rules regarding the enforceability under the common rule of proposed debarments entered under the FAR. In the commenter's example, two dairy companies (Dairy X and Dairy Y) are attempting to enter into like transactions with the Federal Government. Dairy X has been proposed for debarment under the FAR while Dairy Y has been proposed for debarment under the nonprocurement regulations. Under the proposed regulations, Dairy Y could be considered for a contract under the FAR but Dairy X could not be considered for a contract under the FAR. The commenter was uncomfortable with the alleged disparate treatment of the two dairies.

Discussion: The commenter is correct that Dairy X would be excluded but Dairy Y would not be excluded. However, if Dairy Y posed an immediate threat to the Federal Government, the agency that proposed its debarment under the nonprocurement regulations could suspend Dairy Y under those regulations. In short, while the two systems use slightly different mechanisms to protect the Federal Government, those differences do not need to be eliminated in order to give reciprocity for actions taken under the two systems.

Change: None.

Section _____ .100 Purpose

Comment: One commenter noted that the list of excluded persons under paragraph (c) of section _____ .100 differed from the list included in the definition for the *List of Parties Excluded from Federal Procurement and Nonprocurement Programs* included in § _____.105, focusing on the fact that paragraph (c) in section _____.100 did not mention voluntarily excluded persons.

Discussion: A review of the Common Rule, including those portions not amended by the proposed rule reveals that the purpose section does mention voluntary exclusions in its more detailed provisions implementing Executive Order 12549 (See section _____ .100(b)(3)). These detailed provisions did not need to be set out again to indicate the actions under the FAR that would be added to the *List* as a result of the reciprocity rule.

Change: None.

Section _____ .105 Definitions

Comment: One commenter noted differences between the FAR definition and the Common Rule definition for the *List of Parties Excluded from Federal Procurement and Nonprocurement Programs* and requested that the Common Rule use the FAR language. This commenter also asked that the nonprocurement Common Rule definition of the *List* not refer to the authorizing executive orders because the authority for a debarment or suspension would be the regulations of the agency that took the action.

Discussion: The substance of the two definitions is identical and the reason for the different language used in the two definitions is the different contexts in which the definitions appear. The FAR definition refers to ''parties'' while the nonprocurement Common Rule refers to ''persons.'' The term ''parties'' is used throughout the FAR to refer to contractors. The Common Rule refers to ''persons'' because many of the entities covered by a nonprocurement debarment or suspension do not have a relationship of privity with the Federal Government.

Regarding the request not to refer to the executive orders, no change is made because these executive orders address substantive, not merely procedural authority for the agency regulations under which a debarment or suspension is entered.

Change: None.

Section _____ .110, Coverage.

Comment: One commenter asked that the references to the executive orders and to section 2455 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355) be removed from the proposed reciprocity rule in § _____ .110(c).

Discussion: The agencies participating in this rulemaking action believe that it is appropriate to cite the substantive authority for reciprocity in the actual paragraph that gives effect to that authority.

Change: None.

Comment: One commenter thought that a suspension imposed different burdens than a debarment. Thus, the commenter was concerned that the reciprocity phrase requiring a FAR debarment or suspension to ''be recognized * * * as an exclusion'' should be changed to require that a FAR debarment or suspension ''be recognized * * * as a comparable action.'' This commenter had a similar concern regarding the recognition of governmentwide nonprocurement exclusions under the FAR.

Discussion: This comment starts from a mistaken view. Once a person or party is excluded from participation in a nonprocurement transaction or from entering into a contract, that person is treated the same way, whether the person entered that excluded state by being suspended or debarred. Thus, once a party or person is excluded, no agency may do business with the party or person unless the agency affirmatively makes a decision under the exception provision in § _____ .215 and states the need for the exception. Because all persons or parties on the *List* are treated the same, there is no need to make the requested change.

Change: None.

Comment: One commenter suggested that the phrase ''after [the effective date of this rule]'' be added after the phrase ''imposed under this regulation'' so that the reciprocity provision regarding FAR recognition of nonprocurement exclusions would be parallel to the reciprocity provision regarding nonprocurement recognition of FAR exclusions.

Discussion: The agencies agree.

Change: The phrase ''after [date 60 days after publication]'' will be added after the phrase ''imposed under this regulation'' in the second sentence of § _____.110(c).

Comment: One commenter noted that the proposed reciprocity rule did not address how actions will be treated that are in process when the rule becomes effective. The commenter thought that these actions should be ''grandfathered'' under the current rule.

Discussion: Actions initiated by notices of proposed debarments or suspensions sent to respondents before the date this rule becomes effective generally will not be given reciprocity because these regulations require a notice of proposed debarment to specify the potential effect of a debarment or suspension (See § _____.312(e) and § _____.411(g)). However, some agencies already run simultaneous actions under both the FAR and the Common Rule, citing the authority of both and giving notice that the action will be effective under both the FAR and the Common Rule. For these agencies, their actions will be effective on both sides. Once the rule becomes effective, these agencies will no longer need to afford to respondents the procedures of both rules in order to give effect on both sides. However, after the effective date of these regulations, agencies will have to give notice that actions initiated under the Common Rule will affect an entity's ability to receive contracts under the FAR.

In order to clarify this result, § _____.110(c) is amended to state that the new rule applies to actions ''initiated'' after the effective date of the rule rather than applying the new reciprocity rule to actions ''imposed'' after the effective date of the reciprocity rule. A proposed debarment or suspension is initiated when an agency

sends notice of the action to the respondent.

Change: Section _____.110(c), as added by this rulemaking action, is amended to apply the new regulation to actions initiated on or after the effective date of the regulation.

Section _____.200 Debarment or Suspension

Comment: One commenter was particularly concerned about the differences in the flow down of an action under the FAR and the Common Rule. Under § _____.200(b), a debarment affects a person's ability to participate in lower tier covered transactions. In contrast, under the FAR rule, a debarment affects a party's ability to enter into contracts and places limitations on a Federal Government prime contractor's ability to contract with first tier subcontractors who have been debarred, suspended or proposed for debarment. The commenter wanted to know whether a debarment entered under the FAR would be limited in its flow down under the Common Rule and, conversely, whether a debarment entered under the Common Rule would have to be honored at a lower level under the FAR.

Discussion: The Reciprocity rule established under this rulemaking effort does not affect the flow down of either the FAR or the Common Rule. Once a person is excluded, that person will be treated the same under these regulations as any other person for purposes of determining the entity's ability to participate in any nonprocurement covered transaction. The fact that the person was excluded as a result of an action taken under the FAR does not make the person eligible under these regulations to enter into lower tier covered transactions. The same is true for treatment of a debarment under the FAR; the fact that a debarment was entered under the Common Rule does not prohibit the excluded person from entering into a first tier subcontract provided the Federal Government prime contractor notifies the Contracting Officer of its compelling reasons for doing business with the otherwise excluded subcontractor.

Change: For clarification, Section _____.200 is amended to add proposed for debarment under the FAR.

Section _____.215 Exception Provision.

Comment: One commenter recommended that the exception provision be amended to ensure that, under the Common Rule, agencies could give an exception permitting participation by a party that is proposed for debarment under the FAR.

Discussion: The agencies participating in this rulemaking effort agree with the concern that an agency should have the same amount of discretion to permit participation in a covered transaction of a party that has been proposed for debarment under the FAR as it would to permit participation by any other excluded entity.

Change: Section _____.215 is amended so that parties proposed for debarment under the FAR can be considered for participation in covered transactions under the exception rule.

Section _____.220 Continuation of covered transactions.

Comment: One commenter noted that a party that is proposed for debarment under the FAR should be treated the same as other excluded parties in that the party's proposed debarment should not affect the party's ability to participate in a covered transaction entered into before the proposed debarment was issued.

Discussion: The agencies participating in this rulemaking agree.

Change: Section _____.220 is amended to ensure that parties that have been proposed for debarment under the FAR will be treated the same under § _____.220 as other persons who have been excluded.

Appendices A and B

Discussion: Certain changes have been made in Appendices A and B, which contain the instructions for certifications and certifications for primary and lower tier participants. These technical changes recognize that proposed debarments entered under the FAR will be given effect under the Common Rule.

Change: A reference to proposed debarments initiated under the FAR has been added in appropriate places throughout the instructions in Appendices A and B.

Text of the Common Rule

The text of the common rule appears below:

PART _____—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. Section _____.100 is revised to read as follows:

§ _____.100 Purpose.

(a) Executive Order (E.O.) 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a governmentwide system for nonprocurement debarment and suspension. A person who is debarred or suspended shall be excluded from Federal financial and nonfinancial assistance and benefits under Federal programs and activities. Debarment or suspension of a participant in a program by one agency shall have governmentwide effect.

(b) These regulations implement section 3 of E.O. 12549 and the guidelines promulgated by the Office of Management and Budget under section 6 of the E.O. by:

(1) Prescribing the programs and activities that are covered by the governmentwide system;

(2) Prescribing the governmentwide criteria and governmentwide minimum due process procedures that each agency shall use;

(3) Providing for the listing of debarred and suspended participants, participants declared ineligible (see definition of ''ineligible'' in § _____.105), and participants who have voluntarily excluded themselves from participation in covered transactions;

(4) Setting forth the consequences of a debarment, suspension, determination of ineligibility, or voluntary exclusion; and

(5) Offering such other guidance as necessary for the effective implementation and administration of the governmentwide system.

(c) These regulations also implement Executive Order 12689 (3 CFR, 1989 Comp., p. 235) and 31 U.S.C. 6101 note (Public Law 103–355, sec. 2455, 108 Stat. 3327) by—

(1) Providing for the inclusion in the *List of Parties Excluded from Federal Procurement and Nonprocurement Programs* all persons proposed for debarment, debarred or suspended under the Federal Acquisition Regulation, 48 CFR Part 9, subpart 9.4; persons against which governmentwide exclusions have been entered under this part; and persons determined to be ineligible; and

(2) Setting forth the consequences of a debarment, suspension, determination of ineligibility, or voluntary exclusion.

(d) Although these regulations cover the listing of ineligible participants and the effect of such listing, they do not prescribe policies and procedures governing declarations of ineligibility.

2. Section _____.105 is amended by adding introductory text, removing paragraph designations for the definitions and placing them in alphabetical order, removing the

definition for ''Nonprocurement List'', adding, in alphabetical order, a definition for ''List of Parties Excluded from Federal Procurement and Nonprocurement Programs'', and revising the definitions for ''Affiliate'', ''Conviction'', and ''Legal proceedings'' to read as follows:

§ _____.105 Definitions.

The following definitions apply to this part:

Affiliate. Persons are affiliates of each other if, directly or indirectly, either one controls or has the power to control the other, *or*, a third person controls or has the power to control both. Indicia of control include, but are not limited to: interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity organized following the suspension or debarment of a person which has the same or similar management, ownership, or principal employees as the suspended, debarred, ineligible, or voluntarily excluded person.

* * * * *

Conviction. A judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, including a plea of nolo contendere.

* * * * *

Legal proceedings. Any criminal proceeding or any civil judicial proceeding to which the Federal Government or a State or local government or quasi-governmental authority is a party. The term includes appeals from such proceedings.

List of Parties Excluded from Federal Procurement and Nonprocurement Programs. A list compiled, maintained and distributed by the General Services Administration (GSA) containing the names and other information about persons who have been debarred, suspended, or voluntarily excluded under Executive Orders 12549 and 12689 and these regulations or 48 CFR part 9, subpart 9.4, persons who have been proposed for debarment under 48 CFR part 9, subpart 9.4, and those persons who have been determined to be ineligible.

* * * * *

3. Section _____.110 is amended by revising paragraph (c) to read as follows:

§ _____.110 Coverage.

* * * * *

(c) *Relationship to Federal procurement activities.* In accordance with E.O. 12689 and section 2455 of Public Law 103–355, any debarment, suspension, proposed debarment or other governmentwide exclusion initiated under the Federal Acquisition Regulation (FAR) on or after August 25, 1995 shall be recognized by and effective for Executive Branch agencies and participants as an exclusion under this regulation. Similarly, any debarment, suspension or other governmentwide exclusion initiated under this regulation on or after August 25, 1995 shall be recognized by and effective for those agencies as a debarment or suspension under the FAR.

4. Section _____.200 is revised to read as follows:

§ _____.200 Debarment or suspension.

(a) *Primary covered transactions.* Except to the extent prohibited by law, persons who are debarred or suspended shall be excluded from primary covered transactions as either participants or principals throughout the Executive Branch of the Federal Government for the period of their debarment, suspension, or the period they are proposed for debarment under 48 CFR part 9, subpart 9.4. Accordingly, no agency shall enter into primary covered transactions with such excluded persons during such period, except as permitted pursuant to § _____.215.

(b) *Lower tier covered transactions.* Except to the extent prohibited by law, persons who have been proposed for debarment under 48 CFR part 9, subpart 9.4, debarred or suspended shall be excluded from participating as either participants or principals in all lower tier covered transactions (see § _____.110(a)(1)(ii)) for the period of their exclusion.

(c) *Exceptions.* Debarment or suspension does not affect a person's eligibility for—

(1) Statutory entitlements or mandatory awards (but not subtier awards thereunder which are not themselves mandatory), including deposited funds insured by the Federal Government;

(2) Direct awards to foreign governments or public international organizations, or transactions with foreign governments or foreign governmental entities, public international organizations, foreign government owned (in whole or in part) or controlled entities, and entities consisting wholly or partially of foreign governments or foreign governmental entities;

(3) Benefits to an individual as a personal entitlement without regard to the individual's present responsibility (but benefits received in an individual's business capacity are not excepted);

(4) Federal employment;

(5) Transactions pursuant to national or agency-recognized emergencies or disasters;

(6) Incidental benefits derived from ordinary governmental operations; and

(7) Other transactions where the application of these regulations would be prohibited by law.

5. Section _____.215 is revised to read as follows:

§ _____.215 Exception provision.

[Agency] may grant an exception permitting a debarred, suspended, or voluntarily excluded person, or a person proposed for debarment under 48 CFR part 9, subpart 9.4, to participate in a particular covered transaction upon a written determination by the agency head or an authorized designee stating the reason(s) for deviating from the Presidential policy established by Executive Order 12549 and § _____.200. However, in accordance with the President's stated intention in the Executive Order, exceptions shall be granted only infrequently. Exceptions shall be reported in accordance with § _____.505(a).

6. Section _____.220 is revised to read as follows:

§ _____.220 Continuation of covered transactions.

(a) Notwithstanding the debarment, suspension, proposed debarment under 48 CFR part 9, subpart 9.4, determination of ineligibility, or voluntary exclusion of any person by an agency, agencies and participants may continue covered transactions in existence at the time the person was debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, declared ineligible, or voluntarily excluded. A decision as to the type of termination action, if any, to be taken should be made only after thorough review to ensure the propriety of the proposed action.

(b) Agencies and participants shall not renew or extend covered transactions (other than no-cost time extensions) with any person who is debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible or voluntary excluded, except as provided in § _____.215.

7. Section _____.225 is revised to read as follows:

§ _____.225 Failure to adhere to restrictions.

(a) Except as permitted under § _____.215 or § _____.220, a participant shall not knowingly do

business under a covered transaction with a person who is—

(1) Debarred or suspended;

(2) Proposed for debarment under 48 CFR part 9, subpart 9.4; or

(3) Ineligible for or voluntarily excluded from the covered transaction.

(b) Violation of the restriction under paragraph (a) of this section may result in disallowance of costs, annulment or termination of award, issuance of a stop work order, debarment or suspension, or other remedies as appropriate.

(c) A participant may rely upon the certification of a prospective participant in a lower tier covered transaction that it and its principals are not debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible, or voluntarily excluded from the covered transaction (See Appendix B of these regulations), unless it knows that the certification is erroneous. An agency has the burden of proof that a participant did knowingly do business with a person that filed an erroneous certification.

8. Appendix A is revised to read as follows:

Appendix A to Part_____—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded,* as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

9. Appendix B is revised to read as follows:

Appendix B to Part_____—Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal,* and *voluntarily excluded,* as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that,

should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Adoption of Common Rule

The agency-specific adoptions of the common rule, which appears at the end of the common preamble, appear below.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 970

RIN 3206–AG51

FOR FURTHER INFORMATION CONTACT: Murray M. Meeker, Attorney, Office of the General Counsel, (202) 606–1980.

List of Subjects in 5 CFR Part 970

Administrative practice and procedure, Contract programs, Grant programs.

Lorraine A. Green,

Deputy Director.

Title 5 of the Code of Federal Regulations, part 970 is amended as follows.

PART 970—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

1. The authority for part 970 continues to read as follows:

Authority: Executive Order 12549 (51 FR 6370–71).

2. Section 970.100 is revised as set forth at the end of the common preamble.

3. Sections 970.105 and 970.110 are amended as set forth at the end of the common preamble.

4. Sections 970.200, 970.215, 970.220, and 970.225 and Appendices A and B to Part 970 are revised as set forth at the end of the common preamble.

BILLING CODE: 6325–01

DEPARTMENT OF AGRICULTURE

7 CFR Part 3017

RIN 0503–AA11

FOR FURTHER INFORMATION CONTACT: Gary W. Butler, Deputy Assistant General Counsel, Office of the General Counsel, (202) 720–2577.

List of Subjects in 7 CFR Part 3017

Administrative practice and procedure, Contract programs, Grant programs—Agriculture, Grants administration.

Dated: June 8, 1995.

Dan Glickman,

Secretary of Agriculture.

Title 7 of the Code of Federal Regulations, part 3017 is amended as follows.

PART 3017—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 3017 continues to read as follows:

Authority: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 *et seq.*); 5 U.S.C. 301.

2. Section 3017.100 is revised as set forth at the end of the common preamble.

3. Sections 3017.105 and 3017.110 are amended as set forth at the end of the common preamble.

4. Sections 3017.200, 307.215, 3017.220, and 3017.225 and Appendices A and B to Part 3017 are revised as set forth at the end of the common preamble.

BILLING CODE: 3420–01–M

DEPARTMENT OF ENERGY

10 CFR Part 1036

RIN 1991–AA69

FOR FURTHER INFORMATION CONTACT: Cynthia Yee, Office of Clearance and Support, Office of Procurement and Assistance Management, Human Resources and Administration, 202–586–1140.

List of Subjects in 10 CFR Part 1036

Administrative practice and procedures, Contract programs, Grant programs.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

Title 10 of the Code of Federal Regulations, part 1036 is amended as follows:

PART 1036—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 1036 continues to read as follows:

Authority: E.O. 12689; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 *et seq.*); Secs. 644 and 646, Pub. L. 95–91, 91 Stat. 599 (42 U.S.C. 7254 and 7256); Pub. L. 97–258, 98 Stat. 1003–1005 (31 U.S.C. 6301–6308).

2. Section 1036.100 is revised as set forth at the end of the common preamble.

3. Sections 1036.105 and 1036.110 are amended as set forth at the end of the common preamble.

4. Sections 1036.200, 1036.215, 1036.220, and 1036.225 and Appendices A and B to part 1036 are revised as set forth at the end of the common preamble.

BILLING CODE: 6450–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 145

RIN 3245–AD46

FOR FURTHER INFORMATION CONTACT: John W. Klein, Chief Counsel for Special Programs, Office of General Counsel, U.S. Small Business Administration, 409 3rd Street, SW, Washington, DC 20416, (202) 205–6645.

