

# Federal Register

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

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** Sponsored by the Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

**WHEN:** December 5 at 9:00 am  
**WHERE:** Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)  
**RESERVATIONS:** 202-523-4538

### LONG BEACH, CA

**WHEN:** December 12, 1995 at 9:00 am  
**WHERE:** Glenn M. Anderson Federal Building, Conference Room—Room 3470, 501 West Ocean Boulevard, Long Beach, CA 90802  
**RESERVATIONS:** 310-980-3447

### SEATTLE, WA

[Two Sessions]  
**WHEN:** December 13, 1995 at 9:00 am and 1:00 pm  
**WHERE:** National Archives—Pacific Northwest Region, Conference Room, 6125 Sand Point Way, NE., Seattle, WA 98115  
**RESERVATIONS:** 206-526-6507



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**Reader Aids**

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**Electronic Bulletin Board**

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

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# Rules and Regulations

Federal Register

Vol. 60, No. 230

Thursday, November 30, 1995

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

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

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 309

RIN 3064-AB67

#### Disclosure of Information

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Federal Deposit Insurance Corporation (FDIC or Corporation) is issuing a final rule which sets forth the Corporation's rules governing disclosure of information to members of the public. The final rule will become effective 30 days after the date of publication, and will establish the procedures to be used by members of the public when requesting records maintained by the FDIC, 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. The final rule provides a more streamlined and efficient process under which members of the public can obtain information from the Corporation, thus meeting the goals of section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

**EFFECTIVE DATE:** January 2, 1996.

**FOR FURTHER INFORMATION CONTACT:** Paul A. Jeddleloh, Senior Program Attorney, Office of the Executive Secretary, telephone (202) 898-7161; Z. Scott Birdwell, Senior Attorney, Corporate and Special Litigation Section, Legal Division, telephone (202) 736-0536; or Dirck A. Hargraves, Attorney, Regulation and Legislation Section, Legal Division, telephone (202) 898-

7049, FDIC, 550 17th Street, NW., Washington, DC 20429.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On July 6, 1995, the Corporation published for comment a proposed rule to establish procedures for the disclosure of information to the public (60 FR 35148-35158). The proposed rule prescribed a 60-day comment period and invited comments from all interested parties. No comments were received. The rule was technically corrected for clarification through the deletion of the words *court order* in the fifth sentence in § 309.6(b)(8)(i) and 309.7(c); the addition of the phrase *and not otherwise prohibited by Federal statute* to the end of the first sentence in § 309.6(b)(8)(ii); the addition of the last sentence in § 309.7(a); and the deletion of the word *exempt* in the first sentence of § 309.7(b) and 309.7(c).

##### II. Matters of Regulatory Procedure

###### Authority

This rule is promulgated under the FDIC's general authority to prescribe, through its Board of Directors, such rules and regulations as it may deem necessary to carry out the provisions of the Federal Deposit Insurance Act or any other law which the FDIC has the responsibility of administering or enforcing (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency). 12 U.S.C. 1819 "Seventh" and "Tenth"; 5 U.S.C. 552; 12 U.S.C. 3401 *et seq.*

###### Regulatory Flexibility Act

The Board of Directors has concluded that the final rule will not impose a significant economic hardship on small institutions. Therefore, the Board of Directors hereby certifies pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605) that the final rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

###### Paperwork Reduction Act

The Board of Directors has determined that this final rule does not contain any information collection requirements that require the approval

of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 12 CFR Part 309

Banks, Banking, Credit, Freedom of information, Privacy.

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation is revising Part 309 of Chapter III of title 12, of the Code of Federal Regulations to read as follows:

#### PART 309—DISCLOSURE OF INFORMATION

##### Sec.

- 309.1 Purpose and scope.
- 309.2 Definitions.
- 309.3 Federal Register publication.
- 309.4 Publicly available records.
- 309.5 Procedures for requesting records.
- 309.6 Disclosure of exempt records.
- 309.7 Service of process.

Authority: 5 U.S.C. 552; 12 U.S.C. 1819 "Seventh" and "Tenth."

##### § 309.1 Purpose and scope.

This part sets forth the basic policies of the Federal Deposit Insurance Corporation regarding information it maintains and the procedures for obtaining access to such information.

##### § 309.2 Definitions.

For purposes of this part:

(a) The term *depository institution*, as used in § 309.6, includes depository institutions that have applied to the Corporation for federal deposit insurance, closed depository institutions, presently operating federally insured depository institutions, foreign banks, branches of foreign banks, and all affiliates of any of the foregoing.

(b) The terms *Corporation* or *FDIC* mean the Federal Deposit Insurance Corporation.

(c) The words *disclose* or *disclosure*, as used in § 309.6, mean to give access to a record, whether by producing the written record or by oral discussion of its contents. Where the Corporation employee authorized to release Corporation documents makes a determination that furnishing copies of the documents is necessary, the words *disclose* or *disclosure* include the furnishing of copies of documents or records. In addition, *disclose* or *disclosure* as used in § 309.6 is synonymous with the term *transfer* as

used in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 *et seq.*).