ADDITIONAL SUPPLEMENTARY INFORMATION: As stated in the supplementary information to the common rule, the purpose of this rule is to give reciprocal governmentwide effect to both nonprocurement and procurement debarment and suspension actions. SBA reads revised § 145.110(c) as having no effect on the exceptions from coverage already provided for in §§ 145.110(a)(2), 145.215, and 145.220. These exemptions include SBA disaster assistance.

List of Subjects in 13 CFR Part 145

Administrative practice and procedure, Contract programs, Debarment and suspension (nonprocurement), Grant programs, Loan programs—business.

Dated: June 2, 1995.

Philip Lader,

Administrator.

Title 13 of the Code of Federal Regulations, Part 145 is amended as follows:

PART 145—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for Part 145 continues to read as follows:

Authority: E.O. 12549; Secs. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 et seq.); 15 U.S.C. 634(b)(6).

2. Section 145.100 is revised as set forth at the end of the common preamble.

3. Sections 145.105 and 145.110 are amended as set forth at the end of the common preamble.

4. Sections 145.200, 145.215, 145.220, and 145.225 and Appendices A and B to Part 145 are revised as set forth at the end of the common preamble.

BILLING CODE: 8025–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1265

RIN 2700–AB99

FOR FURTHER INFORMATION CONTACT: Thomas J. Wheland, NASA Headquarters, Acquisition Liaison Division (Code HP), (202) 358–0475.

List of Subjects in 14 CFR Part 1265

Administrative practice and procedure, Contract programs, Cooperative agreements, Debarment and suspension (nonprocurement), Grant programs.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Title 14 of the Code of Federal Regulations, Part 1265 is amended as follows.

PART 1265—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 1265 continues to read as follows:

Authority: E.O. 12549; Secs. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 *et seq.*); National Aeronautics and Space Act, Pub. L. 85–568, July 29, 1958, as amended, sec. 203(c)(1).

2. Section 1265.100 is revised as set forth at the end of the common preamble.

3. Sections 1265.105 and 1265.110 are amended as set forth at the end of the common preamble.

4. Sections 1265.200, 1265.215, 1265.220 and 1265.225 and Appendices A and B to Part 1265 are revised as set forth at the end of the common preamble.

BILLING CODE: 7510–01–M

DEPARTMENT OF COMMERCE

15 CFR Part 26

RIN 0605–AA02

FOR FURTHER INFORMATION CONTACT: John J. Phelan, III, 202–482–4115.

List of Subjects in 15 CFR Part 26

Administrative practice and procedure, Contract programs, Grant administration, Grant programs, Reporting and recordkeeping requirements.

Sonya G. Stewart,

Director for Executive Budgeting and Assistance Management.

Title 15 of the Code of Federal Regulations, part 26 is amended as follows.

PART 26—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT—AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 26 is revised to read as follows:

Authority: 5 U.S.C. 301; 41 U.S.C. 701 *et seq.*; Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 3 CFR, 1986 comp., p. 189; E.O. 12689, 3 CFR, 1989 comp., p. 235.

2. Section 26.100 is revised as set forth at the end of the common preamble.

3. Sections 26.105 and 26.110 are amended as set forth at the end of the common preamble.

4. Sections 26.200, 26.215, 26.220, and 26.225 and Appendices A and B to part 26 are revised as set forth at the end of the common preamble.

BILLING CODE: 3510–(FA)–M

OFFICE OF NATIONAL DRUG CONTROL POLICY

21 CFR Part 1404

RIN 3201–ZA00

FOR FURTHER INFORMATION CONTACT: Edward H. Jurith, General Counsel, (202) 395–6709.

List of Subjects in 21 CFR Part 1404

Administrative practice and procedure, Contract programs, Grant programs.

Lee P. Brown,

Director.

Title 21 of the Code of Federal Regulations, part 1404, is amended as follows:

PART 1404—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 1404 continues to read as follows:

Authority: Executive Order 12549, 3 CFR, 1986 Comp., p. 189; 5 U.S.C. 301; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D, 102 Stat. 4304; 41 U.S.C. 701 *et seq.).*

2. Section 1404.100 is revised as set forth at the end of the common preamble.

3. Sections 1404.105 and 1404.110 are amended as set forth at the end of the common preamble.

4. Sections 1404.200, 1404.215, 1404.220, and 1404.225 and Appendices A and B to part 1404 are revised as set forth at the end of the common preamble.

BILLING CODE: 3180–02–M

DEPARTMENT OF STATE

22 CFR Part 137

RIN 1400–AA55

FOR FURTHER INFORMATION CONTACT: Robert E. Lloyd, Office of the Procurement Executive, 703–516–1690.

List of Subjects in 22 CFR Part 137

Administrative practice and procedure, Contract programs, Grant programs.

Lloyd W. Pratsch,

Procurement Executive.

Title 22 of the Code of Federal Regulations, part 137, is amended as follows:

PART 137—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 137 continues to read as follows:

Authority: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 et seq.); 22 U.S.C. 2658.

2. Section 137.100 is revised as set forth at the end of the common preamble.

3. Sections 137.105 and 137.110 are amended as set forth at the end of the common preamble.

4. Sections 137.200, 137.215, 137.220, and 137.225 and Appendices A and B to Part 137 are revised as set forth at the end of the common preamble.

BILLING CODE: 4710–24–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 208

RIN 0412–AA24

FOR FURTHER INFORMATION CONTACT: Kathleen J. O'Hara, M/OP/P, Telephone (703) 875–1534.

List of Subjects in 22 CFR Part 208

Administrative practice and procedure, Contract programs, Grant programs—foreign relations, Grant programs, Loan programs—foreign relations.

Marcus L. Stevenson,

Acting Procurement Executive.

Title 22 of the Code of Federal Regulations, part 208, is amended as follows:

PART 208—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 208 continues to read as follows:

Authority: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, title V, subtitle D; 41 U.S.C. 701 *et seq.*); Sec. 621, Foreign Assistance Act of 1961, 22 U.S.C. 2381.

2.Section 208.100 is revised as set forth at the end of the common preamble.

3. Sections 208.105 and 208.110 are amended as set forth at the end of the common preamble.

4. Sections 208.200, 208.215, 208.220, and 208.225 and Appendices A and B to Part 208 are revised as set forth at the end of the common preamble.

BILLING CODE: 6116–01–M

PEACE CORPS

22 CFR Part 310

RIN 0420–AA13

FOR FURTHER INFORMATION CONTACT: Kirby Mullen, 202–606–3114

List of Subjects in 22 CFR Part 310

Administrative practice and procedure, Contract programs, Grant programs.

Charles R. Baquet, III,

Acting Director.

Title 22 of the Code of Federal Regulations, part 310 is amended as follows.

PART 310—GOVERNMENTWIDE DEPARTMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 310 continues to read as follows:

Authority: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, subtitle D; 41 U.S.C. 701 et seq.); 22 U.S.C. 2503.

2. Section 310.100 is revised as set forth at the end of the common preamble.

3. Sections 310.105 and 310.110 are amended as set forth at the end of the common preamble.

4. Sections 310.200, 300.215, 310.220, and 310.225 and Appendices A and B to Part 310 are revised as set forth at the end of the common preamble.

BILLING CODE: 6051–01–M

UNITED STATES INFORMATION AGENCY

22 CFR Part 513

RIN 3116–AA07

FOR FURTHER INFORMATION CONTACT: GEORGIA HUBERT ON (202) 205–5404.

List of Subjects in 22 CFR Part 513 Administrative practice and procedure, Contract programs, Grant programs.

Henry Howard, Jr.,

Associate Director for Management.

The 22 of the code of Federal Regulations, Part 513 is amend as follows.

PART 513—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 513 is revised to read as follows:

Authority: 40 U.S.C. 486 (c); 41 U.S.C. 701 *et seq.*; Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E. O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 comp., p. 235.

2. Section 513.100 is revised as set forth at the end of the common preamble.

3. Sections 513.105 and 513.110 are amended as set forth at the end of the common preamble.

4. Sections 513.200, 513.215, 515.220, and 513.225 and Appendices A and B to Part 513 are revised as set forth at the end of the common preamble.

BILLING CODE: 8230–01–M

INTER-AMERICAN FOUNDATION

22 CFR Part 1006

FOR FURTHER INFORMATION CONTACT: Adolfo A. Franco, 703–841–3894.

List of Subjects in 22 CFR Part 1006

Administrative practice and procedure, Contract programs, Grant programs.

Adolfo A. Franco,

General Counsel.

Title 22 of the Code of Federal Regulations, part 1006 is amended as follows.

PART 1006—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 1006 continues to read as follows:

Authority: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 et seq.); 22 U.S.C. 290f.

2. Section 1006.100 is revised as set forth at the end of the common preamble.

3. Sections 1006.105 and 1006.110 are amended as set forth at the end of the common preamble.

4. Sections 1006.200, 1006.215, 1006.220 and 1006.225 and Appendices A and B to Part 1006 are revised as set forth at the end of the common preamble.

BILLING CODE: 7025–01–M

AFRICAN DEVELOPMENT FOUNDATION

22 CFR Part 1508

FOR FURTHER INFORMATION CONTACT: Paul S. Magid, (202) 673–3916.

List of Subjects in 22 CFR Part 1508

Administrative practice and procedure, Contract programs, Grant programs—foreign relations.

William R. Ford,

President.

Title 22 of the Code of Federal Regulations, Part 1508 is amended as follows:

PART 1508—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 1508 is revised to read as follows:

Authority: 22 U.S.C. 290h; 41 U.S.C. 701 *et seq.;* E.O. 12549, 3 CFR, 1986 comp., p. 189.

2. Section 1508.100 is revised as set forth at the end of the common preamble.

3. Section 1508.105 and 1508.110 are amended as set forth at the end of the common preamble.

4. Sections 1508.200, 1508.215, 1508.220, and 1508.225 and Appendices A and B to Part 1508 are revised as set forth at the end of the common preamble.

BILLING CODE: 6117–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 24

RIN 2501–AB24

FOR FURTHER INFORMATION CONTACT: Emmett N. Roden, Assistant General Counsel for Administrative Proceedings, Office of General Counsel, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Room 10251, Washington, DC 20410, telephone (202) 708–2350. The telephone number for the hearing impaired (TDD) is (202) 708–9300. These are not toll-free numbers.

ADDITIONAL SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12549, the Department, along with other Federal agencies, promulgated governmentwide nonprocurement debarment and suspension regulations. The common rule, which is identical to the Office of Management and Budget's final guidelines, and the various agency-specific supplements to the common rule were published at the same time on May 26, 1988 (53 FR 19161). The provisions of the common rule that provide nonprocurement participants with the opportunity to contest suspensions and proposed debarments and the procedures by which suspending and debarring officials make final agency determinations are substantially similar to the procedures applicable to procurement contractors under the Federal Acquisition Regulation (FAR, 48 CFR, especially subpart 9.4 thereof). Although the Department adopted verbatim significant portions of the common rule, it did not include all of the provisions concerning suspension and debarment hearing procedures or the reconsideration or appeal of post-hearing determinations.

Executive Order 12689, issued in 1989, and section 2455 of the Federal Acquisition Streamlining Act of 1994 require that the debarment, suspension, or other exclusion of a participant in a procurement activity under the FAR, or in a nonprocurement activity under an agency's debarment regulations, shall, after regulations are issued, have the governmentwide effect of excluding the participant from both procurement and nonprocurement activities. Under current HUD rules, a debarment of a nonprocurement participant does not affect such person's participation in procurement activities with other agencies.

On December 20, 1994, HUD and other agencies participating in the development of this final rule published a notice of proposed rulemaking to implement Executive Order 12689 and section 2455 of the Federal Acquisition Streamlining Act. HUD's portion of the proposed rule, published at 59 FR 65612, also included revisions to conform the Department's hearing procedures to those of the common rule.

The Department's current hearing procedures, which depart from the generally applicable governmentwide provisions, have adversely affected the Department's ability to process suspensions and debarments in an efficient and cost-effective manner. The amount of time and expense currently involved in the Department's suspension and debarment proceedings benefit neither the Department nor the persons who are subject to such sanctions. In addition, the Department notes that the common rule procedures have not been successfully challenged in Federal court since their implementation in 1988.

The issuance of this rule will simplify and streamline the suspension, debarment, and limited denial of participation processes at HUD. Therefore, this rule will reduce, rather than increase, the regulatory burden on contractors and participants in the Department's programs.

The Department considers these changes necessary to comply with the President's directive to streamline agency operations throughout the Executive Branch. The revisions are also an element in the Government reinvention process at the Department.

Effective date: The final rule shall apply to notices of proposed debarment, suspension and limited denial of participation that are issued on or after the effective date of this rule.

Discussion of Public Comments

Comments on the proposed rule were received from one Federal Government organization, from one private professional organization, and from three individuals. The issues raised by the commenters are summarized below.

Recommendations by the Administrative Conference of the United States (ACUS)

Comment: Four of the five commenters refer to recommendations recently issued by ACUS (Recommendation 95–2, ''Debarment and Suspension from Federal Programs,'' adopted January 19, 1995) and urge that HUD conform its regulations to the ACUS Recommendations. In particular, the commenters urge compliance with item II of the Recommendations. This item recommends that cases involving disputed issues of material fact be referred to administrative law judges, military judges, administrative judges of boards of contract appeals or similarly independent hearing officers for hearings and preparation of (1) findings of fact certified to the debarring official, or (2) a recommended decision to the debarring official, or (3) an initial decision, subject to agency appeal. Item II of the ACUS Recommendations also recommends that debarring officials be senior agency officials who are guaranteed sufficient independence to provide due process, and that such officials ensure that information used as the basis for a sanction appear in the administrative record of the decision.

The commenters expressed concern that the use of ''hearing officials'' who are not administrative judges would result in the deprivation of due process. They criticized these officials as being neither trained in the law nor versed in HUD's programs.

One commenter also urged HUD to adopt item III of the ACUS Recommendation. Item III lists various recommendations for future rulemaking: (1) that entities coordinating the FAR and the common rule, and individual agencies, provide for a list of mitigating and aggravating factors; (2) establishment of a process for determining a lead agency when a person deals with more than one agency; (3) minimum evidentiary thresholds for procurement debarment; (4) notice to affected persons of the impact of sanctions; and (5) use of ''show cause'' warning letters.

Response: The rule satisfies the ACUS recommendation that debarring officials be senior, independent agency officials. Notices of suspension and proposed debarment are, under delegations by the Secretary of HUD, issued by Assistant Secretaries, the Inspector General, and the President of the Government National Mortgage Association. These officials are the highest responsible officials for major components of the Department. They report directly to the Secretary. These officials are not subject to the supervision of, nor do they directly supervise, agency personnel who carry out investigative or prosecutive activities. Their ability to make independent debarment decisions is thus evident from their position.

The Department has revised the rule to address the comments concerning referral of disputes of material fact. The revision deletes the references to ''hearing official.'' The specific HUD-only additions to the common rule, at §§ 24.314(b)(2)(i) and 24.413(b)(3), clarify that disputes of material fact may be referred to ''hearing officers'' who are defined as administrative law judges or members of the HUD Board of Contract Appeals. In accordance with the first option listed in ACUS Recommendation item II, the hearing officers will provide findings of fact to the suspending or debarring official. In addition, the final rule provides that the suspending or debarring official may, in his or her discretion, refer cases based upon indictment, conviction or civil judgment, or cases in which there is no dispute of material fact, to the hearing officer for appropriate findings.

The final rule is in conformity with the other elements of ACUS Recommendation 95–2 to the extent possible in the context of a coordinated governmentwide system. Recommendation item IV urges that all federal agencies adopt the common rule. By conforming its hearing procedures to those of the common rule, HUD has followed the ACUS suggestion. By coordinating procurement and non-procurement suspension and debarment, HUD has followed the suggestion of ACUS in Recommendation item I.

HUD has agreed to consider ACUS Recommendation item III, along with other proposed changes to the common rule, before the end of this year. Certain of the item III suggestions, such as appropriate notice to respondents and the use of ''show cause'' letters, will in any event be considered by HUD as new procedures are adopted under the regulatory revision.

Finally, ACUS Recommendation item V addresses Congress rather than the executive branch agencies.

Consideration of Mitigating Factors in Debarment Proceedings

Comment: Two commenters asserted that the proposed rule had eliminated all references to mitigating factors as an element of the suspension and debarment process.

Response: These comments may be based on the elimination of paragraph (d) in 24 C.F.R. § 24.115, which refers to consideration of mitigating factors in the debarment of contractors. This deletion is the result of coordination of procurement and non-procurement debarment.

Mitigation will, necessarily, continue to be an element in HUD's suspension and debarment process. Most importantly, 24 C.F.R. § 24.300 will continue to require consideration of the seriousness of the ''person's'' acts and ''any mitigating factors.'' In addition, the provisions of 24 C.F.R. § 24.314, referring to the inclusion of ''any evidence of mitigating circumstances,'' are expanded under the proposed rule and this final rule by requiring consideration of *''any information and argument''* submitted by the respondent. (See §§ 24.313(a) and 24.314(a) and (b)(1).) The opportunity to submit, for review, evidence of mitigation as well as any other information is thus well preserved.

Limits on Discovery and Use of Alternative Dispute Resolution

Comment: Two commenters proposed that the Department impose limits on discovery as a means of streamlining the hearing process. One commenter further recommended that the rule provide for the use of alternative dispute resolution. The commenters stated that these changes would reduce costs to the Department and to participants while increasing efficiency.

Response: The Department's current rule allows the use of discovery pursuant to the provisions of 24 CFR Part 26. In the final rule, cases that the suspending or debarring official does not refer to hearing officers shall not be subject to formal discovery, but instead shall be limited to information in the administrative record, including any submissions by the respondent. (See §§ 24.314(a) and (b) and 24.413(a) and (b).)

The discovery provisions of Part 26 shall continue to apply to those cases that are referred to a hearing officer for findings of fact. (See §§ 24.314(b)(2)(i) and 24.413(b)(3).) However, 24 CFR § 26.17 provides that ''discovery shall not be permitted where it will unduly delay the hearing, thereby resulting in prejudice to the public interest or the rights of the parties.'' In addition, the final rule procedures at §§ 24.314(b)(2)(ii) and 24.413(b)(4) will require that the hearing in a case referred to the hearing officer commence within 45 days of referral, unless both parties agree to an extension of time. The Department is also required to compile an administrative record prior to hearing, and to provide a copy to the respondent. This record will contain all

information that the debarring official relied upon in issuing the suspension or proposed debarment.

The 45-day requirement and use of an administrative record, coupled with the existing part 26 restrictions, should eliminate protracted discovery. At the same time, the rule is sufficiently flexible to allow an extended period of discovery if the parties mutually agree to extend the 45-day limit. However, if these provisions prove inadequate, the Department agrees to consider limitations on discovery in future rulemaking.

The Department agrees with the comment recommending alternative dispute resolution. Provisions for voluntary use of alternative dispute resolution have been added to the final rule. The Department has determined that this section does not impose any restrictions on existing rights of HUD participants, but rather serves to expand the methods for resolving disputes. Accordingly, the Department believes there is good cause for promulgating this provision in a final rule, rather than through a proposed rule.

Creation of an Office To Chair Informal Conferences for Limited Denials of Participation

Comment: One commenter proposed that the Department establish a new office to chair informal conferences for limited denials of participation. The commenter stated that, under the existing process, the official presiding over the conference is often the person who initiated the sanction, and therefore may be biased against the respondent.

Response: The Department has addressed this concern by revising the proposed rule to allow the respondent to by-pass the informal conference and proceed directly to a hearing before a hearing officer.

List of Subjects in 24 CFR Part 24

Administrative practice and procedure, Contract programs, Drug abuse, Government contracts, Grant programs, Government procurement, Loan programs, Reporting and recordkeeping requirements.

Henry G. Cisneros,

Secretary.

Title 24 of the Code of Federal Regulations, part 24 is amended as follows:

PART 24—GOVERNMENT DEBARMENT AND SUSPENSION AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 24 is revised to read as follows:

Authority: 41 U.S.C. 701 *et seq.*; 42 U.S.C. 3535(d); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

2. Section 24.100 is revised as set forth at the end of the common preamble.

3. Sections 24.105 and 24.110 are amended as set forth at the end of the common preamble.

4. Sections 24.200, 24.215, 24.220, 24.225 and Appendices A and B to Part 24 are revised as set forth at the end of the common preamble.

5. Section 24.100 is further amended by adding paragraphs (e) and (f), to read as follows:

§ 24.100 Purpose.

* * * * *

(e) These regulations also:

(1) Prescribe policies and procedures governing the debarment and suspension of contractors and the limited denial of participation of participants and contractors;

(2) Provide for the listing of debarred, suspended and ineligible contractors; and

(3) Set forth the consequences of such listing.

(f) Although this part covers the listing of ineligible contractors, it does not prescribe policies and procedures governing declarations of ineligibility.

6. Section 24.105 is further amended by removing paragraphs (1) and (2) under the definitions of ''Debarment,'' ''Suspension'' and ''Voluntary exclusion or voluntarily excluded'' and by revising the definitions for ''Limited denial of participation,'' and ''Respondent'' to read as follows:

§ 24.105 Definitions.

* * * * *

Limited denial of participation. An action taken by a HUD official, in accordance with subpart G of these regulations, that immediately excludes or restricts a person from participating in HUD program(s) within a defined geographic area.

* * * * *

Respondent. A person against whom a debarment or suspension action has been initiated.

(1) A respondent is also a person against whom a limited denial of participation has been initiated.

(2) [Reserved].

* * * * *

7. Section 24.110 is further amended by adding a paragraph (a)(1)(i)(A)(*3*) and a paragraph (a)(3), and by revising the last sentence of paragraph (d), to read as follows:

§ 24.110 Coverage.

(a) * * *

(1) *Covered transaction.* * * *

(i) * * *

(A) * * *

(*3*) Any procurement transaction between HUD and a person.

* * * * *

(3) *Other exceptions.* (i) Sanctions against participants whose only involvement in HUD programs is as ultimate beneficiaries, such as subsidized tenants and subsidized mortgagors, may be taken only upon commission of one of the offenses set forth in § 24.305(a), unless the participant has otherwise been debarred or suspended by another Federal agency.

(ii) Sanctions under this part against mortgagees approved by HUD to participate in Federal Housing Administration programs may be initiated only with the approval of the Mortgagee Review Board.

* * * * *

(d) * * * The consequences of a debarment or suspension as set forth in § 24.200 apply to contractors in Federal procurement programs, and §§ 24.325 and 24.420 govern the extent to which a specific contractor or its organizational elements would be included within a debarment or suspension action.

* * * * *

§ 24.115 [Amended]

8. In § 24.115, paragraph (d) is removed.

9. Section 24.200 is further amended by adding new paragraphs (c)(8), (c)(9) and (d), to read as follows:

§ 24.200 Debarment or suspension.

* * * * *

(c) *Exceptions.* * * *

* * * * *

(8) Debarment for any of the causes set forth in § 24.305(f) shall have no governmentwide effect.

(9) Sanctions imposed on an individual participant under this part shall not preclude the participant from selling his or her principal residence to a purchaser using HUD/FHA financing.

(d) *Relationship to HUD administrative sanction procedures.*—(1) *Sanctions provided pursuant to contract provisions.* Nothing in this part

shall impair or limit the right to impose any sanction provided for by contract, including guaranty agreements with the Government National Mortgage Association.

(2) *Other Departmental sanctions.* Where an office of the Department is required by statute, regulation, or Executive Order to follow administrative sanction procedures that may differ from the requirements of this part, the requirements of the statute, regulation, or Executive Order shall take precedence. These alternative procedures include, but are not limited to: 24 CFR part 200 Previous Participation Review and Clearance procedures, 24 CFR part 25 Mortgagee Review Board administrative actions, and 24 CFR part 570 Community Development Block Grant corrective and remedial actions.

10. In § 24.305, paragraph (d) is revised to read as follows:

§ 24.305 Causes for debarment.

* * * * *

(d) Any other cause of so serious or compelling a nature that it affects the present responsibility of a person.

* * * * *

11. Section 24.313 is revised to read as follows:

§ 24.313 Opportunity to contest proposed debarment.

(a) *Submission in opposition.* Within 30 days after receipt of the notice of proposed debarment, the respondent may submit, in person, in writing, or through a representative, information and argument in opposition to the proposed debarment.

(1) The information and argument should be addressed to the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

(2) If the respondent does not contest the proposed debarment within the 30 day period, the proposed debarment shall become final.

(3) If the respondent desires a hearing, it shall submit a written request to the Debarment Docket Clerk within the 30-day period following receipt of the notice of proposed debarment.

(4) The parties may agree to engage in an alternative dispute resolution, including informal conference, mediation, conciliation, summary trial with binding decision, minitrial, or use of a settlement judge.

(b) *Additional proceedings as to disputed material facts.* (1) In actions not based upon a conviction or civil judgment, if the debarring official finds that the respondent's submission in opposition raises a genuine dispute over facts material to the proposed debarment, respondent(s) shall be afforded an opportunity to appear with a representative, submit documentary evidence, present witnesses, and confront any witness the agency presents.

(2) A transcribed record of any additional proceedings shall be made available at cost to the respondent, upon request, unless the respondent and the agency, by mutual agreement, waive the requirement for a transcript.

(i) Upon the agreement of the parties, the additional proceedings may be recorded using audiotape without transcription. The audiotape shall be made available at cost to the respondent.

(ii) [Reserved].

12. Section 24.314 is revised to read as follows:

§ 24.314 Debarring official's decision.

(a) *No additional proceedings necessary.* In actions based upon a conviction or civil judgment, or in which there is no genuine dispute over material facts, the debarring official shall make a decision on the basis of all the information in the administrative record, including any submission made by the respondent. The decision shall be made within 45 days after receipt of any information and argument submitted by the respondent, unless the debarring official extends this period for good cause.

(1) The debarring official may, in his or her discretion, refer actions based upon a conviction or civil judgment, or in which there is no genuine dispute over material facts, to a hearing officer or other official for review of the administrative record and appropriate findings. The hearing officer or other official shall issue such findings within 45 days after the referral, and the debarring official shall issue a decision within 15 days after the date of the findings, unless such periods are extended for good cause.

(2) [Reserved].

(b) *Additional proceedings necessary.* (1) In actions in which additional proceedings are necessary to determine disputed material facts, written findings of fact shall be prepared. The debarring official shall base the decision on the facts as found, together with any information and argument submitted by the respondent and any other information in the administrative record.

(2) The debarring official may refer disputed material facts to another official for findings of fact. The debarring official may reject any such findings, in whole or in part, only after specifically determining them to be arbitrary and capricious or clearly erroneous.

(i) The debarring official may refer disputed material facts and issues of law to a hearing officer for findings of fact and conclusions of law.

(A) No appeal to the Secretary may be taken under §§ 26.24 through 26.26 of this title with respect to any order or decision by a hearing officer or other official.

(B) The debarring official shall provide the hearing officer or other official with all the information in the administrative record, including any information and argument submitted by the respondent. The administrative record and any documents admitted at the hearing shall constitute the exhibits in evidence.

(ii) Unless the parties mutually agree to extend this period, a proceeding before a hearing officer or other official shall commence within 45 days after referral of the case by the debarring official. The hearing officer or other official shall issue findings of fact within 30 days after the conclusion of such additional proceedings. The time limitations of this subparagraph may be extended upon issuance, by the debarring official, hearing officer or other official, of a written notice describing good cause for such extension.

(3) The debarring official's decision shall be made after the conclusion of the proceedings with respect to the disputed facts.

(i) Such decision shall be made within 15 days after the hearing officer or other official issues findings of fact.

(ii) [Reserved].

(c)(1) *Standard of proof.* In any debarment action, the cause for debarment must be established by a preponderance of the evidence. Where the proposed debarment is based upon a conviction or civil judgment, the standard shall be deemed to have been met.

(2) *Burden of proof.* The burden of proof is on the agency proposing debarment.

(d) *Notice of debarring official's decision.* (1) If the debarring official decides to impose debarment, the respondent shall be given prompt notice:

(i) Referring to the notice of proposed debarment;

(ii) Specifying the reasons for debarment;

(iii) Stating the period of debarment, including effective dates; and

(iv) Advising that the debarment is effective for covered transactions throughout the executive branch of the

Federal Government unless an agency head or an authorized designee makes the determination referred to in § 24.215.

(A) Where a debarment is based solely on § 24.305(f), the notice of the debarring official's decision shall advise that the debarment is effective for programs or activities of the Department.

(B) [Reserved].

(2) If the debarring official decides not to impose debarment, the respondent shall be given prompt notice of that decision. A decision not to impose debarment shall be without prejudice to a subsequent imposition of debarment by any other agency.

§ 24.400 [Amended]

13. In § 24.400, paragraph (d) is removed.

§ 24.410 [Amended]

14. In § 24.410, paragraph (c) is removed.

15. Section 24.411 is revised to read as follows:

§ 24.411 Notice of suspension.

When a respondent is suspended, notice shall immediately be given:

(a) That the suspension has been imposed;

(b) That the suspension is based on an indictment, conviction, or other adequate evidence that the respondent has committed irregularities seriously reflecting on the propriety of further Federal Government dealings with the respondent;

(c) Describing any such irregularities in terms sufficient to put the respondent on notice without disclosing the Federal Government's evidence;

(d) Of the cause(s) relied upon under § 24.405 for imposing suspension;

(e) That the suspension is for a temporary period pending the completion of an investigation or ensuing legal, debarment or Program Fraud Civil Remedies Act proceedings;

(f) Of the provisions of §§ 24.411 through 24.413 and any other HUD procedures, if applicable, governing suspension decisionmaking; and

(g) Of the effect of the suspension.

16. Section 24.412 is revised to read as follows:

§ 24.412 Opportunity to contest suspension.

(a) *Submission in opposition.* Within 30 days after receipt of the notice of suspension, the respondent may submit, in person, in writing, or through a representative, information and argument in opposition to the suspension.

(1) The information and argument should be addressed to the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

(2) If the respondent does not contest the suspension within the 30 day period, the suspension shall become final.

(3) If the respondent desires a hearing, it shall submit a written request to the Debarment Docket Clerk within the 30-day period following receipt of the notice of suspension.

(4) The parties may agree to engage in an alternative dispute resolution, including informal conference, mediation, conciliation, summary trial with binding decision, minitrial, or use of a settlement judge.

(b) *Additional proceedings as to disputed material facts.* (1) If the suspending official finds that the respondent's submission in opposition raises a genuine dispute over facts material to the suspension, respondent(s) shall be afforded an opportunity to appear with a representative, submit documentary evidence, present witnesses, and confront any witnesses the agency presents, unless:

(i) The action is based on an indictment, conviction or civil judgment; or

(ii) A determination is made, on the basis of Department of Justice advice, that the substantial interests of the Federal Government in pending or contemplated legal proceedings based on the same facts as the suspension would be prejudiced.

(2) A transcribed record of any additional proceedings shall be prepared and made available at cost to the respondent, unless the respondent and the agency, by mutual agreement, waive the requirement for a transcript.

(i) Upon the agreement of the parties, the additional proceedings may be recorded using audiotape without transcription. The audiotape shall be made available at cost to the respondent.

(ii) [Reserved].

17. Section 24.413 is revised to read as follows:

§ 24.413 Suspending official's decision.

The suspending official may modify or terminate the suspension (see § 24.320(c) for reasons for reducing the period or scope of debarment) or may leave it in force. However, a decision to modify or terminate the suspension shall be without prejudice to the subsequent imposition of suspension by any other agency or debarment by any agency. The decision shall be rendered in accordance with the following provisions:

(a) *No additional proceedings necessary.* In actions based upon an indictment, conviction, or civil judgment, in which there is no genuine dispute over material facts, or in which additional proceedings to determine disputed material facts have been denied on the basis of Department of Justice advice, the suspending official shall make a decision on the basis of all the information in the administrative record, including any submission made by the respondent. The decision shall be made within 45 days after receipt of any information and argument submitted by the respondent, unless the suspending official extends this period for good cause.

(1) The suspending official may, in his or her discretion, refer actions based upon an indictment, conviction or civil judgment, or in which there is no genuine dispute over material facts, to a hearing officer or other official for review of the administrative record and appropriate findings. The hearing officer or other official shall issue such findings within 45 days after the referral, and the suspending official shall issue a decision within 15 days after the date of such findings, unless such periods are extended for good cause.

(2) [Reserved].

(b) *Additional proceedings necessary.* (1) In actions in which additional proceedings are necessary to determine disputed material facts, written findings of fact shall be prepared. The suspending official shall base the decision on the facts as found, together with any information and argument submitted by the respondent and any other information in the administrative record.

(2) The suspending official may refer matters involving disputed material facts to another official for findings of fact. The suspending official may reject any such findings, in whole or in part, only after specifically determining them to be arbitrary or capricious or clearly erroneous.

(3) The suspending official may refer disputed material facts and issues of law to a hearing officer for findings of fact and conclusions of law.

(i) No appeal to the Secretary may be taken under §§ 26.24 through 26.26 of this title with respect to any order or decision by a hearing officer or other official.

(ii) The suspending official shall provide the hearing officer or other official with all the information in the administrative record, including any information and argument submitted by

the respondent. The administrative record and any documents admitted at the hearing shall constitute the exhibits in evidence.

(4) Unless the parties mutually agree to extend this period, a proceeding before a hearing officer or other official shall commence within 45 days after referral of disputed material facts and issues of law by the suspending official. The hearing officer or other official shall issue findings of fact within 30 days after the conclusion of such additional proceedings. The time limitations of this subparagraph may be extended upon issuance, by the suspending official, other official or hearing officer, of a written notice describing good cause for such extension.

(5) The suspending official's decision shall be made within 15 days after the hearing officer or other official issues findings of fact.

(c) *Notice of suspending official's decision.* Prompt written notice of the suspending official's decision shall be sent to the respondent.

§ 24.415 [Amended]

18. In § 24.415, paragraph (d) is removed.

§ 24.705 [Amended]

19. In § 24.705, paragraph (c) is amended to remove the words ''regional or field''.

§ 24.710 [Amended]

20. In § 24.710, paragraph (a)(3) is amended to remove the words ''the Deputy Assistant Secretary for Single Family Housing'' and add, in their place, the words ''an Assistant Secretary or Deputy Assistant Secretary''.

21. Section 24.711 is revised to read as follows:

§ 24.711 Notice of limited denial of participation.

A limited denial of participation shall be made effective by advising the participant or contractor, and any specifically named affiliate, by mail, return receipt requested:

(a) That the limited denial of participation is being imposed;

(b) Of the cause(s) under § 24.705 for the sanction;

(c) Of the potential effect of the sanction, including the length of the sanction and the HUD program(s) and geographic area affected by the sanction;

(d) Of the right to request, in writing, within 30 days of receipt of the notice, a conference under § 24.712; and

(e) Of the right to contest the limited denial of participation under § 24.713.

22. Section 24.712 is revised to read as follows:

§ 24.712 Conference.

Within 30 days after receiving a notice of limited denial of participation, the respondent may request a conference with the official who issued such notice. If the respondent does not request a conference, the respondent shall nevertheless have the right to contest the limited denial of participation under the provisions of § 24.713. The conference shall be held within 15 days after the Department's receipt of the request for a conference, unless the respondent waives this time limit. The official who imposed the sanction, or his or her designee, shall preside. At the conference, the respondent may appear with a representative and may present all relevant information and materials to the official or designee. Within 20 days after the conference, or within 20 days after any agreed upon extension of time for submission of additional materials by the respondent, the official or designee shall, in writing, advise the respondent of the decision to terminate, modify, or affirm the limited denial of participation. If all or a portion of the remaining period of exclusion is affirmed, the notice of affirmation shall advise the respondent of the opportunity to contest the notice pursuant to § 24.713. If the official or designee does not issue a decision within the 20-day period, the respondent may contest the sanction under § 24.713.

23. Section 24.713 is revised to read as follows:

§ 24.713 Opportunity to contest the limited denial of participation.

(a) *Submission in opposition.* (1) The respondent may request a hearing before a hearing officer:

(i) Within 30 days after receipt of a notice of affirmation of all or a portion of the remaining period of exclusion under a limited denial of participation; or

(ii) Within 30 days after receipt of a notice of a limited denial of participation where the respondent elects not to request a conference under § 24.712.

(2) The request must be addressed to the Debarment Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

(3) If the respondent does not submit the request within the 30-day period, the sanction shall become final.

(b) *Procedures.* The hearing shall be conducted in accordance with the procedures of §§ 24.313 and 24.314 Within 15 days of the hearing officer's issuance of findings of fact and a recommended decision, the official who issued the limited denial of participation shall issue a decision.

(c) *Effect of suspension or debarment on limited denial of participation.* If a respondent has submitted a request for a hearing pursuant to paragraph (a) of this section, and if the respondent has also received, pursuant to subpart C or D of this part, a notice of proposed debarment or suspension that is based on the same transaction(s) or conduct as the limited denial of participation, the following rules shall apply:

(1) If the respondent has not contested the proposed debarment pursuant to § 24.313(a) or the suspension pursuant to § 24.412(a), the final imposition of the debarment or suspension shall also constitute a final decision with respect to the limited denial of participation to the extent that the debarment or suspension is based on the same transaction(s) or conduct as the limited denial of participation.

(2) If the respondent has contested the proposed debarment pursuant to § 24.313(a), or the suspension pursuant to § 24.412(a), the proceedings shall be consolidated and the debarring or suspending official shall issue a final decision as to both the limited denial of participation and the debarment or suspension.

24. A new section 24.714 is added to read as follows:

§ 24.714 Reporting of limited denial of participation.

When a limited denial of participation has been made final, or the period for requesting a conference pursuant to § 24.712 has expired without receipt of such a request, the official imposing the limited denial of participation shall notify the Director of the Participation and Compliance Division in the Office of Housing of the scope of the limited denial of participation.

BILLING CODE: 4210–32–P

DEPARTMENT OF JUSTICE

28 CFR Part 67

[A.G. Order No. 1972–95]

FOR FURTHER INFORMATION CONTACT: Cynthia J. Schwimer, Director, Financial Management Division, 202–307–3186.

List of Subjects in 28 CFR Part 67

Administrative practice and procedure, Contract programs, Grant programs.

Dated: June 1, 1995.

Janet Reno,

Attorney General.

Title 28 of the Code of Federal Regulations, part 67, is amended as follows:

PART 67—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

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

Authority: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 *et seq.*), Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3711 *et seq.* (as amended); Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601 *et seq.* (as amended); Victims of Crime Act of 1984, 42 U.S.C. 10601 *et seq.* (as amended); 18 U.S.C. 4042; and 18 U.S.C. 4351–4353.