(d) The term *examination* includes, but is not limited to, formal and informal investigations of irregularities involving suspected violations of federal or state civil or criminal laws, or unsafe and unsound practices as well as such other investigations as may be conducted pursuant to law.

(e) The term *record* includes records, files, documents, reports, correspondence, books, and accounts, or any portion thereof.

(f) The term *report of examination* includes, but is not limited to, examination reports resulting from examinations of depository institutions conducted jointly by Corporation examiners and state banking authority examiners or other federal financial institution examiners, as well as reports resulting from examinations conducted solely by Corporation examiners. The term also includes compliance examination reports.

(g) The term *customer financial records*, as used in § 309.6, means an original of, a copy of, or information known to have been derived from, any record held by a depository institution pertaining to a customer's relationship with the depository institution but does not include any record that contains information not identified with or identifiable as being derived from the financial records of a particular customer. The term *customer* as used in § 309.6 refers to individuals or partnerships of five or fewer persons.

(h) The term *Director of the Division having primary authority* includes Deputies to the Chairman and directors of FDIC Divisions and Offices that create, maintain custody, or otherwise have primary responsibility for the handling of FDIC records or information.

#### § 309.3 Federal Register publication.

The FDIC publishes the following information in the Federal Register for the guidance of the public:

(a) Descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions;

(b) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions

as to the scope and contents of all papers, reports or examinations;

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the FDIC;

(e) Every amendment, revision or repeal of the foregoing; and

(f) General notices of proposed rule-making.

#### § 309.4 Publicly available records.

The following records are available upon request or, as noted, available for public inspection during normal business hours, at the listed offices. Certain records are also available on the Internet at the following address: <http://www.fdic.gov>. To the extent permitted by law, the FDIC may delete identifying details when it makes available or publishes a final opinion, final order, statement of policy, interpretation or staff manual or instruction. Fees for furnishing records under this section are as set forth in § 309.5(c).

(a) At the Office of Corporate Communications, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, (202) 898-6996:

(1) Documents, including press releases, financial institution letters and proposed and adopted regulations, published by the FDIC and pertaining to its operations and those of insured depository institutions that it supervises.

(2) Reports on the competitive factors involved in merger transactions and the bases for approval of merger transactions as required by sections 18(c)(4) and 18(c)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c) (4) and (9)).

(3) Community Reinvestment Act (CRA) Public Evaluations.

(4) Final decisions and orders concerning compliance, enforcement, and other related administrative actions.

(5) At the FDIC's discretion, Summary of Deposits filed by insured depository institutions, except that information on the size and number of accounts filed before June, 1982 is not available.<sup>1</sup>

(6) Annual Report of Trust Assets for commercial banks and state savings banks.<sup>2</sup>

(b) At the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, which information is available for public inspection:

(1) All final opinions (including concurring and dissenting opinions) and all final orders made in the adjudication of administrative cases.

(2) Statements of policy and interpretations which have been adopted by the FDIC but have not been published in the Federal Register.

(3) A current index of matters covered by paragraphs (b)(1) and (b)(2) of this section that were issued, adopted or promulgated after July 4, 1967. Copies of the index will be provided at the direct cost of duplication as set forth in § 309.5(b).

(c) At the Division of Supervision, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429:

(1) Filings and reports required under the provisions of 12 CFR Part 335 and the Securities and Exchange Act of 1934, as amended (15 U.S.C. 78a), by insured nonmember banks the securities of which are registered with the FDIC pursuant to section 12 of that Act (15 U.S.C. 78l). These filings and reports are available for public inspection as detailed in 12 CFR 335.702.

(2) Manual of Examination Policies.

(3) Manual of Trust Examination Policies.

(4) Federal Financial Institutions Examination Council (FFIEC) Information Systems Examination Handbook.

(5) In the FDIC's discretion, the Consolidated Reports of Condition and Income filed by insured nonmember banks (and certain nonfederally insured depository institutions in the case of reports of condition), except that select sensitive financial information may be withheld.<sup>3</sup>

(d) At the regional office of the FDIC for the region in which the applicant or subject depository institution is located (A list of FDIC's regional offices is available from the Office of Corporate Communications, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, DC 20429, (202) 898-6996):

(1) In the FDIC's discretion, non-confidential portions of application files as provided in 12 CFR 303.6(g), including applications for deposit insurance, to establish branches, to relocate offices and to merge.

(2)(i) After acceptance by the FDIC of a notice filed pursuant to the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)) (other than a notice filed in contemplation of a public tender offer subject to the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the

<sup>1</sup>Summary of Deposits reports are described at 12 CFR 304.5.

<sup>2</sup>Annual Report of Trust Assets, FFIEC Form 001.