2. Section 67.100 is revised as set forth at the end of the common preamble.

3. Sections 67.105 and 67.110 are amended as set forth at the end of the common preamble.

4. Sections 67.200, 67.215, 67.220, and 67.225 and Appendices A and B to Part 67 are revised as set forth at the end of the common preamble.

BILLING CODE: 4410–18–M

DEPARTMENT OF LABOR

29 CFR Part 98

RIN 1291–AA23

FOR FURTHER INFORMATION CONTACT: Melvin Goldberg, Chief, Division of Procurement and Grant Policy, (202) 219–9174.

List of Subjects in 29 CFR Part 98

Administrative practice and procedure, Contract programs, Grants programs.

Cynthia A. Metzler,

Assistant Secretary for Administration and Management.

Title 27 of the Code of Federal Regulations, part 98, is amended as follows:

PART 98—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 98 continues to read as follows:

Authority: E.O. 12549; Sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, title V, subtitle D; 41 U.S.C. 701 *et seq.*); 5 U.S.C. 552–556.

2. Section 98.100 is revised as set forth at the end of the common preamble.

3. Sections 98.105 and 98.110 are amended as set forth at the end of the common preamble.

4. Sections 98.200, 98.215, 98.220, and 98.225 and Appendices A and B to Part 98 are revised as set forth at the end of the common preamble.

BILLING CODE: 4510–23–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1471

RIN 3076–AA03

FOR FURTHER INFORMATION CONTACT: Peter Regner, (202) 606–8181.

List of Subjects in 29 CFR Part 1471

Administrative practice and procedure, Contract programs, Grant programs.

Floyd L. Wood,

Deputy Director.

Title 29 of the Code of Federal Regulations, part 1471 is amended as follows.

PART 1471—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 1471 continues to read as follows:

Authority: E.O. 12549; secs. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, title V, subtitle D; 41 U.S.C. 701 *et seq.*); Pub. L. 95–524, Oct. 27, 1978, 29 U.S.C. 175a.

2. Section 1471.100 is revised as set forth at the end of the common preamble.

3. Sections 1471.105 and 1471.110 are amended as set forth at the end of the common preamble.

4. Sections 1471.200, 1471.215, 1471.220, and 1471.225 and Appendices A and B to Part 1471 are revised as set forth at the end of the common preamble.

BILLING CODE: 6372–01–M

DEPARTMENT OF THE TREASURY

31 CFR Part 19

RIN 1505–AA57

FOR FURTHER INFORMATION CONTACT: William Murphy at (202) 622–0450.

List of Subjects in 31 CFR Part 19

Administrative practice and procedure, Contract programs, Grant programs.

George Muñoz,

Assistant Secretary for Management.

Title 31 of the Code of Federal Regulations, part 19 is amended as follows.

PART 19—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 19 continues to read as follows:

Authority: E.O. 12549; secs. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 *et seq.*); 31 U.S.C. 321.

2. Section 19.100 is revised as set forth at the end of the common preamble.

3. Sections 19.105 and 19.110 are amended as set forth at the end of the common preamble.

4. Sections 19.200, 19.215, 19.220, and 19.225 and Appendices A and B to Part 19 are revised as set forth at the end of the common preamble.

BILLING CODE: 4810–251–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 25

RIN 0790–AF68

FOR FURTHER INFORMATION CONTACT: Mark Herbst, (703) 614–0205.

ADDITIONAL SUPPLEMENTARY INFORMATION: The Department of Defense adopts this amendment to the Governmentwide common rule on debarment and suspension for nonprocurement transactions. In adopting this rule, the Office of the Secretary of Defense, the Military Departments and the Defense Agencies will maintain uniform policies and procedures that are consistent with those of other Executive Departments and Agencies.

The Department of Defense originally codified this Governmentwide rule on May 26, 1988 (53 FR 19190 and 19204), at 32 CFR Part 280. On February 21,

1992 57 FR 6199), Part 280 was redesignated as Part 25. This rulemaking amends the redesignated part 25.

List of Subjects in 32 CFR Part 25

Administrative practice and procedure, Contract programs, Grant programs.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Title 32 of the Code of Federal Regulations, part 25 is amended as follows.

PART 25—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 25 is revised to read as follows:

Authority: 41 U.S.C. 701 *et seq.*; sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 3 CFR, 1986 Comp.; 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

2. Section 25.100 is revised as set forth at the end of the common preamble.

3. Sections 25.105 and 25.110 are amended as set forth at the end of the common preamble.

4. Sections 25.200, 25.215, 25.220, and 25.225 and Appendices A and B to Part 25 are amended as set forth at the end of the common preamble.

5. Section 25.105 is amended further by adding paragraphs (1) and (2) to the definition for *Agency,* by adding paragraph (3) to the definition for *Debarring official,* and by adding paragraph (3) to the definition for *Suspending official* to read as follows:

§ 25.105 Definitions.

* * * * *

Agency. * * *

(1) The meaning of *agency* in Subpart F of this part, Drug-Free Workplace Requirements, is given at § 25.605(b)(6) and is different than the meaning given in this section for subparts A through E of this part. *Agency* in Subpart F of this part means the Department of Defense or a Military Department only, and does not include any Defense Agency.

(2) [Reserved]

* * * * *

Debarring official. * * *

(3) DoD Components' debarring officials for nonprocurement transactions are the same officials identified in 48 CFR part 209, subpart 209.4, as debarring officials for procurement contracts.

* * * * *

Suspending official. * * *

(3) DoD Components' suspending officials for nonprocurement transactions are the same officials identified in 48 CFR part 209, subpart 209.4, as suspending officials for procurement contracts.

* * * * *

6. Section 25.610 is amended by adding paragraph (b)(1) to read as follows and by reserving paragraph (b)(2):

§ 25.610 Coverage.

* * * * *

(b) * * *

(1) Heads of Defense Agencies, Heads of DoD Field Activities, and their designees are authorized to make such determinations on behalf of the Secretary of Defense.

(2) [Reserved]

* * * * *

7. Section 25.616 is added to read as follows:

§ 25.616 Determinations of grantee violations.

Heads of Defense Agencies, Heads of DoD Field Activities, and their designees are authorized to make determinations of grantee violations under § 25.615.

BILLING CODE 5000.4–M

DEPARTMENT OF EDUCATION

34 CFR Parts 85, 668, and 682

RIN 1880–AA51

FOR FURTHER INFORMATION CONTACT: Mary Jane Kane, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3636 ROB–3, Washington, D.C. 20202–4700. Telephone: 708–7802. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

ADDITIONAL SUPPLEMENTARY INFORMATION: In addition to the amendments made by all participating agencies for the common rule, the Secretary amends the Department's debarment and suspension procedures to reflect certain changes made by the Higher Education Amendments of 1992 to those provisions of title IV of the Higher Education Act of 1965, as amended (title IV, HEA) that govern administrative proceedings to limit or terminate the eligibility of participants in programs under that title. The Secretary also amends subpart G of part 668, which contains the Department's procedures for Fine, Limitation, Suspension, and Termination proceedings, to do the following: make technical amendments to reflect the 1992 amendments to the HEA as they affect actions under that part giving effect to debarments or suspensions; amend subpart G of Part 682 in order to apply the same procedures to debarments or suspensions of lenders or loan servicers under the Federal Family Education Loan Programs (FFELP); and prescribe the weight to be accorded a debarment or suspension by the hearing official in proceedings under both subparts when the termination or suspension is based on an action under Executive Order 12549 (3 CFR, 1986 Comp., p. 189) or the Federal Acquisition Regulation (FAR), 48 CFR part 9, subpart 9.4.

The preamble to the notice of proposed rulemaking (NPRM) provided information about the background for this rulemaking action, including a discussion regarding the need to make changes to the Department's amendments that were made to the Common Rule when it was issued in 1988.

Educational institutions participating in the Title IV, HEA programs must execute a program participation agreement that includes, as Schedule Z, a certification by the institution that neither it nor its principals are currently debarred or suspended, and that it will obtain a similar certification from those parties, such as third-party servicers, with which it contracts. Those parties must notify the institution if they are subsequently debarred or suspended; however, the Department has no written agreement with servicers, or with lenders under the Federal Family Education Loan Program, in which a certification like that made by the institution could be included. The Secretary is considering the desirability of including in Title IV, HEA regulations a requirement that a debarred or suspended lender or servicer promptly report that action to the Department, and will take up this issue at the time that the Interagency Committee considers further amendments to the nonprocurement Debarment and Suspension Common Rule (See the response to the comments of the Administrative Conference of the United States in the preamble to the Common Rule.).

Technical Amendments

The Secretary makes certain technical amendments to the regulations in Part 85 that were not addressed in the preamble or set out in the text of the proposed amendments. These amendments are needed because the final common regulatory amendments

revise entire paragraphs rather than setting out only the text of those changes needed to achieve reciprocity (as was done in the NPRM). As a result, some of the Department's agency-specific amendments to the original debarment and suspension regulation needed to be restated to preserve their inclusion in the revised regulation. Other technical amendments are made to the final regulations to reflect the policies proposed in the NPRM, as discussed in the following analysis of the comments.

Analysis of Comments and Responses

Section 85.201 Treatment of Title IV, HEA Participation.

Comment: Several commenters urged that § 85.201 articulate the specific standards that the Secretary would use to determine whether the procedures used by another Federal agency to debar or suspend a lender, third-party servicer, or institution provided equivalent due process protections to those available under subpart G of Part 668 and Part 682.

Discussion: The comment is well-taken. Prior to the amendments made to the HEA in 1992, proceedings under subpart G of Parts 668 or 682 to suspend or terminate the participation of lenders, servicers, and institutions were required to be conducted ''on the record'' in accordance with the requirements of 5 U.S.C. 554–557. These regulations have since been modified to remove the provisions referring to the proceedings as conducted ''on the record'' and to the presiding official as an ''administrative law judge,'' and may be further modified in the future.

The Secretary intends to give effect to debarments or suspensions by other agencies that provide the same level of due process to affected entities, without requiring that those procedures mirror each feature of subpart G procedures as they now stand or may stand in the future. The subpart G regulations assure affected entities certain procedural protections before actions that had the effect of suspending or terminating their Title IV, HEA participation could become effective. Where those protections have been made available under procedures used by another agency, the affected entity has no claim to any additional procedural protections under Title IV, HEA regulations before these actions are given effect with regard to Title IV, HEA activities.

This approach is consistent with the way courts treat the judgment of an administrative agency acting in an adjudicative capacity, regarding the adjudicative action as sufficient to bar the respondent from relitigating that matter in another proceeding either before the court or another agency. Courts do not require that the procedures used by the deciding agency mirror judicial procedures in order to bar relitigation of the matter, so long as the deciding agency follows typical adjudicative procedures. If adjudicative procedures are followed by the deciding agency, moreover, it is immaterial whether the entity subject to debarment or suspension under those procedures actually contested the action or made use of particular opportunities available under those procedures.

Consistent with the approach taken by courts in deciding whether an agency's procedures suffice to bar relitigation of its decision elsewhere, the Secretary identifies those procedural steps sufficient to make other agency procedures comparable to subpart G procedures as including: (1) written notice specifying the grounds on which action is taken; (2) an opportunity to present evidence and legal argument in opposition to the action and have that opposition considered by an impartial trier of fact not responsible for the investigation or prosecution of the action; (3) an opportunity, where material facts are in dispute, for an oral evidentiary hearing at which the agency bears the burden of persuasion by a preponderance of the evidence, at which the respondent may, where the hearing official considers such testimony needed in light of other available evidence and witnesses, obtain the presence of agency witnesses with personal knowledge of material facts, and of which a transcribed record is available; and (4) a written decision based on the evidence and argument presented that states the facts and legal conclusions on which the decision is based.

In determining whether the other agency's procedure comports with these standards, the Secretary will apply case precedent relevant to characterizing pertinent agency procedures in other, similar contexts. For example, as noted in Withrow v. Larkin, 421 U.S. 57, 56 (1975), an administrative official does not become an investigator or prosecutor simply by the act of determining that a notice of proposed debarment is supported by sufficient allegations and evidence to warrant issuance; that function resembles the traditional judicial function of considering and ruling on motions to dismiss.

Changes: The final rule articulates in § 85.201 the elements described here as those that the Secretary will consider sufficient to provide the same level of procedural due process to make another Federal agency exclusionary action binding with respect to Title IV, HEA participation. Conforming changes are made in §§ 668.82, 682.705, and 682.706. The regulations do not require that these elements be articulated in the other agency's published regulations, and the Secretary intends to consider whether a particular element, although not stated in agency regulations, is, in practice, part of the agency internal process used to decide the case in question. The regulations are further amended to state that the Secretary will notify an affected entity whether the debarment or suspension is regarded by the Department as binding with respect to Title IV, HEA participation, and specify the effective date of the action.

The rule provides no opportunity for an administrative appeal of that determination, and the Secretary therefore considers that determination to be the final action of the Department.

Section 668.90 Initial and Final Decisions.

Comment: Several commenters objected to the proposal in the NPRM to treat a proposed debarment under the FAR, when imposed under procedures considered equivalent to those in subpart G of Parts 668 and 682, as sufficient action to suspend the participation in Title IV, HEA programs of a lender, servicer, or institution.

Discussion: Both a proposed debarment under the FAR and a suspension under E.O. 12549 have the effect of suspending the entity as of the date on which the department or agency initiated the action by sending notice of the action to the respondent. This immediate effect differs from either termination or suspension actions under subpart G of Parts 668 or 682; the latter both assure the entity an opportunity to dispute the action prior to its taking effect, unless an emergency action is simultaneously taken against the entity. However, this difference does not necessarily prevent these debarment or suspension procedures from being considered equivalent to subpart G procedures.

If the agency's procedures otherwise provide the procedural due process protections described in § 85.201, this lack of an opportunity to object prior to the suspension taking effect becomes moot in two instances. First, if the respondent does not object to the action in a timely manner in accordance with the agency procedures, the suspension continues in effect by what can either be characterized as a default judgment or implicit consent by the respondent. Second, if the respondent timely objects

and the debarring or suspending agency issues a decision rejecting that objection, the suspension thereafter continues in effect by virtue of that decision and not by virtue of the mere initiation of the action.

Changes: The final rule provides, in §§ 85.201(a), 668.82(f)(2), and 682.705 that if another agency, using procedures comparable to those under subpart G of Parts 668 or 682, has proposed debarment under the Federal Acquisition Regulation (FAR) or suspended an entity, the Secretary gives effect to that action as suspending the Title IV, HEA participation of a lender, servicer, or institution only after he determines either that the entity has not timely objected to the action, or has objected and received a decision from the agency upholding the action.

In addition, the final regulation has been revised to give finality only to those agency decisions that meet subpart G standards. Sections 668.90, 682.705 and 682.706 have been revised to provide that a debarment or suspension by another agency under procedures that the Secretary determines do not meet these standards does not bar the affected entity from contesting the grounds and justification for the suspension or debarment under subpart G procedures. However, the other agency's decision is at very least strong evidence that debarment or suspension is warranted, and the final regulations now provide that the decision constitutes a *prima facie* case that the comparable action is warranted under Department procedures.

Therefore, although the designated Department official continues to bear the burden of persuasion in actions to debar, terminate, or suspend a lender, servicer, or institution, the fact of suspension or debarment by another agency shifts to the respondent the burden of producing some credible evidence that the action is not warranted with respect to the Title IV, HEA programs. The designated Department official may then introduce rebuttal evidence to sustain his or her burden of proof; that evidence may include the evidence on which the other Federal agency relied in imposing the debarment or suspension.

Sections 668.90, 682.705, 682.706 Effective Date and Duration of Suspension or Termination Based on Suspension or Debarment

Comment: Several commenters urged that the regulations clarify the period for which the suspension or termination taken on the basis of a debarment, suspension or proposed debarment would be effective.

Discussion: Subpart G of Part 668, as amended April 29, 1994, 59 FR 22444, provides in § 668.82(f)(2) that a suspension by another agency under procedures comparable to those in subpart G suspends the participation of an institution or third-party servicer for 60 days from the date of that agency's action, unless the Secretary commences a limitation or termination action under subpart G within that period. In other instances, the commencement and duration of a suspension imposed by the Secretary is stated in § 668.85(b), which provides that the suspension commences 20 days after notice of the proposed suspension is mailed, unless the respondent timely objects and requests a hearing, and expires 60 days after it takes effect unless the Secretary commences a limitation or termination action within that period.

The duration of a termination on the basis of a debarment is similarly addressed in current §§ 668.82(f)(1) and 668.96(b)(2), which provide that a debarment under procedures comparable to subpart G procedures is effective as a termination for at least the duration of the debarment or 18 months, whichever is greater, after which the institution or servicer may request reinstatement.

The commencement and duration of suspensions and terminations with respect to lenders and loan servicers are similarly stated in current regulations. 34 CFR §§ 682.705, 682.706, and 682.711. These regulations do not specifically address the commencement and duration of a suspension or termination action taken based on actions pursuant to Executive Order 12549 or the FAR. Generally, current regulations provide and the proposed rule provided that a suspension or termination based on a suspension or debarment by another agency under procedures comparable to those provided under the respective subparts G of 34 CFR Parts 668 and 682 is effective, with respect to Title IV, HEA program transactions, on the date on which the other agency's action is effective. Under the proposed rule, the Secretary would notify the affected party whether that action had been taken under subpart G—type procedures. If the debarment or suspension had been taken under such procedures, the action would have been effective with respect to Title IV, HEA program transactions already taken by the party; if it had not, the Secretary would then bring an action under subpart G to suspend or terminate the party's participation; unless emergency action were taken, Title IV, HEA program transactions by that party would not be effected until the subpart G proceeding was complete. Under the proposed rule, then, the debarred or suspended party would not know whether it could properly initiate new Title IV, HEA program transactions—awarding and disbursing grant, loan, or work study funds, or certifying new loan applications—after the date of the other agency action until it received notice of the Secretary's determination.

The Secretary has decided to change this outcome so that a debarment or suspension entered by another agency under procedures that meet the standards in § 85.201 will not be effective against an institution or other affected entity until 20 days after the Department mails notice of its determination that the other agency's action would be recognized under Title IV, HEA.

Changes: Section 85.201 is amended in the final rule to provide that where the Secretary gives effect to a suspension or debarment pursuant to the action of another agency, the notice of that determination will state the effective date and duration of those actions. The effective date in such instances will be 20 days after the date the notice is mailed. No revision is needed to address the commencement and duration of other actions initiated by the Secretary consistent with subpart G of Part 668. Changes are made in 34 CFR §§ 682.705 and 682.711 to conform the periods of exclusion from FFELP participation to those under Part 668. In addition, the final rule revises §§ 85.201 and 85.220 to clarify the effect of debarment on Title IV, HEA participation by stating that the particular transactions from which a debarred or suspended entity is excluded under Title IV, HEA are the loans, grants, or work study assistance disbursed, awarded, acquired or serviced by that entity. Thus, only those transactions listed in revised § 85.201 are fully subject to debarment and termination. The revised § 85.220 also addresses the effect of the debarment and termination on continuing transactions by referring to current provisions of 34 CFR 668.26, 682.702, and 668.94, which describe the kinds of actions that an affected party may take after the effective date of its termination.