<sup>3</sup>Reports of income and of condition are described at 12 CFR 304.4.

FDIC's tender offer regulations (12 CFR 335.501-335.530), the appropriate FDIC regional office will make available, on request, the following information: The name of the depository institution whose stock is to be acquired; the date the notice was accepted; the identity of the acquiring person(s); the number of shares to be acquired; and the number of outstanding shares of stock in the depository institution. (The mere filing of a notice does not automatically constitute "acceptance" by the FDIC; a notice is "accepted" when the regional office determines that the notice contains all the information required by 12 U.S.C. 1817(j)(6)).

(ii) In the case of a notice filed in contemplation of a public tender offer that is subject to the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78n) and the FDIC's tender offer regulations (12 CFR 335.501-335.530), when public disclosure is determined under § 303.4(b)(4) of the FDIC's regulations (12 CFR 303.4(b)(4)) to be appropriate, the appropriate FDIC regional office will make available, on request, the information described in paragraph (d)(2)(i) of this section.

(iii) After a transaction subject to the Change in Bank Control Act of 1978 has been consummated, the appropriate FDIC regional office will make available, on request, the following information, in addition to the information described in paragraph (d)(2)(i) of this section: The date the shares were acquired; the names of the sellers (or transferors); and the total number of shares owned by the purchasers (or acquirors).

(e) At the Division of Depositor and Asset Services, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C., 20429:

- (1) Credit Manual;
- (2) Agriculture Manual;
- (3) Claims Manual;
- (4) Operations Manual;
- (5) Closing Manual;
- (6) Environmental Guidelines Manual;
- (7) Deposit Insurance Manual;
- (8) Settlement Manual.

(f) At the Division of Compliance and Consumer Affairs, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429: Compliance Examination Manual.

### § 309.5 Procedures for requesting records.

(a) *Definitions.* For purposes of this section:

(1) *Commercial use request* means a request from or on behalf of a requester who seeks records for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a request

falls within this category, the FDIC will determine the use to which a requester will put the records requested and seek additional information as it deems necessary.

(2) *Direct costs* means those expenditures the FDIC actually incurs in searching for, duplicating, and, in the case of commercial requesters, reviewing records in response to a request for records.

(3) *Duplication* means the process of making a copy of a record necessary to respond to a request for records or for inspection of original records that contain exempt material or that cannot otherwise be directly inspected. Such copies can take the form of paper copy, microfilm, audiovisual records, or machine readable records (e.g., magnetic tape or computer disk).

(4) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(5) *Non-commercial scientific institution* means an institution that is not operated on a *commercial* basis as that term is defined in paragraph (a)(1) of this section, and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(6) *Representative of the news media* means any person actively gathering news for, or a free-lance journalist who reasonably expects to have his or her work product published or broadcast by, an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the general public.

(7) *Review* means the process of examining records located in response to a request for records to determine whether any portion of any record is permitted to be withheld as exempt information. It includes processing any record for disclosure, e.g., doing all that is necessary to excise them or otherwise prepare them for release.

(8) *Search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within records. Searches may be done manually and/or by computer using existing programming.

(b) *Initial request.* (1) Except as provided in paragraphs (d) and (h) of this section, the FDIC, upon request for

any record in its possession, will make the record available to any person who agrees to pay the costs of searching, review and duplication as set forth in paragraph (c) of this section. The request must be in writing, provide information reasonably sufficient to enable the FDIC to identify the requested records and specify a dollar limit which the requester is willing to pay for the costs of searching, review and duplication, unless the costs are believed to be less than the FDIC's cost of processing the requester's remittance, which cost will be set forth in the "Notice of Federal Deposit Insurance Corporation Records Fees" as described in paragraph (c)(3) of this section.

Requests under this paragraph (b) should be addressed to the Office of the Executive Secretary, FDIC, 550 17th Street, N.W., Washington, DC 20429.

(2) The FDIC will transmit notice to the requester within 10 business days after receipt of the initial request whether it is granted or denied. Denials of requests will be based on the exemptions provided for in paragraph (d) of this section.

(3) Notification of a denial of an initial request will be in writing and will state:

(i) If the denial is in part or in whole;

(ii) The name and title of each person responsible for the denial (when other than the person signing the notification);

(iii) The exemptions relied on for the denial; and

(iv) The right of the requester to appeal the denial to the FDIC's General Counsel within 30 business days following receipt of the notification.

(c) *Fees*—(1) *General rules.* (i) Persons requesting records of the FDIC shall be charged for the direct costs of search, duplication and review as set forth in paragraphs (c)(2) and (c)(3) of this section, unless such costs are less than the FDIC's cost of processing the requester's remittance.

(ii) Requesters will be charged for search and review costs even if responsive records are not located and, if located, are determined to be exempt from disclosure.

(iii) Multiple requests seeking similar or related records from the same requester or group of requesters will be aggregated for the purposes of this section.