List of Subjects in 34 CFR Part 85

Administrative practice and procedure, Contract programs, Grant programs, Grant administration Grant programs—education.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities,

Consumer protection, Grant programs—education, Loan programs—education, Student aid.

List of Subjects in 34 CFR Part 682

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Richard W. Riley,

Secretary of Education.

Title 34 of the Code of Federal Regulations, Parts 85, 668, and 682 are amended as follows.

PART 85—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 85 is revised to read as follows:

Authority: 20 U.S.C. 1221e-3 and 3474; 41 U.S.C. 701 *et. seq.;* sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327; E.O. 12549, 3 CFR, 198.6 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

2. Section 85.100 is revised as set forth at the end of the common preamble.

3. Sections 85.105 and 85.110 are amended as set forth at the end of the common preamble.

4. Sections 85.200, 85.215, 85.220, and 85.225 and Appendices A and B to Part 85 are revised as set forth at the end of the common preamble.

5. Section 85.100 is further amended by revising paragraph (a) and the authority citation to read as follows:

§ 85.100 Purpose.

(a) Executive Order (E.O.) 12549 provides that, to the extent permitted by law, Executive departments and agencies shall participate in a governmentwide system for nonprocurement debarment and suspension. A person who is debarred or suspended shall be excluded from Federal financial and nonfinancial assistance and benefits under Federal programs and activities. Except as provided in § 85.200, Debarment or Suspension, § 85.201, Treatment of Title IV HEA participation, and § 85.215, Exception provision, debarment or suspension of a participant in a program by one agency shall have governmentwide effect.

* * * * *

(Authority: E.Os. 12549 and 12689; 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327)

6. Section 85.200 is further amended by revising paragraphs (a) and (b) and the authority citation to read as follows:

§ 85.200 Debarment or suspension.

(a) *Primary covered transactions.* Except to the extent prohibited by law and subject to § 85.201, Treatment of Title IV HEA participation, persons who are debarred or suspended shall be excluded from primary covered transactions as either participants or principals throughout the executive branch of the Federal Government for the period of their debarment, suspension or the period they are proposed for debarment under 48 CFR part 9, subpart 9.4. Accordingly, ED shall not enter into primary covered transactions with such excluded persons during such period, except as permitted pursuant to § 85.215.

(b) *Lower tier covered transactions.* Except to the extent prohibited by law and subject to § 85.201, Treatment of Title IV HEA participation, persons who have been proposed for debarment under 48 CFR part 9, subpart 9.4, debarred or suspended shall be excluded from participating as either participants or principals in all lower tier covered transactions (see § 85.110(a)(1)(ii)) for the period of their exclusion. Such persons shall also be excluded from all contracts to provide federally-required audit services, regardless of contract amount.

* * * * *

(Authority: E.Os. 12549 and 12689; 20 U.S.C. 1082, 1094, 1221e-3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327)

7. Section 85.201 is revised to read as follows:

§ 85.201 Treatment of Title IV, HEA participation.

(a)(1) The debarment of an educational institution, lender, or third party servicer under E.O. 12549 by an agency other than the Department pursuant to procedures described in paragraph (c) of this section terminates the eligibility of the entity to enter into transactions under any student financial assistance program authorized by Title IV of the Higher Education Act of 1965, as amended, for the duration of the debarment.

(2)(i) The suspension of an educational institution, lender, or servicer under E.O. 12549 or pursuant to a proposed debarment under the Federal Acquisition Regulation (FAR), 48 CFR part 9, subpart 9.4, by an agency other than the Department under procedures described in paragraph (c) of this section suspends the eligibility of the entity to enter into transactions under any student financial assistance program authorized by Title IV of the Higher Education Act of 1965, as amended.

(ii) The suspension of Title IV eligibility as a result of a suspension described in paragraph (a)(2) of this section lasts for a period of 60 days, beginning on the later of the date of the decision of the suspending official of the other agency in response to an objection to the suspension or, if no objection to that suspension was raised, on the 35th day after the notice of suspension was issued by that agency. The suspension described here does not expire on the 60th day if the suspended entity and the Secretary agree to an extension or if the Secretary initiates a limitation or termination proceeding against the entity under 34 CFR Part 668, subpart G, or Part 682, subpart G, as applicable, prior to the 60th day.

(3) A transaction under a Title IV, HEA program includes—

(i) The disbursement or delivery of funds provided under a Title IV, HEA program to a student or borrower;

(ii) The certification by an educational institution of eligibility for a loan under at Title IV, HEA program;

(iii) The acquisition of a loan made under a Title IV, HEA program; and

(iv) The acquisition of any servicing responsibility for a grant, loan, or work study assistance under a Title IV, HEA program.

(b)(1) The Secretary notifies the institution, lender, or servicer that has been debarred or suspended by another Federal agency whether the debarment or suspension takes effect in accordance with paragraph (a) of this section and states the effective date and duration of that action.

(2)(i) If the Secretary proposes to give effect to a suspension or debarment against an educational institution, lender, or third-party servicer that does not meet the standards in paragraph (c) of this section, the Secretary initiates a debarment or suspension proceeding under § 85.316 or § 85.414, respectively, against that entity.

(ii) The effective date of a debarment or suspension that takes effect under paragraph (a) of this section shall be 20 days after the date the notice is mailed. The Secretary gives effect to a suspension described in paragraph (a)(2) of this section only after the suspending official of the other agency has issued a decision in response to an objection to the suspension or, if no objection to that suspension was raised, on the 35th day after the notice of suspension was issued by that agency. The suspension lasts for a period of 60 days, beginning on the effective date specified in the notice, unless the suspended entity and

the Secretary agree to an extension or the Secretary initiates a limitation or termination proceeding against the entity under 34 CFR Part 668, subpart G, or Part 682, subpart G, as applicable, prior to the 60th day.

(3) If an institution, lender, or a third party servicer is suspended by ED or another Federal agency, the Secretary determines whether grounds exist for the initiation of an emergency action against the entity under 34 CFR Part 668, subpart G, or Part 682, subpart G, as applicable.

(c) An institution, lender, or third-party servicer that is debarred or suspended by another agency, or proposed for debarment under 48 CFR part 9, subpart 9.4 by another Federal agency, is debarred, terminated or suspended, as provided under this part, 34 CFR part 668, and 34 CFR part 682, as applicable, if that agency took this action under procedures that afforded the excluded party the following:

(1) Notice of the proposed action;

(2) An opportunity to submit and have considered evidence and argument in opposition to the proposed action;

(3) An opportunity to obtain a hearing on its objection—

(i) At which the agency bears the burden of persuasion, by a preponderance of the evidence;

(ii) Conducted by an impartial person who does not also exercise prosecutorial or investigative responsibilities with respect to that action;

(iii) At which the entity may, unless the hearing official determines that no genuine dispute of material fact exists, present testimony and secure the attendance of those agency witnesses with personal knowledge of material facts whose testimony the hearing official determines to be needed, in light of other available evidence and witnesses; and

(iv) Of which a transcribed record is available upon request; and

(4) A written decision stating findings of fact and conclusions of law on which the decision is rendered.

(d) The Title IV, HEA programs are those programs listed in 34 CFR 668.1(c).

(**Authority:** E.Os. 12549 and 12689; 20 U.S.C. 1082, 1094, 1221e–3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327)

8. Section 85.220 is revised to read as follows:

§ 85.220 Continuation of covered transactions.

(a) Notwithstanding the debarment, suspension, proposed debarment under 48 CFR part 9, subpart 9.4, determination of ineligibility, or voluntary exclusion of any person by an agency and except as provided in § 85.201, agencies and participants may continue covered transactions in existence at the time the person was debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, declared ineligible, or voluntarily excluded. A decision as to the type of termination action, if any, to be taken should be made only after thorough review to ensure the propriety of the proposed action.

(b) Agencies and participants shall not renew or extend covered transactions (other than no-cost time extensions) with any person who is debarred, suspended, proposed for debarment under 48 CFR part 9, subpart 9.4, ineligible or voluntary excluded, except as provided in § 85.215.

(c) An educational institution, lender, or servicer may continue a Title IV, HEA transaction after the effective date of a debarment as determined under § 85.201 only as provided in 34 CFR 668.26, 682.702, or 668.94, as applicable.

(**Authority:** E.Os. 12549 and 12689; 20 U.S.C. 1082, 1094, 1221e–3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327)

9. Section 85.314 is amended by revising paragraph (d) and the authority citation to read as follows:

§ 85.314 Debarring official's decision.

* * * * *

(d) Notice of debarring official's decision.

(1) If the debarring official decides to impose debarment, the respondent shall be given prompt notice—

(i) Referring to the notice of proposed debarment;

(ii) Specifying the reasons for debarment;

(iii) Stating the period of debarment, including effective dates; and

(iv) Advising that the debarment is effective for covered transactions throughout the executive branch of the Federal Government unless an agency head or authorized designee makes the determination referred to in § 85.215.

(2) If the debarring official decides not to impose debarment, the respondent shall be given prompt notice of that decision. A decision not to impose debarment shall be without prejudice to a subsequent imposition of debarment by any other agency.

(Authority: E.Os. 12549 and 12689; 20 U.S.C. 1082, 1094, 1221e–3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327)

10. Section 85.316 is revised to read as follows:

§ 85.316 Procedures for Title IV, HEA debarments.

(a) If the Secretary initiates a debarment action against an educational institution, lender or third-party servicer under E.O. 12549, the Secretary uses the following procedures in connection with the debarment to ensure that the debarment also precludes participation under Title IV of the Higher Education Act of 1965, as amended:

(1) The procedures in § 85.312, Notice of proposed debarment, and § 85.314(d), Notice of debarring official's decision.

(2) Instead of the procedures in § 85.313 and § 85.314(a)–(c), the procedures in 34 CFR part 668, subpart G, or 34 CFR part 682, subpart G, as applicable.

(b) On appeal from a decision debarring an educational institution, lender, or third-party servicer, the Secretary issues a final decision after all parties have filed their written materials with the Secretary.

(c) In a proceeding under this section, in addition to the findings and conclusions required by 34 CFR part 668, subpart G, or 682, subpart G, the debarring official, and, on appeal, the Secretary, determine whether there exist sufficient grounds for debarment as set forth in § 85.305.

(Authority: E.Os. 12549 and 12689; 20 U.S.C. 1082, 1094, 1221e–3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327)

11. Section 85.414 is revised to read as follows:

§ 85.414 Procedures for Title IV, HEA suspensions under E.O. 12549.

(a) *Title IV E.O. 12549 suspensions.* (1) If the Secretary initiates a suspension against an educational institution, lender or third-party servicer under E.O. 12549, the Secretary uses the following procedures in connection with the suspension to ensure that the suspension precludes participation under Title IV of the Higher Education Act of 1965, as amended:

(i) The procedures in § 85.411, Notice of suspension.

(ii) Instead of the procedures in §§ 85.412, 85.413 and 85.415, the procedures in 34 CFR part 668, subpart G, or 34 CFR part 682, subpart G, as applicable.

(2) In a proceeding under this section, in addition to the findings and conclusions required by 34 CFR part 668, subpart G, or 34 CFR part 682, subpart G, the suspending official, and, on appeal, the Secretary, determine whether there exist sufficient grounds for suspension as set forth in § 85.405.

(b) *Continued assistance under Title IV, HEA.* The institution, lender, or

third-party servicer may continue its participation in the Title IV programs until the procedures described in paragraph (a) of this section, except for those relating to appeals to the Secretary, have been completed, unless the Secretary takes an emergency action under 34 CFR part 668, subpart G, or 34 CFR part 682, subpart G.

(Authority: E.Os. 12549 and 12689; 20 U.S.C. 1082, 1094, 1221e–3 and 3474; and Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327)

12. Insert ''ED'' where [agency] appears in § 85.215.

13. The authority citation for sections 85.105, 85.110, 85.115, 85.205, 85.210, 85.215, 85.225, 85.300, 85.305, 85.310, 85.311, 85.312, 85.313, 85.315, 85.320, 85.325, 85.400, 85.405, 85.410, 85.411, 85.412, 85.413, 85.415, 85.420, 85.500, 85.505, and 85.510, is revised to read as follows:

(Authority: E.Os. 12549 and 12689; 20 U.S.C. 1221e–3 and 3474; Sec. 2455, Pub. L. 103–355, 108 Stat. 3243 at 3327)

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority for part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141, unless otherwise noted.

2. Section 668.82 is amended by removing from paragraph (f)(1) introductory text the words ''that comply with 5 U.S.C. 554–557 (formal adjudication requirements under the Administrative Procedure Act),'' and adding, in their place, ''described in 34 CFR 85.201(c)'' by removing the words ''by the Secretary'' in paragraphs (f)(1) introductory text and (f)(2)(i) introductory text, by removing from paragraph (f)(2)(i) introductory text ''that comply with 5 U.S.C. 554–557'' and adding, in their place, ''described in 34 CFR § 85.201(c)'' and by revising paragraph (f)(2)(ii) introductory text and adding a new paragraph (f)(3), to read as follows:

§ 668.82 Standard of conduct.

* * * * *

(f) * * *

(2) * * *

(ii) A suspension described in paragraph (f)(2) of this section lasts for a period of 60 days, beginning on the effective date specified in the notice by the Secretary under 34 CFR 85.201(b), unless—

* * * * *

(3) A debarment or suspension not described in (f)(1) or (f)(2) of this section of a participating institution or third-party servicer by another Federal agency constitutes prima facie evidence in a proceeding under this subpart that cause for suspension or debarment and termination, as applicable, exists.

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAMS

1. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

2. Section 682.705 is amended by redesignating paragraphs (c)(6), (c)(7), and (c)(8) as paragraphs (c)(7), (c)(8), and (c)(9), respectively, and adding new paragraphs (a)(3) and (c)(6), to read as follows:

§ 682.705 Suspension proceedings.

(a) * * *

(3) A suspension described in 34 CFR 85.201(c) lasts for a period of 60 days, beginning on the effective date specified in the notice by the Secretary under 34 CFR 85.201(b), except as provided in paragraph (a)(1)(i) or (ii) of this section.

* * * * *

(c) * * *

(6) In a suspension action against a lender or third-party servicer based on a suspension under Executive Order 12549 or a proposed debarment under the Federal Acquisition Regulation (FAR), 48 CFR part 9, subpart 9.4, that does not meet the standards described in 34 CFR 85.201(c), the presiding official finds that the suspension or proposed debarment constitutes prima facie evidence that cause for suspension under this subpart exists.

* * * * *

3. Section 682.706 is amended by redesignating paragraphs (b)(7), (b)(8), and (b)(9) as paragraphs (b)(8), (b)(9), and (b)(10), respectively, and adding a new paragraph (b)(7), to read as follows:

§ 682.706 Limitation or termination proceedings.

* * * * *

(b) * * *

(7) In a termination action against a lender or third-party servicer based on a debarment under Executive Order 12549 or under the Federal Acquisition Regulation (FAR), 48 CFR part 9, subpart 9.4 that does not meet the standards described in 34 CFR 85.201(c), the presiding official finds that the debarment constitutes prima facie evidence that cause for debarment and termination under this subpart exists.

* * * * *

4. Section 682.711 is amended by revising paragraph (a) to read as follows:

§ 682.711 Reinstatement after termination.

(a) A lender or third-party servicer whose eligibility has been terminated by the Secretary in accordance with the procedures of this subpart may request reinstatement of its eligibility after the later of—

(1) Eighteen months from the effective date of the termination; or

(2) The expiration of the period of debarment under Executive Order 12459 or the Federal Acquisition Regulation (FAR), 48 CFR part 9, subpart 9.4.

* * * * *

BILLING CODE: 4000–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1209

RIN 3095–AA38

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka, Policy and Information Resources Management, 301–713–6730.

List of Subjects in 36 CFR Part 1209

Administrative practice and procedure, Contract programs, Grant programs—archives and records.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

Title 36 of the Code of Federal Regulations, part 1209 is amended as follows.

PART 1209—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 1209 continues to read as follows:

Authority: E.O. 12549; sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 101–690, title V, subtitle D; 41 U.S.C. 701 *et seq.*); 44 U.S.C. 2104(a).

2. Section 1209.100 is revised as set forth at the end of the common preamble.

3. Section 1209.105 and 1209.110 are amended as set forth at the end of the common preamble.

4. Sections 1209.200, 1209.215, 1209.220, and 1209.225 and Appendices A and B to Part 1209 are revised as set forth at the end of the common preamble.

BILLING CODE: 7515–01

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 44

FOR FURTHER INFORMATION CONTACT: Ms. Judith A. Caden, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 273–7368.

List of Subjects in 38 CFR Part 44

Administrative practice and procedure, Contract programs, Grant programs, Housing, Loan Programs-housing and community development, Reporting and recordkeeping requirements, Veterans.

Jesse Brown,

Secretary of Veterans Affairs.

Title 38 of the Code of Federal Regulations, part 44 is amended as follows.

PART 44—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 44 continues to read as follows:

Authority: 38 U.S.C. 501(a) and 3703(c); E.O. 12549; E.O. 12689.

2. Section 44.100 is revised as set forth at the end of the common preamble.

3. Sections 44.105 and 44.110 are amended as set forth at the end of the common preamble.

4. Sections 44.200, 44.215, 44.220, and 44.225 and Appendices A and B to Part 44 are revised as set forth at the end of the common preamble.

BILLING CODE: 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 32

RIN 2030–AA39

FOR FURTHER INFORMATION CONTACT: Robert F. Meunier, Director, Suspension and Debarment Division (3902F), 401 M Street, S.W., Washington, D.C. 20460, telephone: (202) 260–8025.

ADDITIONAL SUPPLEMENTARY INFORMATION: Inquiries may also be submitted via electronic mail (e-mail) to: meunier.robert@epamail.epa.gov. Electronic inquiries must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Inquiries will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. No Confidential Business Information (CBI) should be submitted through e-mail.

List of Subjects in 40 CFR Part 32

Administrative practice and procedure, Contract programs, Debarment and suspension, Grant programs.

Dated: May 26, 1995.

Carol M. Browner,

Administrator.

Title 40 of the Code of Federal Regulations, Part 32 is amended as follows:

PART 32—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for Part 32 is revised to read as follows:

Authority: 7 U.S.C. 136 *et seq.;* 15 U.S.C. 2601 *et seq.;* 20 U.S.C. 4011 *et seq.;* 33 U.S.C. 1251 *et seq.;* 41 U.S.C. 701 *et seq.;* 42 U.S.C. 300f, 4901, 6901, 7401, 9801; sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 3 CFR, 1986 Comp.; 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

2. Section 32.100 is revised as set forth at the end of the common preamble.

3. Sections 32.105 and 32.110 are amended as set forth at the end of the common preamble.

4. Sections 32.200, 32.215, 32.220, and 32.225 and Appendices A and B to Part 32 are revised as set forth at the end of the common preamble.

BILLING CODE: 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–68

RIN 3090–AF65

FOR FURTHER INFORMATION CONTACT: Donald Suda, (202) 501–1224.

List of Subjects in 41 CFR Part 105–68

Administrative practice and procedure, Contract programs, Grant programs.

Roger W. Johnson,

Administrator.

Title 41 of the Code of Federal Regulations, Part 105–68 is amended as follows.

PART 105–68—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 105–68 continues to read as follows:

Authority: E.O. 12549; sec. 5151–5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701 *et seq.*); 40 U.S.C. 486(c).