(iv) If the FDIC determines that the estimated costs of search, duplication or review of requested records will exceed the dollar amount specified in the request or if no dollar amount is specified, the FDIC will advise the requester of the estimated costs (if greater than the FDIC's cost of

processing the requester's remittance). The requester must agree in writing to pay the costs of search, duplication and review prior to the FDIC initiating any records search.

(v) If the FDIC estimates that its search, duplication and review costs will exceed \$250.00, the requester must pay an amount equal to 20 percent of the estimated costs prior to the FDIC initiating any records search.

(vi) The FDIC may require any requester who has previously failed to pay the charges under this section within 30 days of mailing of the invoice to pay in advance the total estimated costs of search, duplication and review. The FDIC may also require a requester who has any charges outstanding in excess of 30 days following mailing of the invoice to pay the full amount due, or demonstrate that the fee has been paid in full, prior to the FDIC initiating any additional records search.

(vii) The FDIC may begin assessing interest charges on unpaid bills on the 31st day following the day on which the notice was sent. Interest will be at the rate prescribed in section 3717 of title 31 of the United States Code and will accrue from the date of the invoice.

(viii) The time limit for FDIC to respond to a request will not begin to run until the FDIC has received the requester's written agreement under paragraph (c)(1)(iv) of this section, and advance payment under paragraph (c)(1)(v) or (vi) of this section, or outstanding charge under paragraph (c)(1)(vi) of this section.

(ix) As part of the initial request, a requester may ask that the FDIC waive or reduce fees if disclosure of the records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. Determinations as to a waiver or reduction of fees will be made by the Executive Secretary (or designee) and the requester will be notified in writing of his/her determination. A determination not to grant a request for a waiver or reduction of fees under this paragraph may be appealed to the FDIC's General Counsel (or designee) pursuant to the procedure set forth in paragraph (e) of this section.

(2) *Chargeable fees by category of requester.* (i) Commercial use requesters shall be charged search, duplication and review costs.

(ii) Educational institutions, non-commercial scientific institutions and news media representatives shall be charged duplication costs, except for the first 100 pages.

(iii) Requesters not within the scope of paragraph (c)(2) (i) or (ii) of this section shall be charged the full reasonable direct cost of search and duplication, except for the first two hours of search time and first 100 pages of duplication.

(3) *Fee schedule.* The dollar amount of fees which the FDIC may charge to records requesters will be established by the Chief Financial Officer of the FDIC (or designee), and will be set forth in the "Notice of Federal Deposit Insurance Corporation Records Fees" issued in December of each year or in such "Interim Notice of Federal Deposit Insurance Corporation Records Fees" as may be issued. Copies of such notices may be obtained at no charge from the FDIC's Office of the Executive Secretary, FOIA Unit, 550 17th Street NW., Washington, DC 20429. The fees implemented in the December or Interim Notice will be effective 30 days after issuance. The FDIC may charge fees that recoup the full allowable direct costs it incurs. The FDIC may contract with independent contractors to locate, reproduce, and/or disseminate records; provided however, that the FDIC has determined that the ultimate cost to the requester will be no greater than it would be if the FDIC performed these tasks itself. In no case will the FDIC contract out responsibilities which the Freedom of Information Act (FOIA) (5 U.S.C. 552) provides that the FDIC alone may discharge, such as determining the applicability of an exemption or whether to waive or reduce fees. Fees are subject to change as costs change.

(i) *Manual searches for records.* The FDIC will charge for manual searches for records at the basic rate of pay of the employee making the search plus 16 percent to cover employee benefit costs. Where a single class of personnel (e.g., all clerical, all professional, or all executive) is used exclusively, the FDIC, at its discretion, may establish and charge an average rate for the range of grades typically involved.

(ii) *Computer searches for records.* The fee for searches of computerized records is the actual direct cost of the search, including computer time, computer runs, and the operator's time apportionable to the search. The fee for a computer printout is the actual cost. The fees for computer supplies are the actual costs. The FDIC may, at its discretion, establish and charge a fee for computer searches based upon a reasonable FDIC-wide average rate for central processing unit operating costs and the operator's basic rate of pay plus 16 percent to cover employee benefit costs.

(iii) *Duplication of records.* (A) The per-page fee for paper copy reproduction of documents is the average FDIC-wide cost based upon the reasonable direct costs of making such copies.

(B) For other methods of reproduction or duplication, the FDIC will charge the actual direct costs of reproducing or duplicating the documents.

(iv) *Review of records.* The FDIC will charge commercial use requesters for the review of records at the time of processing the initial request to determine whether they are exempt from mandatory disclosure at the basic rate of pay of the employee making the search plus 16 percent to cover employee benefit costs. Where a single class of personnel (e.g., all clerical, all professional, or all executive) is used exclusively, the FDIC, at its discretion, may establish and charge an average rate for the range of grades typically involved. The FDIC will not charge at the administrative appeal level for review of an exemption already applied. When records or portions of records are withheld in full under an exemption which is subsequently determined not to apply, the FDIC may charge for a subsequent review to determine the applicability of other exemptions not previously considered.

(v) *Other services.* Complying with requests for special services is at the FDIC's discretion. The FDIC may recover the full costs of providing such services to the extent it elects to provide them.

(d) *Exempt information.* A request for records may be denied if the requested record contains information which falls into one or more of the following categories.<sup>4</sup> If the requested record contains both exempt and nonexempt information, the nonexempt portions which may reasonably be segregated from the exempt portions will be released to the requester.

(1) Records which are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order;

(2) Records related solely to the internal personnel rules and practices of the FDIC;

<sup>4</sup> Classification of a record as exempt from disclosure under the provisions of § 309.5(d) shall not be construed as authority to withhold the record if it is otherwise subject to disclosure under the Privacy Act of 1974 (5 U.S.C. 552a) or other federal statute, any applicable regulation of FDIC or any other federal agency having jurisdiction thereof, or any directive or order of any court of competent jurisdiction.

(3) Records specifically exempted from disclosure by statute, provided that such statute:

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

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person that is privileged or confidential;

(5) Interagency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the FDIC;

(6) Personnel, medical, and similar files (including financial files) the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records:

(i) Could reasonably be expected to interfere with enforcement proceedings;

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

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished records on a confidential basis;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Records that are contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the FDIC or any agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

(e) *Appeals.* (1) A person whose initial request for records under paragraph (a) of this section, or whose request for a waiver of fees under paragraph (c)(1)(ix) of this section, has been denied, either in part or in whole, has the right to appeal the denial to FDIC's General Counsel (or designee) within 30 business days after receipt of notification of the denial. Appeals of

denials of initial requests or for a waiver of fees must be in writing and include any additional information relevant to consideration of the appeal. Appeals should be addressed to the Office of the Executive Secretary, FDIC, 550 17th Street, N.W., Washington, DC 20429.

(2) The FDIC will notify the appellant within 20 business days after receipt of the appeal whether it is granted or denied. Denials of appeals on initial requests for records will be based on the exemptions provided for in paragraph (c) of this section.

(3) Notifications of a denial of an appeal will be in writing and will state:

(i) Whether the denial is in part or in whole;

(ii) The name and title of each person responsible for the denial (if other than the person signing the notification);

(iii) The exemptions relied upon for the denial in the case of initial requests for records; and

(iv) The right to judicial review of the denial under the FOIA.

(f) *Extension of time.* (1) Under unusual circumstances the FDIC may require additional time, up to a maximum of 10 business days, to determine whether to grant or deny an initial request or to respond to an appeal of an initial denial. These circumstances would arise in cases where:

(i) The records are in facilities, such as field offices or storage centers, that are not part of the FDIC's Washington office;

(ii) The records requested are voluminous and are not in close proximity to one another; or

(iii) There is a need to consult with another agency or among two or more components of the FDIC having a substantial interest in the determination.

(2) The FDIC will promptly give written notification to the person making the request of the estimated date it will make its determination and the reasons why additional time is required.

(g) *FDIC procedures.* (1) Initial requests for records will be forwarded by the Executive Secretary to the head of the FDIC division or office which has primary authority over such records. Where it is determined that the requested records may be released, the appropriate division or office head will grant access to the records. A request for records may be denied only by the Executive Secretary (or designee), except that a request for records not responded to within 10 business days following its receipt by the Office of Executive Secretary—by notice to the requester either granting the request, denying the request, or extending the time for making a determination on the

request—shall, if the requester chooses to treat such delay in response as a denial, be deemed to have been denied.

(2) Appeals from a denial of an initial request will be forwarded by the Executive Secretary to the General Counsel (or designee) for a determination whether the appeal will be granted or denied. The General Counsel (or designee) may on his or her own motion refer an appeal to the Board of Directors for a determination or the Board of Directors may in its discretion consider such an appeal.

(h) *Records of another agency.* If a requested record is the property of another federal agency or department, and that agency or department, either in writing or by regulation, expressly retains ownership of such record, upon receipt of a request for the record the FDIC will promptly inform the requester of this ownership and immediately shall forward the request to the proprietary agency or department either for processing in accordance with the latter's regulations or for guidance with respect to disposition.

#### § 309.6 Disclosure of exempt records.

(a) *Disclosure prohibited.* Except as provided in paragraph (b) of this section or by 12 CFR part 310<sup>5</sup>, no person shall disclose or permit the disclosure of any exempt records, or information contained therein, to any persons other than those officers, directors, employees, or agents of the Corporation who have a need for such records in the performance of their official duties. In any instance in which any person has possession, custody or control of FDIC exempt records or information contained therein, all copies of such records shall remain the property of the Corporation and under no circumstances shall any person, entity or agency disclose or make public in any manner the exempt records or information without written authorization from the Director of the Corporation's Division having primary authority over the records or information as provided in this section.