2. Section 105–68.100 is revised as set forth at the end of the common preamble.

3. Sections 105–68.105 and 105–68.110 are amended as set forth at the end of the common preamble.

4. Sections 105–68.200, 105–68.215, 105–68.220, and 105–68.225 and Appendices A and B to Part 105–68 are revised as set forth at the end of the common preamble.

BILLING CODE: 6820–61–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 12

RIN 1090–AA49

FOR FURTHER INFORMATION CONTACT: Dean A. Titcomb, (Chief, Acquisition and Assistance Division), (202) 208–6431.

ADDITIONAL SUPPLEMENTARY INFORMATION: The Department published an agency-specific preamble as part of the final nonprocurement debarment and suspension common rule on May 26, 1988 (53 FR 19159), which indicated that, due to the expanded scope of transactions covered under the rule, coverage of its nonprocurement debarment and suspension system was limited to transactions included in section 12.110(a)(1) of its proposed rule (52 FR 39042).

The Department also indicated that a review of the Department's other nonprocurement program activities would be made to determine whether such activities would be included in the coverage. The review was made; however, plans to issue a notice of proposed rulemaking to obtain public comment on covered transactions on or before October 1, 1988, were dropped.

Issues of concern to the Department were addressed through the subcommittee of the Interagency Committee on Debarment and Suspension (Interagency Group) which reviewed the scope of the nonprocurement debarment system. Although the revision of the proposed

common rule did not address the issue of scope, the Department proposed to include the results of the resolution of this issue as part of the December 20, 1994, publication as discussed below.

New exceptions for certain types of transactions under natural resource management programs were proposed. These exceptions attempted to make clear that permits, licenses, exchanges and other acquisitions of real property, rights-of-way, and easements, under natural resource management programs were excluded from coverage.

For example, when the Federal Government seeks to acquire real property, including through use of an exchange of real property elsewhere, the transaction will not be subject to these regulations. In such cases, where the success of the agency program depends on a specific parcel of land, the application of the debarment and suspension system could harm the public interest. Moreover, public land management activities require the use of certain transactions for land and resource management without regard to the identity of the recipient. Accordingly, range management transactions, such as grazing permits and rights-of-way, are excluded by the proposed exception language. Similarly, virtually all recreation management and public land access transactions are not covered.

In addition, the Department proposed to amend section 12.110(a)(3) of its final rule to include nonprocurement debarment system coverage for Federal acquisition of a leasehold interest or any other interest in real property, concession contracts, and disposition of Federal real and personal property and natural resources.

The scope of the Department's nonprocurement debarment system will include transactions associated with natural resources management programs and the disposition of natural resources with the following exceptions: permits, licenses, exchanges and other acquisitions of real property, rights-of-way, easements, mineral patent claims administered by the Bureau of Land Management and water service contracts and repayment contracts awarded by the Bureau of Reclamation. Patents issued under the Mining Law of 1872, 30 U.S.C. 22 *et seq.*, as amended are statutory entitlements and, therefore, are exempt under the terms of Executive Order 12549. The award of water service contracts and repayment contracts is mandatory, provided by the Reclamation Project Act of 1939, as amended, set forth at 43 U.S.C. 485.

One comment was received from the private sector, and one comment was received from another Federal agency in response to the proposed rule. The private sector commenter stated that the Department's proposal to include nonprocurement debarment system coverage for disposition of Federal real and personal property and natural resources was unwarranted and that the preamble provided no articulated basis for the proposal. The commenter also stated that the Department was under no statutory compulsion to make this change. The commenter stated that there is no policy basis for including asset sales in the nonprocurement debarment system, particularly given the expanded scope of the system to include reciprocal procurement and nonprocurement government-wide effect. The commenter expressed the view that including asset sales in the nonprocurement debarment system works a punishment on potential buyers who would be deemed ineligible, contrary to the express purposes of the nonprocurement system.

The amendment of section 12.110(a)(3) as to covered transactions does not add disposition of real and personal property and natural resources. It is our interpretation that these transactions were already covered as part of the general language adopted in the final common rule published on May 26, 1988. Because of new exceptions from coverage, as set forth in section 12.110(a)(2), however, the language in section 12.110(a)(3) was added to attempt to clarify those covered transactions previously excluded.

The U.S. Forest Service (USFS) addressed the compatibility of this rule with the debarment provisions of the Forest Resources Conservation and Shortage Relief Act of 1990 (Export Act). USFS states that in enacting the Export Act, Congress ''anticipated no governmentwide effect would be imposed on persons debarred pursuant to the Export Act.'' USFS relies for this proposition solely on the provision of the Export Act that debarment thereunder may be decided only by the Secretaries of Commerce and of the Interior. We reject this interpretation. By participating in this common rule making, agencies are agreeing only to give reciprocal effect to debarments and suspensions effectuated by other agencies. This is not the same as the other agencies debarring or suspending a party under the Export Act. Similarly, the Export Act gives both Commerce and Interior discretion to deny applications for unprocessed timber that are filed under the Export Act. Accordingly, we see no prohibition in that Act against giving reciprocal effect to governmentwide debarments or suspensions to applications under the Export Act.

USFS also stated a concern that due to differing requirements of this rule and the Export Act, separate debarment systems will have to be maintained, and that all timber-related debarments should be ''under one system.'' We do not understand what USFS intends when it refers to separate debarment systems. As long as the source of the debarment is apparent, we see no reason why the differing effects of debarments under the Export Act and this rule would require the maintenance of two separate systems.

Next, USFS queries whether sale of miscellaneous forest products, such as Christmas trees, posts and poles, and boughs, will be covered. We would exclude such sales as incidental benefits.

Finally, USFS recommends that there should only be a self-certification process for individuals and families, not also a check by Federal agencies of the *List of Parties Excluded from Federal Procurement and Nonprocurement Programs* for the individual or corporation and all its aliases or affiliates. We believe that Federal agencies have an obligation to ensure that the Federal Government is only doing business with responsible parties; therefore, we are not changing the Common Rule's requirement for Federal agencies to check the List.

Therefore, the Department will exclude all transactions concerning permits, licenses, exchanges and other acquisitions of real property, rights-of-way, easements, mineral patent claims, water service contracts, and repayment contracts from its nonprocurement debarment and suspension system.

A corresponding change is also being made in Section 12.200(c) to add a reference to these excluded transactions.

List of Subjects in 43 CFR Part 12

Administrative practice and procedure, Contract programs, Cooperative agreements, Grant programs, Grants administration, Reporting and recordkeeping requirements.

Dated: May 25, 1995.

Bonnie R. Cohen,

Assistant Secretary—Policy, Management and Budget.

Title 43 of the Code of Federal Regulations, part 12 is amended as follows:

PART 12—ADMINISTRATIVE AND AUDIT REQUIREMENTS AND COST PRINCIPLES FOR ASSISTANCE PROGRAMS

1. The authority for part 12 is revised to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 6101 note, 7501; 41 U.S.C. 252a, 701 *et seq.*; sec. 501, Pub.L. 103–316, 108 Stat. 1723; sec. 307, Pub.L. 103–332, 108 Stat. 2499; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12674, 3 CFR, 1989 Comp., 215; E.O. 12689, 3 CFR, 1989 Comp., p. 235; E.O. 12731, 3 CFR, 1990 Comp., p. 306; OMB Circular A–102; OMB Circular A–110; OMB Circular A–128; and OMB Circular A–133.

Subpart D—Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

2. Section 12.100 is revised as set forth at the end of the common preamble.

3. Sections 12.105 and 12.110 are amended as set forth at the end of the common preamble.

4. Sections 12.200, 12.215, 12.220, and 12.225 and Appendices A and B to Subpart D of Part 12 are revised as set forth at the end of the common preamble.

5. Section 12.110 is further amended by adding paragraphs (a)(2)(ix), (x), and (xi), and revising paragraph (a)(3) to read as follows:

§ 12.110 Coverage.

(a) * * *

(2) * * *

(ix) Under natural resources management programs, permits, licenses, exchanges and other acquisitions of real property, rights-of-way, and easements.

(x) Transactions concerning mineral patent claims entered into pursuant to 30 U.S.C. 22 *et seq.*

(xi) Water service contracts and repayment contracts entered into pursuant to 43 U.S.C. 485.

(3) Department of the Interior covered transactions. These Department of the Interior regulations apply to the Department's domestic assistance covered transactions (whether by a Federal agency, recipient, subrecipient, or intermediary) including, except as noted in paragraph (a)(2) of this section: grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies, insurance, payments for specified use, donation agreements, Federal acquisition of a leasehold interest or any other interest in real property, concession contracts, dispositions of Federal real and personal property and natural resources, subawards, subcontracts and transactions at any tier that are charged as direct or indirect costs, regardless of type (including subtier awards under awards which are statutory entitlement or mandatory awards), and any other nonprocurement transactions between the Department and a person.

* * * * *

6. Section 12.200 is further amended by adding paragraphs (c) (8), (9), (10), and (11) as follows:

§ 12.200 Debarment or suspension.

* * * * *

(c) * * *

(8) Transactions entered into pursuant to Public Law 93–638, 88 Stat. 2203.

(9) Under natural resources management programs, permits, licenses, exchanges and other acquisitions of real property, rights-of-way, and easements.

(10) Mineral patent claims entered into pursuant to 30 U.S.C. 33 *et seq.*

(11) Water service contracts and repayment contracts entered into pursuant to 43 U.S.C. 485.

BILLING CODE: 4310–RF–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 17

FOR FURTHER INFORMATION CONTACT: Robert R. Boyer, Operations Support Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2976.

List of Subjects in 44 CFR Part 17

Administration practice and procedure, Contract programs, Drug abuse, Grant programs, Loan programs, Reporting and recordkeeping requirements.

Dated: June 7, 1995.

Harvey G. Ryland,

Deputy Director.

Title 44 of the Code of Federal Regulations, part 17 is amended as follows.

PART 17—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 17 is revised to read as follows:

Authority: 41 U.S.C. 701 *et seq.;* E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

2. Section 17.100 is revised as set forth at the end of the common preamble.

3. Sections 17.105 and 17.110 are amended as set forth at the end of the common preamble.

4. Sections 17.200, 17.215, 17.220, and 17.225, and Appendices A and B to part 17 are revised as set forth at the end of the common preamble.

BILLING CODE 6718–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 76

RIN 0991–AA78

FOR FURTHER INFORMATION CONTACT: Neil Steyskal, Office of Grants and Acquisition Management, 202–690–5729; TDD 202–690–6415.

ADDITIONAL SUPPLEMENTARY INFORMATION: On January 29, 1992, HHS published a final rule governing the Department's exclusion and civil monetary penalty authorities, as codified by the Medicare and Medicaid Patient and Program Protection Act of 1987, Pub. L. 100–93. These authorities have been delegated to the Inspector General for implementation. 42 CFR 1001.1901 implements Executive Order 12549 which provides that debarments, suspensions, and other exclusionary actions taken by any Federal agency will have governmentwide effect with respect to all nonprocurement programs. Specifically, 42 CFR 1001.1901 makes clear that exclusions from Medicare and State health care programs under Title XI of the Social Security Act, 42 U.S.C. 1320a–7, are also applicable with respect to ''all other Federal nonprocurement programs.''

With the enactment of the Federal Acquisition Streamlining Act of 1994 (FASA), Pub. L. 103–355, Congress mandated and expanded the governmentwide effect of debarments, suspensions, and other exclusionary actions to procurement as well as nonprocurement programs. In addition to the amendments to the Common Rule which the enactment of FASA necessitates, we are also taking this opportunity to codify in the Department's adoption of the Common Rule, the Department's policy that exclusions imposed under Title XI of the Social Security Act have the same governmentwide effect as debarments initiated under the Common Rule, and shall be recognized and given effect, not only for all Departmental programs, but also for all other Executive Branch procurement and nonprocurement programs and activities. Moreover,

because full due process is provided under the statute and the implementing regulations for those excluded under Title XI, including the right to an administrative hearing and judicial review, additional due process under the Common Rule is not necessary nor available to excluded individuals and entities beyond that set forth in 42 CFR Parts 1001 and 1005.

List of Subjects in 45 CFR Part 76

Administrative practice and procedure, Contract programs, Grant programs.

Dated: June 5, 1995.

Donna A. Shalala,

Secretary.

Title 45 of the Code of Federal Regulations, part 76 is amended as follows.

PART 76—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 76 is revised to read as follows:

Authority: 5 U.S.C. 301; 41 U.S.C. 701 *et seq.;* Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

2. Section 76.100 is revised as set forth at the end of the common preamble.

3. Sections 76.105 and 76.110 are amended as set forth at the end of the common preamble.

4. Sections 76.200, 76.215, 76.220, and 76.225 and Appendices A and B to Part 76 are revised as set forth at the end of the common preamble.

5. Section 74.110 is further amended by adding a new paragraph (d) to read as follows:

§ 74.110 Coverage.

* * * * *

(d) *Relationship to Medicare and State Health Care Program Exclusions.* Any exclusion from Medicare and State health care program participation by HHS under Title XI of the Social Security Act, 42 U.S.C. 1320a–7, (see also 42 CFR 1001.1901) on or after August 25, 1995 shall be recognized by and effective, not only for all HHS programs, but also for all other Executive Branch procurement and nonprocurement activities.

BILLING CODE: 4150–04–M

NATIONAL SCIENCE FOUNDATION

45 CFR Part 620

RIN 3145–AA28

FOR FURTHER INFORMATION CONTACT: Anita Eisenstadt, Assistant General Counsel, Office of the General Counsel, 703–306–1060.

List of Subjects in 22 CFR Part 620

Administrative practice and procedure, Contract programs, Grant programs.

Lawrence Rudolph,

General Counsel.

Title 45 of the Code of Federal Regulations, part 620 is amended as follows.

PART 620—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 620 is revised to read as follows:

Authority: 41 U.S.C. 701 *et seq.;* 42 U.S.C. 1870(a); E.O. 12549, 3 CFR, 1986 Comp., p. 189.

2. Section 620.100 is revised as set forth at the end of the common preamble.

3. Sections 620.105 and 620.110 are amended as set forth at the end of the common preamble.

4. Sections 620.200, 620.215, 620.220, and 620.225 and Appendices A and B to Part 620 are revised as set forth at the end of the common preamble.

BILLING CODE: 7555–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Part 1154

RIN 3135–AA12

FOR FURTHER INFORMATION CONTACT: Ms. Donna DiRicco, Acting Grants Officer, National Endowment for the Arts, (202) 682–5403.

List of Subjects in 45 CFR Part 1154

Administrative practice and procedure, Contract programs, Drug abuse, Grant programs, Loan programs, Reporting and recordkeeping requirements.

Laurence Baden,

Deputy Chairman for Management.

Title 45 of the Code of Federal Regulations, Part 1154 is amended as follows.

PART 1154—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 1154 is revised to read as follows:

Authority: 20 U.S.C. 959(a)(1); 41 U.S.C. 701 *et seq.*; E.O. 12549, 3 CFR, 1986 comp., p. 189.

2. Section 1154.100 is revised as set forth at the end of the common preamble.

3. Sections 1154.105 and 1154.110 are amended as set forth at the end of the common preamble.

4. Sections 1154.200, 1154.215, 1154.220, and 1154.225 and Appendices A and B to Part 1154 are revised as set forth at the end of the common preamble.

BILLING CODE 7537–01–M

National Endowment for the Humanities

45 CFR Part 1169

RIN 3136–AA20

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Deputy General Counsel, National Endowment for the Humanities, Room 530, Washington, DC 20506, (202) 606–8322.

List of Subjects in 45 CFR Part 1169

Administrative practice and procedure, Contract programs, Drug abuse, Grant programs, Loan programs, Reporting and recordkeeping requirements.

Sheldon Hackney,

Chairman.

Title 45 of the Code of Federal Regulations, part 1169 is amended as follows.

PART 1169—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 1169 is revised to read as follows.

Authority: 20 U.S.C. 959(a)(1); 41 U.S.C. 701 *et seq.*; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

2. Section 1169.100 is revised as set forth at the end of the common preamble.

3. Sections 1169.105 and 1169.110 are amended as set forth at the end of the common preamble.

4. Sections 1169.200, 1169.215, 1169.220 and 1169.225 and Appendices A and B to Part 1169 are revised as set froth at the end of the common preamble.

BILLING CODE 7036–01–M

INSTITUTE OF MUSEUM SERVICES

45 CFR Part 1185

FOR FURTHER INFORMATION CONTACT: Rebecca Danvers, Program Director, 202–606–8539.

List of subjects in 45 CFR Part 1185

Administrative practice and procedure, Contract programs, Drug abuse, Grant programs, Loan programs, Reporting and recordkeeping requirements.

Diane B. Frankel,

Director.

Title 45 of the Code of Federal Regulations, Part 1185 is amended as follows.

PART 1185—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 1185 is revised to read as follows:

Authority: 20 U.S.C. 961–968; 41 U.S.C. 701 *et seq.*; E.O. 12549, 3 CFR, 1986 Comp., p. 189.

2. Section 1185.100 is revised as set forth at the end of the common preamble.

3. Sections 1185.105 and 1185.110 are amended as set forth at the end of the common preamble.

4. Sections 1185.200, 1180.215, 1190.220, and 118.225 and Appendices A and B to Part 1185 are revised as set forth at the end of the common preamble.

BILLING CODE 7036–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2542

RIN 3045–AA11

FOR FURTHER INFORMATION CONTACT: Michael Kenefick, Director of Grants and Contracts, 202–606–5000 ext. 101.

List of Subjects in 45 CFR Part 2542

Administrative practice and procedure, Contract programs, Government contracts, Grant programs.

Gary Kowalczyk,

Acting Chief Financial Officer.

Title 45 of the Code of Federal Regulations, part 2542 is amended as follows.

PART 2542—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 2542 continues to read as follows:

Authority: 42 U.S.C. 12501 *et seq.*

2. Section 2542.10 [_____ .100] is revised as set forth at the end forth at the end of the common preamble.

3. Sections 2542.20 [_____ .105] and 2542.30 [_____ .110] are amended as set forth at the end of the common preamble.

4. Sections 2542.100 [_____ .200], 2542.130 [_____ .215], 2542.140 [_____ .220], and 2542.150 [_____ .225] and Appendices A and B to Part 2542 are revised as set forth at the end of the common preamble.

5. Section 2542.10 is further amended in paragraph (b)(3) by removing ''§_____ .105'' and adding ''§ 2542.20'' in its place.

6. Section 2542.100 is further amended in paragraph (a) by removing ''§_____ .215'' and adding ''§ 2542.130'' in its place and in paragraph (c) by removing ''§_____ .110(a)(1)(ii)'' and adding ''§ 2542.30(a)(1)(ii)'' in its place.

7. Section 2542.130 is further amended by removing ''§_____ .200'' and ''§_____ .505(a)'' and adding ''§ 2542.100'' and ''§ 2542.410(a)'', respectively.

8. Section 2542.140 is further amended in paragraph (b) by removing ''§_____ .215'' and adding ''§ 2542.130'' in its place.

9. Section 2542.150 is further amended in paragraph (a) by removing ''§_____ .215 or § _____ .220'' and adding ''§ 2542.130'' or § 2542.140'' in its place.

BILLING CODE 6050–28–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 29

RIN 2105–AC25

ACTION: Interim final rule with an opportunity to comment.