(b) *Disclosure authorized.* Exempt records or information of the Corporation may be disclosed only in accordance with the conditions and requirements set forth in this paragraph (b). Requests for discretionary disclosure of exempt records or information pursuant to this paragraph (b) may be submitted directly to the Division having primary authority over the exempt records or information or to

<sup>5</sup>The procedures for disclosing records under the Privacy Act are separately set forth in 12 CFR part 310.

the Office of Executive Secretary for forwarding to the appropriate Division having primary authority over the records sought. Such administrative request must clearly state that it seeks discretionary disclosure of exempt records, clearly identify the records sought, provide sufficient information for the Corporation to evaluate whether there is good cause for disclosure, and meet all other conditions set forth in paragraph (b)(1) through (10) of this section. Information regarding the appropriate FDIC Division having primary authority over a particular record or records may be obtained from the Office of Executive Secretary. Authority to disclose or authorize disclosure of exempt records of the Corporation is delegated as follows:

(1) *Disclosure to depository institutions.* The Director of the Corporation's Division having primary authority over the exempt records, or designee, may disclose to any director or authorized officer, employee or agent of any depository institution, information contained in, or copies of, exempt records pertaining to that depository institution.

(2) *Disclosure to state banking agencies.* The Director of the Corporation's Division having primary authority over the exempt records, or designee, may in his or her discretion and for good cause, disclose to any authorized officer or employee of any state banking or securities department or agency, copies of any exempt records to the extent the records pertain to a state-chartered depository institution supervised by the agency or authority, or where the exempt records are requested in writing for a legitimate depository institution supervisory or regulatory purpose.

(3) *Disclosure to federal financial institutions supervisory agencies and certain other agencies.* The Director of the Corporation's Division having primary authority over the exempt records, or designee, may in his or her discretion and for good cause, disclose to any authorized officer or employee of any federal financial institution supervisory agency including the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Office of Thrift Supervision, the Securities and Exchange Commission, the National Credit Union Administration, or any other agency included in section 1101(7) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et. seq.) (RFPFA), any exempt records for a legitimate depository institution supervisory or regulatory purpose. The Director, or designee, may in his or her discretion and for good

cause, disclose exempt records, including customer financial records, to certain other federal agencies as referenced in section 1113 of the RFPFA for the purposes and to the extent permitted therein, or to any foreign bank regulatory or supervisory authority as provided, and to the extent permitted, by section 206 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 3109).

(4) *Disclosure to prosecuting or investigatory agencies or authorities.* (i) Reports of Apparent Crime pertaining to suspected violations of law, which may contain customer financial records, may be disclosed to federal or state prosecuting or investigatory authorities without giving notice to the customer, as permitted in the relevant exceptions of the RFPFA.

(ii) The Director of the Corporation's Division having primary authority over the exempt records, or designee, may disclose to the proper federal or state prosecuting or investigatory authorities, or to any authorized officer or employee of such authority, copies of exempt records pertaining to irregularities discovered in depository institutions which are believed to constitute violations of any federal or state civil or criminal law, or unsafe or unsound banking practices, provided that customer financial records may be disclosed without giving notice to the customer, only as permitted by the relevant exceptions of the RFPFA. Unless such disclosure is initiated by the FDIC, customer financial records shall be disclosed only in response to a written request which:

(A) Is signed by an authorized official of the agency making the request;

(B) Identifies the record or records to which access is requested; and

(C) Gives the reasons for the request.

(iii) When notice to the customer is required to be given under the RFPFA, the Director of the Corporation's Division having primary authority over the exempt records, or designee, may disclose customer financial records to any federal or state prosecuting or investigatory agency or authority, provided, that:

(A) The General Counsel, or designee, has determined that disclosure is authorized or required by law; or

(B) Disclosure is pursuant to a written request that indicates the information is relevant to a legitimate law enforcement inquiry within the jurisdiction of the requesting agency and:

(1) The Director of the Corporation's Division having primary authority over

the exempt records, or designee, certifies pursuant to section 1112(a)<sup>6</sup> of the RFPFA that the records are believed relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency; and

(2) A copy of such certification and the notice required by section 1112(b)<sup>7</sup> of the RFPFA is sent within fourteen days of the disclosure to the customer whose records are disclosed.<sup>8</sup>

(5) *Disclosure to servicers and serviced institutions.* The Director of the Corporation's Division having primary authority over the exempt records, or designee, may disclose copies of any exempt record related to a bank data center, a depository institution service corporation or any other data center that provides data processing or related services to an insured institution (hereinafter referred to as "data center") to:

(i) The examined data center;

(ii) Any insured institution that receives data processing or related services from the examined data center;

(iii) Any state agency or authority which exercises general supervision over an institution serviced by the examined data center; and

(iv) Any federal financial institution supervisory agency which exercises general supervision over an institution serviced by the examined data center. The federal supervisory agency may disclose any such examination report received from the Corporation to an insured institution over which it exercises general supervision and which is serviced by the examined data center.