DATES: This interim final rule is effective August 25, 1995. Comments should be received by July 26, 1995. Late filed comments will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Paul B. Larsen, Office of the General Counsel, C–10, Room 10102, (202) 366–9161, or Ladd Hakes, Office of Acquisition and Grants Management, M–62, Room 9401, (202) 366–4268, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

ADDITIONAL SUPPLEMENTARY INFORMATION:

Background

The Department of Transportation's implementation of the governmentwide common rule adds a requirement for reciprocity between procurement and nonprocurement debarment and suspension actions.

The Department's rule is interim final because the Department did not clear the governmentwide Notice of Proposed Rule Making (NPRM) in time for publication. For the sake of uniformity and to avoid confusion, the Department now needs to join in the governmentwide rule.

The Department of Transportation is responsible for administering both procurement and nonprocurement debarment and suspension actions. Prior to October 1, 1994, the individual DOT Operating Administrations administered both procurement and nonprocurement actions. Beginning October 1, 1994, the DOT Office of Acquisition and Grant Management became responsible for administering procurement actions.

List of Subjects in 49 CFR Part 29

Administrative practice and procedure, Contract programs, Drug abuse, Grant programs, Loan programs, Reporting and recordkeeping requirements.

Federico Peña,

Secretary of Transportation.

Title 49 of the Code of Federal Regulations, part 29 is amended as follows.

PART 29—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

1. The authority for part 29 is revised to read as follows:

Authority: 41 U.S.C. 701 *et seq.*; 49 U.S.C. 322(a); E.O. 12549, 3 CFR, 1986 Comp., p. 189.

2. Section 29.100 is revised as set forth at the end of the common preamble.

3. Sections 29.105 and 29.110 are amended as set forth at the end of the common preamble.

4. Sections 29.200, 29.215, 29.220, and 29.225, and Appendices A and B to Part 29 are revised as set forth at the end of the common preamble.

[FR Doc. 95–14725 Filed 6–23–95; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9, 22, 28, 44, and 52

[FAC 90–28; FAR Case 94–801]

RIN 9000–AG22

Federal Acquisition Regulation; Debarment, Suspension, and Ineligibility (Ethics)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This final rule is issued pursuant to the Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (the Act). The Federal Acquisition Regulatory Council is amending the Federal Acquisition Regulation (FAR) to reflect the policy of ensuring that suspensions, debarments, and other exclusions from procurement and nonprocurement activities receive reciprocal Government-wide effect as directed by Executive Order (E.O.) 12689, dated August 16, 1989, and Section 2455, Uniform Suspension and Debarment, of the Act. This regulatory action was subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

EFFECTIVE DATE: August 25, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Julius Rothlein, Ethics Team Leader, at (703) 697–4349 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–28, FAR case 94–801.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Acquisition Streamlining Act (FASA) of 1994, Pub. L. 103–355 (the Act), provides authorities that streamline the acquisition process and minimize burdensome Government-unique requirements. Major changes in the acquisition process as a result of the Act's implementation include changes in the areas of Commercial Item Acquisition, Simplified Acquisition Procedures, the Truth in Negotiations Act, and introduction of the Federal Acquisition Computer Network (FACNET). In order to promptly achieve the benefits of the provisions of the Act, the Government is issuing implementing regulations on an expedited basis.

FAR case 94–801 originated because Section 2455 of Public Law 103–355 was enacted to remedy the current situation where suspensions, debarments, and other exclusions from procurement and nonprocurement activities do not have reciprocal Government-wide effect. The concept of reciprocity for procurement and nonprocurement suspension and debarment actions is not new. Since August 1989 there has been an effort to do by executive order (*i.e.*, E.O. 12689), what section 2455 now prescribes by law. That earlier effort was worked on by a committee known as the ''Interagency Committee on Debarment and Suspension.'' This Interagency Committee is made up of 16 of the Federal executive agencies that impose nonprocurement suspensions and debarments. By October 1994 the agencies in an ad hoc group reached agreement on the language that would implement the concept of reciprocity and be consistent with the principles of the *National Performance Review*. The language in FAR 9.401, Applicability, has been coordinated with the ad hoc group of agencies. The changes to the procurement and nonprocurement rules implement Section 2455 and E.O. 12689 by ensuring that suspensions, debarments, and other exclusions from procurement and nonprocurement activities have reciprocal Government-wide effect.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because only a very small percentage of Federal contractors are debarred or suspended.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Public Comments

A proposed rule was published on December 20, 1994, at 59 FR 65623. Ten substantive comments were received from six commenters. The FASA Implementation Team fully considered all comments received. However, no changes to the case were considered necessary as a result of the public comments. The team's full analysis and disposition of the comments may be obtained from the FAR Secretariat. The most significant comment and its disposition follows:

Comment: One commenter recommended the deletion of the category ''proposed for debarment'' from the FAR procurement procedures, in order to ensure consistency with the nonprocurement rule which does not place that category on the GSA List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

Response: Disagree. The agencies do not believe there is a need to change the rule so that the effect of a proposed debarment is the same under both debarment and suspension systems. The request to make the two rules the same on this matter misconstrues the purpose and effect of the reciprocity effort.

The purpose of the proposed reciprocity rule is to ensure that, once one agency takes action to exclude a person and that person is placed on the *List of Parties Excluded from Federal Procurement and Nonprocurement Programs*, all agencies will honor that determination. In deciding whether to take an action to exclude a person, the agency considers whether a person's present responsibility is affected such that the person poses a risk to the

Federal Government. It was not the intent that the decision to give reciprocity would require the agencies to change the two debarment and suspension systems and establish identical procedures for excluding persons under both the FAR and the Common Rule.

Finally, to ensure uniformity with the Nonprocurement Common Rule (published at 59 FR 65607, December 20, 1994), other technical changes were made to section 9.401.

List of Subjects in 48 CFR Parts 9, 22, 28, 44, and 52

Government procurement.

Dated: May 30, 1995.

Capt. Barry L. Cohen, SC, USN,

Project Manager for the Implementation of the Federal Acquisition Streamlining Act of 1994.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 90–28 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90–28 is effective August 25, 1995.

Eleanor R. Spector,

Director, Defense Procurement.

Ada M. Ustad,

Associate Administrator for Acquisition Policy, General Services Administration.

Tom Luedtke,

Deputy Associate Administrator for Procurement, NASA, May 18, 1995.

Therefore, 48 CFR Parts 9, 22, 28, 44, and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 9, 22, 28, 44, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 9—CONTRACTOR QUALIFICATIONS

2. Section 9.105–1(c)(1) is revised to read as follows:

9.105–1 Obtaining information.

* * * * *

(c) * * *

(1) The List of Parties Excluded from Federal Procurement and Nonprocurement Programs maintained in accordance with subpart 9.4.

* * * * *

3. Section 9.207(a)(9) is revised to read as follows:

9.207 Changes in status regarding qualification requirements.

* * * * *

(a) * * *

(9) The source is on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (see subpart 9.4); or

* * * * *

4. Section 9.401 is revised to read as follows:

9.401 Applicability.

In accordance with Public Law 103–355, Section 2455 (31 U.S.C. 6101, note), and Executive Order 12689, any debarment, suspension or other Government-wide exclusion initiated under the Nonprocurement Common Rule implementing Executive Order 12549 on or after August 25, 1995 shall be recognized by and effective for Executive Branch agencies as a debarment or suspension under this subpart. Similarly, any debarment, suspension, proposed debarment or other Government-wide exclusion initiated on or after August 25, 1995 under this subpart shall also be recognized by and effective for those agencies and participants as an exclusion under the Nonprocurement Common Rule.

5. Section 9.403 is amended by removing the definition *Parties Excluded from Procurement Programs* and adding, in alphabetical order, the definitions *List of Parties Excluded from Federal Procurement and Nonprocurement Programs and Nonprocurement Common Rule* to read as follows:

9.403 Definitions.

* * * * *

List of Parties Excluded from Federal Procurement and Nonprocurement Programs means a list compiled, maintained and distributed by the General Services Administration (GSA) containing the names and other information about parties debarred, suspended, or voluntarily excluded under the Nonprocurement Common Rule or the Federal Acquisition Regulation, parties who have been proposed for debarment under the Federal Acquisition Regulation, and parties determined to be ineligible.

Nonprocurement Common Rule means the procedures used by Federal Executive Agencies to suspend, debar, or exclude individuals or entities from participation in nonprocurement transactions under Executive Order 12549. Examples of nonprocurement transactions are grants, cooperative agreements, scholarships, fellowships, contracts of assistance, loans, loan guarantees, subsidies, insurance, payments for specified use, and donation agreements.

* * * * *

6. Section 9.404 is amended—

—by revising the section heading to read as set forth below;

—by revising paragraphs (a)(1), (b) introductory text, (c)(5), (d) introductory text, (d)(3); and

—in paragraph (c)(3) by removing the word ''consolidated''. The revised text reads as follows:

9.404 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(a) * * *

(1) Compile and maintain a current list of all parties debarred, suspended, proposed for debarment, or declared ineligible by agencies or by the General Accounting Office;

* * * * *

(b) The List of Parties Excluded from Federal Procurement and Nonprocurement Programs shall indicate—

* * * * *

(c) * * *

(5) Establish procedures to provide for the effective use of the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, including internal distribution thereof, to ensure that the agency does not solicit offers from, award contracts to, or consent to subcontracts with contractors on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, except as otherwise provided in this subpart; and

* * * * *

(d) Information on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs is available as follows:

* * * * *

(3) A telephone inquiry service to answer general questions about entries on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs is also available by calling GSA at (202) 501–4873 or 501–4740. The inquiry will be answered within one working day.

9.405 [Amended]

7. Section 9.405 is amended—

—in paragraph (b) by removing the phrase ''Parties Excluded from Procurement Programs'' and inserting in its place ''List of Parties Excluded from Federal Procurement and Nonprocurement Programs'';

—in paragraph (d)(1) by removing the phrase ''Procurement Programs'' and inserting in its place ''Federal

Procurement and Nonprocurement Programs''.

9.405–2 [Amended]

8. Section 9.405–2 is amended—

—in the third sentence of paragraph (b) introductory text by removing the phrase ''parties' inclusion on the list of Parties Excluded from Procurement Programs'' and inserting in its place ''party's inclusion on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs'';

—in paragraphs (b)(2) and (b)(3) by removing the phrase ''list of Parties Excluded from Procurement Programs'' and inserting in its place ''List of Parties Excluded from Federal Procurement and Nonprocurement Programs''.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1025 [Amended]

9. Section 22.1025 is amended in the first sentence by removing the phrase ''lists of Parties Excluded from Federal Procurement or'' and inserting in its place ''List of Parties Excluded from Federal Procurement and''.

PART 28—BONDS AND INSURANCE

28.203–7 [Amended]

10. Section 28.203–7 is amended in paragraphs (c) and (d) by removing the phrase ''list entitled Parties Excluded from Procurement Programs'' and inserting in its place ''List of Parties Excluded from Federal Procurement and Nonprocurement Programs''.

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

44.202–2 [Amended]

11. Section 44.202–2 is amended in paragraph (a)(13) by removing the phrase ''Consolidated List of Debarred, Suspended, and Ineligible Contractors'' and inserting in its place ''List of Parties Excluded from Federal Procurement and Nonprocurement Programs''.

44.303 [Amended]

12. Section 44.303 is amended in paragraph (c) by removing the phrase ''list of Parties Excluded from Procurement Programs'' and inserting in its place ''List of Parties Excluded from Federal Procurement and Nonprocurement Programs''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.209–6 [Amended]

13. Section 52.209–6 is amended by revising the date in the heading of the clause to read ''(AUG 1995)'' and in paragraphs (c) introductory text, (c)(2), and (c)(3) by removing the phrase ''Procurement Programs'' and inserting in its place ''Federal Procurement and Nonprocurement Programs''.

[FR Doc. 95–14726 Filed 6–23–95; 8:45 am]

BILLING CODE 6820–EP–P

federal register

Monday
June 26, 1995

Part III

Department of the Interior

Bureau of Indian Affairs

The Twenty-Nine Palms Band of Mission Indians Liquor Control Ordinance; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

The Twenty-Nine Palms Band of Mission Indians Liquor Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM8, and in accordance with the Act of August 15, 1953, 67 Stat 586, 18 U.S.C. 1161. I certify that the Twenty-Nine Palms Band of Mission Indians Liquor Ordinance was duly adopted by the Twenty-Nine Palms Band of Mission Indians on October 6, 1994, and amended twice, by resolution No. 950608 of June 8, 1995, and by resolution No. 950615A of June 15, 1995. The Ordinance provides for the regulation, distribution, possession, sale, and consumption of liquor on lands held in trust belonging to the Twenty-Nine Palms Band of Mission Indians.

DATES: This ordinance is effective as of June 26, 1995.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Judicial Services, Division of Tribal Government Services, 1849 C Street, NW., MS 2611–MIB, Washington, DC 20240–4001; telephone 202/208–4400.

SUPPLEMENTARY INFORMATION: The Twenty-Nine Palms Band of Mission Indians Liquor Control Ordinance is to read as follows:

Liquor Ordinance of the Twenty-Nine Palms Band of Mission Indians

Chapter I—Introduction

101. *Title.* This ordinance shall be known as the ''Liquor ordinance of the Twenty-Nine Palms Band of Mission Indians.''
102. *Authority.* This ordinance is enacted pursuant to the Act of August 15, 1953 (Pub. L. 83–277, 67 Stat. 588, 18 U.S.C. 1161) and Article 6A(5) of the Twenty-Nine Palms Band of Mission Indians Articles of Association.
103. *Purpose.* The purpose of this ordinance is to regulate and control the possession and sale of liquor on the Twenty-Nine Palms Indian Reservation. The enactment of a tribal ordinance governing liquor possession and sale on the reservation will increase the ability of the tribal government to control reservation liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal government services.

Chapter II—Definitions

201. As used in this ordinance, the following words shall have the following meanings unless the context clearly requires otherwise.
202. ''Alcohol.'' Means that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions of this substance.
203. ''Alcoholic Beverage.'' Is synonymous with the term ''Liquor'' as defined in Section 208 of this Chapter.
204. ''Bar.'' Means any establishment with special space and accommodations for sale by the glass and for consumption on the premises of beer, as herein defined.
205. ''Beer.'' Means any beverage obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain of cereal in pure water containing not more than four percent of alcohol by volume. For the purposes of this title, any such beverage, including ale, stout, and porter, containing more than four percent of alcohol by weight shall be referred to as ''strong beer.''
206. ''Committee.'' Means the Business Committee of the Twenty-nine Palms Band of Mission Indians.
207. ''General Council.'' Means the general council of the Twenty-nine Palms Band of Mission Indians which is composed of the voting membership of the Tribe as a whole.
208. ''Liquor.'' Includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented spirituous, vinous, or malt liquor or combination thereof, and mixed liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption and any liquid, semisolid, solid, or other substances, which contain more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.
209. ''Liquor Store.'' Means any store at which liquor is sold and, for the purposes of this ordinance, including stores only a portion of which are devoted to sale of liquor or beer.
210. ''Malt Liquor.'' Means beer, strong beer, ale stout, and porter.
211. ''Package.'' Means any container or receptacle used for holding liquor.
212. ''Public Place.'' Includes state or county or tribal or federal highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; soft drink establishment, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theater, gaming facilities, entertainment centers, store garages, and filling stations which are open to and/or are generally used by the public and to which the public is permitted to have unrestricted access; public conveyances of all kinds of character; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public. For the purposes of this ordinance, ''Public Place'' shall also include any establishment other than a single family home which is designed for or may be used by more than just the owner of the establishment.
213. ''Reservation.'' Means land held in trust by the United States Government for the benefit of the Twenty-nine Palms Band of Mission Indians (see also Tribal Land).
214. ''Sale'' and ''Sell.'' Include exchange, barter, and traffic; and also include the selling or supplying or distributing by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatsoever commonly used to describe malt or brewed liquor or wine by any person to any person.
215. ''Spirits.'' Means any beverage, which contains alcohol obtained by distillation, including wines exceeding seventeen percent of alcohol by weight.
216. ''Tribe.'' Means the Twenty-nine Palms Band of Mission Indians.
217. ''Tribal Land.'' Means any land within the exterior boundaries of the Reservation which is held in trust by the United States for the Tribe as a whole, including and such land leased to other parties.

218. ''Wine.'' Means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, etc.) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits such as port, sherry, muscatel, and angelica, not exceeding seventeen percent of alcohol by weight.
219. ''Trust Account.'' Means the account designated by the tribal treasurer for deposit of proceeds from the tax from the sale of alcoholic beverages.
220. ''Trust Agent.'' Means the tribal Chairperson or a designee of the Chairperson.

Chapter III—Powers of Enforcement

301. *Powers.* The Committee, in furtherance of this ordinance, shall have the following powers and duties:
   a. To publish and enforce the rules and regulations governing the sale, manufacture, and distribution of alcoholic beverages on the Reservation;
   b. To employ managers, accountants, security personnel, inspectors, and such other persons as shall be reasonably necessary to allow the Committee to perform its functions. Such employees shall be tribal employees;
   c. To issue licenses permitting the sale or manufacture or distribution of liquor on the Reservation;
   d. To hold hearings on violations of this ordinance or for the issuance or revocation of licenses hereunder;
   e. To bring suit in the appropriate court to enforce this ordinance as necessary;
   f. To determine and seek damages for violation of this ordinance;
   g. To make such reports as may be required by the General Council;
   h. To collect taxes and fees levied or set by the Committee, and to keep accurate records, books and accounts; and
   i. To exercise such other powers as are delegated by the General Council.
302. *Limitation on Powers.* In the exercise of its powers and duties under this ordinance, the Committee and its individual members shall not accept any gratuity, compensation or other thing of value from any liquor wholesaler, retailer, or distributor or from any licensee.
303. *Inspection Rights.* The premises on which liquor is sold or distributed shall be open for inspection by the Committee at all reasonable times for the purposes of ascertaining whether the rules and regulations of this ordinance are being complied with.

Chapter IV—Sales of Liquor

401. *Licenses Required.* No sales of alcoholic beverages shall be made within the exterior boundaries of the Reservation, except at a tribally-licensed or tribally-owned business operated on tribal land within the exterior boundaries of the Reservation.
402. *Sales Only on Tribal Land.* All liquor sales within the exterior boundaries of the Reservation shall be on Tribal Land, including leases thereon.
403. *Sales for Cash.* All liquor sales within the Reservation boundaries shall be on a cash only basis and no credit shall be extended to any person, organization, or entity, except that this provision does not prevent the use of major credit cards such as Visa, American Express, etc.
404. *Sale for Personal Consumption.* All sales shall be for the personal use and consumption of the purchaser. Resale of any alcoholic beverage purchased within the exterior boundaries of the Reservation is prohibited. Any person who is not licensed pursuant to this ordinance who purchases an alcoholic beverage within the boundaries of the Reservation and sells it, whether in the original container or not, shall be guilty of a violation of this ordinance and shall be subjected to paying damages to the Tribe as set forth herein.