(6) *Disclosure to third parties.* (i) Except as otherwise provided in paragraphs (c) (1) through (5) of this section, the Director of the Corporation's Division having primary authority over

Pursuant to section 1112(a) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412), I, \_\_\_\_\_ [name and appropriate title] hereby certify that the financial records described below were transferred to (agency or department) in the belief that they were relevant to a legitimate law enforcement inquiry, within the jurisdiction of the receiving agency.

<sup>7</sup>The form of notice generally is as follows.

Additional information may be added:

Dear Mr./Ms. \_\_\_\_\_:

Copies of, or information contained in, your financial records lawfully in the possession of the Federal Deposit Insurance Corporation have been furnished to (agency or department) pursuant to the Right to Financial Privacy Act of 1978 for the following purpose: \_\_\_\_\_. If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Right to Financial Privacy Act of 1978 or the Privacy Act of 1974.

<sup>8</sup>Whenever the Corporation is subject to a court-ordered delay of the customer notice, the notice shall be sent immediately upon the expiration of the court-ordered delay.

<sup>6</sup>The form of certification generally is as follows. Additional information may be added:

the exempt records, or designee, may in his or her discretion and for good cause, disclose copies of any exempt records to any third party where requested to do so in writing. Any such written request shall:

(A) Specify, with reasonable particularity, the record or records to which access is requested; and

(B) Give the reasons for the request.

(ii) Either prior to or at the time of any disclosure, the Director or designee shall require such terms and conditions as he deems necessary to protect the confidential nature of the record, the financial integrity of any depository institution to which the record relates, and the legitimate privacy interests of any individual named in such records.

(7) *Authorization for disclosure by depository institutions or other third parties.* (i) The Director of the Corporation's Division having primary authority over the exempt records, or designee, may, in his or her discretion and for good cause, authorize any director, officer, employee, or agent of a depository institution to disclose copies of any exempt record in his custody to anyone who is not a director, officer or employee of the depository institution. Such authorization must be in response to a written request from the party seeking the record or from management of the depository institution to which the report or record pertains. Any such request shall specify, with reasonable particularity, the record sought, the party's interest therein, and the party's relationship to the depository institution to which the record relates.

(ii) The Director of the Corporation's Division having primary authority over the exempt records, or designee, may, in his or her discretion and for good cause, authorize any third party, including a federal or state agency, that has received a copy of a Corporation exempt record, to disclose such exempt record to another party or agency. Such authorization must be in response to a written request from the party that has custody of the copy of the exempt record. Any such request shall specify the record sought to be disclosed and the reasons why disclosure is necessary.

(iii) Any subsidiary depository institution of a bank holding company or a savings and loan holding company may reproduce and furnish a copy of any report of examination of the subsidiary depository institution to the parent holding company without prior approval of the Director of the Division having primary authority over the exempt records and any depository institution may reproduce and furnish a copy of any report of examination of the disclosing depository institution to a

majority shareholder if the following conditions are met:

(A) The parent holding company or shareholder owns in excess of 50% of the voting stock of the depository institution or subsidiary depository institution;

(B) The board of directors of the depository institution or subsidiary depository institution at least annually by resolution authorizes the reproduction and furnishing of reports of examination (the resolution shall specifically name the shareholder or parent holding company, state the address to which the reports are to be sent, and indicate that all reports furnished pursuant to the resolution remain the property of the Federal Deposit Insurance Corporation and are not to be disclosed or made public in any manner without the prior written approval of the Director of the Corporation's Division having primary authority over the exempt records as provided in paragraph (b) of this section;

(C) A copy of the resolution authorizing disclosure of the reports is sent to the shareholder or parent holding company; and

(D) The minutes of the board of directors of the depository institution or subsidiary depository institution for the meeting immediately following disclosure of a report state:

(1) That disclosure was made;

(2) The date of the report which was disclosed;

(3) To whom the report was sent; and

(4) The date the report was disclosed.

(iv) With respect to any disclosure that is authorized under this paragraph (b)(7), the Director of the Corporation's Division having primary authority over the exempt records, or designee, shall only permit disclosure of records upon determining that good cause exists. If the exempt record contains information derived from depository institution customer financial records, disclosure is to be authorized only upon the condition that the requesting party and the party releasing the records comply with any applicable provision of the RFPA. Before authorizing the disclosure, the Director (or designee) may require that both the party having custody of a copy of a Corporation exempt record and the party seeking access to the record agree to such limitations as the Director (or designee) deems necessary to protect the confidential nature of the record, the financial integrity of any depository institution to which the record relates and the legitimate privacy interests of any persons named in such record.