Chapter V—Licensing

501. *Applicable for Tribal Liquor License Requirements.* No tribal license shall issue under this ordinance except upon a sworn application filed with the Committee containing a full and complete showing of the following:
   a. Satisfactory proof that the applicant is or will be duly licensed by the State of California.
   b. Satisfactory proof that the applicant is of good character and reputation among the people of the Reservation and that the applicant is financially responsible.
   c. The description of the premises in which the intoxicating beverages are to be sold, proof that the applicant is the owner of such premises, or lessee of such premises, for at least the term of the license.
   d. Agreement by the applicant to accept and abide by all conditions of the tribal license.
   e. Payment of $250.00 fee as prescribed by the Committee.
   f. Satisfactory proof that neither the applicant nor the applicant's spouse has ever been convicted of a felony.
   g. Satisfactory proof that notice of the application has been posted in a prominent, noticeable place on the premises where intoxicating beverages are to be sold for at least 30 days prior to consideration by the Committee and has been published at least twice in such local newspaper serving the community that may be affected by the license of the Tribal Chairman or Secretary may authorize. The notice shall state the date, time, and place when the application shall be considered by the Committee pursuant to section 502 of this ordinance.
502. *Hearing on Application for Tribal Liquor License.* All applications for a tribal liquor license shall be considered by the Committee in open session at which the applicant, his attorney, and any person protesting the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application. After the hearing, the Committee, by secret ballot, shall determine whether to grant or deny the application based on:
   (1) Whether the requirements of section 501 have been met; and
   (2) Whether the Committee, in its discretion, determines that granting the license is in the best interests of the Tribe.

In the event that the applicant is a member of the General Council, or a member of the immediate family of a General Council member, such member shall not vote on the application or participate in the hearings as a Committee member.

503. *Temporary Permits.* The Committee or their designee may grant a temporary permit for the sale of intoxicating beverages for a period not to exceed three (3) days to any person applying for the same in connection with a tribal or community activity, provided that the conditions prescribed in Section 504 of this ordinance shall be observed by the permittee. Each permit issued shall specify the types of intoxicating beverages to be

sold. Further, a fee of $25.00 will be assessed on temporary permits.

504. *Conditions of the Tribal License.* Any tribal license issued under this title shall be subject to such reasonable conditions as the Committee shall fix, including, but not limited to the following:

a. The license shall be for a term not to exceed 1 year.

b. The license shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises.

c. The State of California shall have jurisdiction over offenses and civil causes of action committed on the licensed premises to the same extent that it has jurisdiction over offenses civil causes of action committed elsewhere within California, and the California criminal laws, and civil laws of general applicability to private persons or private property, shall have the same force and effect on the licensed premises as they have elsewhere in California.

d. The licensed premises shall be subject to patrol by the tribal police department, and such other law enforcement officials as may be authorized under federal, California, or tribal law.

e. The licensed premises shall be open to inspection by duly authorized tribal officials at all times during the regular business hours.

f. Subject to the provisions of subsection ''g'' of this section, no intoxicating beverages shall be sold, served, disposed of, delivered, or given to any person, or consumed on the licensed premises except in conformity with the hours and days prescribed by the laws of the State of California, and in accordance with the hours fixed by the Committee, provided that the licensed premises shall not operate or open earlier or operate or close later than is permitted by the laws of the State of California.

g. No liquor shall be sold within 200 feet of a polling place on tribal election days, or when a referendum is held of the people of the Tribe, and including special days of observation as designated by the Committee.

h. All acts and transactions under authority of the tribal liquor license shall be in conformity with the laws of the State of California, and shall be in accordance with this ordinance and any tribal license issued pursuant to this ordinance.

i. No person under the age permitted under the laws of the State of California shall be sold, served, delivered, given, or allowed to consume alcoholic beverages in the licensed establishment and/or area.

j. There shall be no discrimination in the operations under the tribal license by reason of race, color, or creed.

505. *License Not a Property Right.* Notwithstanding any other provision of this ordinance, a tribal liquor license is a mere permit for a fixed duration of time. A tribal liquor license shall not be deemed a property right or vested right of any kind, nor shall the granting of a tribal liquor license give rise to a presumption of legal entitlement to the granting of such license for a subsequent time period.

506. *Assignment or Transfer.* No tribal license issued under this ordinance shall be assigned or transferred without the written approval of the Committee expressed by formal resolution.

Chapter VI—Rules, Regulations, and Enforcement

601. *Sales or Possession With Intent to Sell Without a Permit.* Any person who shall sell or offer for sale or distribute or transport in any manner, any liquor in violation of this ordinance, or who shall operate or shall have liquor in his possession with intent to sell or distribute without a permit, shall be guilty of a violation of this ordinance.

602. *Purchases From Other Than Licensed Facilities.* Any person within the boundaries of the Reservation who buys liquor from any person other than at a properly licensed facility shall be guilty of a violation of this ordinance.

603. *Sales to Persons Under the Influence of Liquor.* Any person who sells liquor to a person apparently under the influence of liquor shall be guilty of a violation of this ordinance.

604. *Consuming Liquor in Public Conveyance.* Any person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant or employee or such person who shall knowingly permit any person to drink any liquor in any public conveyance shall be guilty of an offense. Any person who shall drink any liquor in a public conveyance shall be guilty of a violation of this ordinance.

605. *Consumption or Possession of Liquor by Persons Under 21 Years of Age.* No person under the age of 21 years shall consume, acquire or have in his possession any alcoholic beverage. No person shall permit any other person under the age of 21 to consume liquor on his premises or any premises under his control except in those situations set out in this section. Any person violating this section shall be guilty of a separate violation of this ordinance for each and every drink so consumed.

606. *Sales of Liquor to Persons Under 21 Years of Age.* Any person who shall sell or provide liquor to any person under the age of 21 years shall be guilty of a violation of this ordinance for each sale or drink provided.

607. *Transfer of Identification to Minor.* Any person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain liquor shall be guilty of an offense; provided, that corroborative testimony of a witness other than the minor shall be a requirement of finding a violation of this ordinance.

608. Use of False or Altered Identification. Any person who attempts to purchase an alcoholic beverage through the use of false or altered identification which falsely purports to show the individual to be over the age of 21 years shall be guilty of violating this ordinance.

609. *Violations of This Ordinance.* Any person guilty of a violation of this ordinance shall be liable to pay the Tribe a penalty not to exceed $500 per violation as civil damages to defray the Tribe's cost of enforcement of this ordinance. In addition to any penalties so imposed, any license issued hereunder may be suspended or cancelled by the Committee for the violation of any of the provisions of this ordinance, or of the tribal license, upon hearing before the Committee after 10 days notice to the licensee. The decision of the Committee shall be final.

610. *Acceptable Identification.* Where there may be a question of a person's right to purchase liquor by reason of his age, such person shall be required to present any one of the following issued cards of identification which shows his correct age and bears his signature and photograph:

1. Driver's license of any state or identification card issued by any State Department of Motor Vehicles;
2. United States Active Duty Military;
3. Passport

611. *Possession of Liquor Contrary to This Ordinance.* Alcoholic beverages which are possessed contrary to the terms of this ordinance are declared to be contraband. Any tribal agent, employee, or officer who is authorized by the Committee to enforce this section shall have the authority to, and shall seize, all contraband.

612. *Disposition of Seized Contraband.* Any officer seizing contraband shall preserve the contraband in accordance with the appropriate California law code. Upon being found in violation of the ordinance by the Committee, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Tribe.

Chapter VII—Taxes

701. *Sales Tax.* There is hereby levied and shall be collected a tax on each sale of alcoholic beverages on the Reservation in the amount of one percent (1%) of the amount actually collected, including payments by major credit cards. The tax imposed by this section shall apply to all retail sales of liquor on the Reservation and shall preempt any tax imposed on such liquor sales by the State of California.

702. *Payment of Taxes to Tribe.* All taxes from the sale of alcoholic beverages on the Reservation shall be paid over to the trust agent of the Tribe.

703. *Taxes Due.* All taxes for the sale of alcoholic beverages on the Reservation are due within thirty (30) days of the end of the calendar quarter for which the taxes are due.

704. *Reports.* Along with payment of the taxes imposed herein, the taxpayer shall submit an accounting for the quarter of all income from the sale or distribution of said beverages as well as for the taxes collected.

705. *Audit.* As a condition of obtaining a license, the licensee must agree to the review or audit of its books and records relating to the sale of alcoholic beverages on the Reservation. Said review or audit may be done annually by the Tribe through its agents or employees whenever, in the opinion of the Committee, such a review or audit is necessary to verify the accuracy of reports.

Chapter VIII—Profits

801. *Disposition of Proceeds.* The gross proceeds collected by the Committee from all licensing provided from the taxation of the sales of alcoholic beverages on the Reservation shall be distributed as follows:

a. For the payment of all necessary personnel, administrative costs, and legal fees for the operation and its activities.

b. The remainder shall be turned over to the Trust Account of the Tribe.

Chapter IX—Severability and Miscellaneous

901. *Severability.* If any provision or application of this ordinance is determined by review to be invalid, such adjudication shall not be held to render ineffectual the remaining portions of this title or to render such provisions inapplicable to other persons or circumstances.

902. *Prior Enactments.* And all prior enactments of the Committee which are inconsistent with the provisions of this ordinance are hereby rescinded.

903. *Conformance with California Laws.* All acts and transactions under this ordinance shall be in conformity with the laws of the State of California as that term is used in 18 U.S.C. 1161.

904. *Effective Date.* This ordinance shall be effective on June 26, 1995, such date as the Secretary of the Interior certifies this ordinance and publishes the same in the **Federal Register**.

Chapter X—Amendment

1001. This ordinance may only be amended by a majority vote of the General Council.

Chapter XI—Sovereign Immunity

1101. Nothing contained in this ordinance is intended to, nor does in any way limit, alter, restrict, or waive the Tribe's sovereign immunity from unconsented suit or action.

Dated: June 16, 1995.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 95–15529 Filed 6–23–95; 8:45 am]

BILLING CODE 4310–02–P

federal register

Monday
June 26, 1995

Part IV

Department of Education

Applications for New Awards for Fiscal Year 1995; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.294A]

Elementary School Foreign Language Incentive Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1995

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for an award under this program.

Purpose of Program: This program provides incentive payments for each public elementary school that provides students attending such school a program designed to lead to communicative competency in a foreign language.

Eligible Applicants: Public elementary schools. The Secretary strongly recommends that local educational agencies apply on behalf of schools within their jurisdiction.

Deadline for Transmittal of Applications: July 24, 1995.

Deadline for Intergovernmental Review: September 22, 1995.

Available Funds: $3,000,000.

Project Period: 12 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 75 (Direct Grant Programs).

(2) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(3) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(4) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(5) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR Part 82 (New Restrictions on Lobbying).

(7) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

Description of Program

In order to be eligible for an incentive payment under this program, a public elementary school must meet the requirements in section 7205 of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (Pub. L. 103–382, enacted October 20, 1994). A program shall be considered to be designed to lead to communicative competency in a foreign language if the program is comparable to one that provides at least 45 minutes of instruction in a foreign language at least four days per week throughout the academic year. The amount of a public elementary school's incentive payment is based on the number of students participating in the school's program that is designed to lead to communicative competency in a foreign language. An application must include the following: (1) Information that establishes the eligibility of the foreign language program at each of the elementary schools included in the application; and (2) the number of students participating in those programs at each of the elementary schools included in the application.

As used in section 7205 of the Act, a program designed to lead to communicative competency in a foreign language refers to a program that has a primary focus on foreign language instruction and not on other subject matters. The Secretary does not award incentive payments for programs that teach Native American languages.

To provide for the fair distribution of funds available under this program and for uniform counts across schools, the Secretary requests that a public elementary school indicate the number of students that were participating, as of the 1994–95 academic year, in its program that leads to communicative competency in a foreign language.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on March 13, 1995 (60 FR 16713).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA #84.294A, U.S. Department of Education, Room 6213, 600 Independence Avenue, SW., Washington, D.C. 20202–6510.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Eastern time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. *DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS. INSTRUCTIONS FOR TRANSMITTAL OF APPLICATIONS:*

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.294A, Washington, D.C. 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.294A, Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C. 20202–4725.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt

Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–8493.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this application is divided into three parts, plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

PART I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

PART II: Budget Information—Non-Construction Programs (ED Form 524A) and instructions.

PART III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

School and Student Data Report Form.

Assurances—Non-Construction Programs (Standard Form 424B).

Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and Instructions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and Instructions. (NOTE: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and Instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A.)

All forms and instructions are included as Appendix A of this notice.

All applicants must submit ONE original signed application, including ink signatures on all forms and assurances and TWO copies of the application. Please mark each application as original or copy. No grant may be awarded unless a complete application form has been received.

For Further Information Contact: Petraine Johnson, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 600 Independence Avenue, SW. (Room 5627, Switzer Building), Washington, D.C. 20202–7242. Telephone (202) 205–8766. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 7515.

Dated: June 16, 1995.

Eugene E. Garcia,

Director, Office of Bilingual Education and Minority Languages Affairs.

BILLING CODE 4000–01–M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:

Application
- ☐ Construction
- ☒ Non-Construction

Preapplication
- ☐ Construction
- ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address *(give city, county, state, and zip code)*:

Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration

D. Decrease Duration Other *(specify)*:

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 2 9 4A

TITLE: Elementary School Foreign Language Incentive Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant

b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

U.S. DEPARTMENT OF EDUCATION
BUDGET INFORMATION
NON-CONSTRUCTION PROGRAMS

OMB Control No. 1875-0102

Expiration Date: 9/30/95

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e):
For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f):
Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e):
Show the total budget request for each project year for which funding is requested.

Line 12, column (f):
Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Instructions for ED Form 524 (cont.)

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e):
For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f):
Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e):
Show the total matching or other contribution for each project year.

Line 12, column (f):
Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

BILLING CODE 4000–01–C

Instructions for Part III Application Narrative

Before preparing the Application Narrative an applicant should read carefully the authorizing statute and the information in this notice.

The narrative should provide sufficient information for the Secretary to determine that the foreign language program at each of the public elementary schools included in the application meets the requirements in section 7205 of the Elementary and Secondary Education Act.

The Secretary strongly suggests that the applicant submit charts or other visuals to provide information on the foreign language program at each of the public elementary schools included in the application.

The application narrative must not exceed 5 double-spaced, typed (on one side only) pages. The page limit applies only to the application narrative and not to the application forms and assurances. *Applications with narratives that exceed these page limits will not be considered for funding.*

Instruction for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 23 to 32 hours per response, with an average of 25.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1885–0531, Washington, D.C. 20503.

(Information collection approved under OMB control number 1885–0531. Expiration date: 6/98.)

BILLING CODE 4000–01–M

U.S DEPARTMENT OF EDUCATION
OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS
ELEMENTARY FOREIGN LANGUAGE INCENTIVE PROGRAM

SCHOOL AND STUDENT DATA REPORT

INSTRUCTIONS: The SCHOOL AND STUDENT DATA REPORT FORM is to be used by local educational agencies to identify each public elementary school that provides a program that is designed to lead to communicative compentency in a foreign language and report the number of students participating in each program. A program shall be considered to be designed to lead to communicative competency if the program is comparable to a program that provides not less than 45 minutes of instruction in a foreign language not less than four days per week throughout the academic year (section 7205). Student data reported should be based on the number of students participating as of the 1994-95 academic year.

NAME OF LOCAL EDUCATIONAL AGENCY_____

NAME OF SCHOOL	GRADES	LANGUAGES	NUMBER OF STUDENTS
TOTAL NUMBER OF STUDENTS			

TYPE OR PRINT NAME OF AUTHORIZED LEA REPRESENTATIVE

SIGNATURE OF LEA REPRESENTATIVE

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C.1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only:

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Standard Form - LLL

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ **Page** _____ **of** _____

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Standard Form - LLL-A

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

[FR Doc. 95–15531 Filed 6–23–95; 8:45 am]
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federal register

Monday
June 26, 1995

Part V

The President

Executive Order 12964—Commission on United States-Pacific Trade and Investment Policy

Federal Register
Vol. 60, No. 122
Monday, June 26, 1995

Presidential Documents

Title 3—

The President

Executive Order 12964 of June 21, 1995

Commission on United States-Pacific Trade and Investment Policy

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the ''Act''), and in order to establish a Commission on United States-Pacific Trade and Investment Policy, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the Commission on United States-Pacific Trade and Investment Policy (''Commission''). The Commission shall be composed of 15 members to be appointed by the President. Members shall (1) be chosen from the private sector (businesses, unions, academic institutions, and nonprofit corporations); and (2) have substantial experience with selling agricultural products, manufactured goods, or high-value-added services to Asian and Pacific markets or be knowledgeable from their personal or professional experience about the trade barriers or their industry and government policies and practices, formal and informal, that have restricted access by U.S. business to Asian and Pacific markets.

(b) The President shall designate a Chairperson and Vice Chairperson from among the members of the Commission.

Sec. 2. *Functions.* (a) On or before February 1, 1996, the Commission shall report to the President on the steps the United States should take to achieve a significant opening of Japan, China, and other Asian and Pacific markets to U.S. business. The report also shall identify trade and investment impediments to U.S. business in Asian and Pacific markets and provide recommendations for reducing the impediments. The report's recommendations shall reflect the goal of securing increased access for U.S. business to Asian and Pacific markets, by the turn of the century, in such a way that a maximum number of high-wage jobs are created and maintained in the United States. The Commission also shall recommend to the President (1) measures to strengthen, if necessary, ongoing programs for regular monitoring of progress toward this goal, including the periodic assessment of the nature and scope of trade and investment impediments; and (2) realistic measurements of trade and investment activity in Asia and the Pacific, which consider all relevant factors, including the composition of trade and intracompany trade and investment patterns.

(b) The Commission shall decide by a three-fifths vote which recommendations to include in the report. At the request of any Commission member, the report will include that Commission member's dissenting views or opinions.

(c) The Commission may, for the purpose of carrying out its functions, hold meetings at such times and places as the Commission may find advisable.

Sec. 3. *Administration.* (a) To the extent permitted by law, the heads of executive departments, agencies, and independent instrumentalities shall provide the Commission, upon request, with such information as it may require for the purposes of carrying out its functions.

(b) Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent permitted by law and subject to the discretion of such head, (1) make any of the facilities and services of such agency or instrumentality available to the Commission;

and (2) detail any of the personnel of such agency or instrumentality to the Commission to assist the Commission in carrying out its duties.

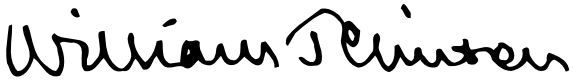
(c) Members of the Commission shall serve without compensation for their work on the Commission. While engaged in the work of the Commission, members appointed from the private sector may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707) to the extent funds are available for such purposes.

(d) To the extent permitted by law and subject to the availability of appropriations, the Department of Commerce shall provide the Commission with administrative services, facilities, staff, and other support services necessary for performance of the Commission's functions.

(e) The United States Trade Representative shall perform the functions of the President under the Act, except that of reporting to the Congress, in accordance with the guidelines and procedures established by the Administrator of General Services.

(f) The Commission shall adhere to the requirements set forth in the Act. All executive branch officials assigned duties by the Act shall comply with its requirements with respect to the Commission.

Sec. 4. *General Provision.* The Commission shall terminate 30 days after submitting its final report.



THE WHITE HOUSE,
June 21, 1995.

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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1995. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1994. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1994. The CFR volume issued January 1, 1993, should be retained.

[7] No amendments to this volume were promulgated during the period October 1, 1993, to September 30, 1994. The CFR volume issued October 1, 1993, should be retained.

[8] No amendments to this volume were promulgated during the period April 1, 1994 to March 31, 1995. The CFR volume issued April 1, 1994, should be retained.