(8) *Disclosure by General Counsel.* (i) The Corporation's General Counsel, or designee, may disclose or authorize the disclosure of any exempt record in response to a valid judicial subpoena, court order, or other legal process, and authorize any current or former officer, director, employee, agent of the Corporation, or third party, to appear and testify regarding an exempt record or any information obtained in the performance of such person's official duties, at any administrative or judicial hearing or proceeding where such person has been served with a valid subpoena, court order, or other legal process requiring him or her to testify. The General Counsel shall consider the relevancy of such exempt records or testimony to the litigation, and the interests of justice, in determining whether to disclose such records or testimony. Third parties seeking disclosure of exempt records or testimony in litigation to which the FDIC is not a party shall submit a request for discretionary disclosure directly to the General Counsel.<sup>9</sup> Such request shall specify the information sought with reasonable particularity and shall be accompanied by a statement with supporting documentation showing in detail the relevance of such exempt information to the litigation, justifying good cause for disclosure, and a commitment to be bound by a protective order. Failure to exhaust such administrative request prior to service of a subpoena or other legal process may, in the General Counsel's discretion, serve as a basis for objection to such subpoena or legal process. Customer financial records may not be disclosed to any federal agency that is not a federal financial supervisory agency pursuant to this paragraph unless notice to the customer and certification as required by the RFPA have been given except where disclosure is subject to the relevant exceptions set forth in the RFPA.

(ii) The General Counsel, or designee, may in his or her discretion and for good cause, disclose or authorize disclosure of any exempt record or testimony by a current or former officer, director, employee, agent of the Corporation, or third party, sought in connection with any civil or criminal hearing, proceeding or investigation without the service of a judicial

<sup>9</sup>This administrative requirement does not apply to subpoenas, court orders or other legal process issued for records of depository institutions held by the FDIC as Receiver or Conservator. Subpoenas, court orders or other legal process issued for such records will be processed in accordance with State and Federal law, regulations, rules and privileges applicable to FDIC as Receiver or Conservator.

subpoena, or other legal process requiring such disclosure or testimony, if he or she determines that the records or testimony are relevant to the hearing, proceeding or investigation and that disclosure is in the best interests of justice and not otherwise prohibited by Federal statute. Customer financial records shall not be disclosed to any federal agency pursuant to this paragraph that is not a federal financial supervisory agency, unless the records are sought under the Federal Rules of Civil Procedure (28 U.S.C. appendix) or the Federal Rules of Criminal Procedure (18 U.S.C. appendix) or comparable rules of other courts and in connection with litigation to which the receiving federal agency, employee, officer, director, or agent, and the customer are parties, or disclosure is otherwise subject to the relevant exceptions in the RFFPA. Where the General Counsel or designee authorizes a current or former officer, director, employee or agent of the Corporation to testify or disclose exempt records pursuant to this paragraph (b)(8), he or she may, in his or her discretion, limit the authorization to so much of the record or testimony as is relevant to the issues at such hearing, proceeding or investigation, and he or she shall give authorization only upon fulfillment of such conditions as he or she deems necessary and practicable to protect the confidential nature of such records or testimony.

(9) *Authorization for disclosure by the Chairman of the Corporation's Board of Directors.* Except where expressly prohibited by law, the Chairman of the Corporation's Board of Directors may in his or her discretion, authorize the disclosure of any Corporation records. Except where disclosure is required by law, the Chairman may direct any current or former officer, director, employee or agent of the Corporation to refuse to disclose any record or to give testimony if the Chairman determines, in his or her discretion, that refusal to permit such disclosure is in the public interest.

(10) *Limitations on disclosure.* All steps practicable shall be taken to protect the confidentiality of exempt records and information. Any disclosure permitted by paragraph (b) of this section is discretionary and nothing in paragraph (b) of this section shall be construed as requiring the disclosure of information. Further, nothing in paragraph (b) of this section shall be construed as restricting, in any manner, the authority of the Board of Directors, the Chairman of the Board of Directors, the Director of the Corporation's Division having primary authority over

the exempt records, the Corporation's General Counsel, or their designees, or any other Corporation Division or Office head, in their discretion and in light of the facts and circumstances attendant in any given case, to require conditions upon and to limit the form, manner, and extent of any disclosure permitted by this section. Wherever practicable, disclosure of exempt records shall be made pursuant to a protective order and redacted to exclude all irrelevant or non-responsive exempt information.

#### **§ 309.7 Service of process.**

(a) *Service.* Any subpoena or other legal process to obtain information maintained by the FDIC shall be duly issued by a court having jurisdiction over the FDIC, and served upon either the Executive Secretary (or designee), FDIC, 550 17th Street, N.W., Washington, DC 20429, or the Regional Director or Regional Manager of the FDIC region where the legal action from which the subpoena or process was issued is pending. A list of the FDIC's regional offices is available from the Office of Corporate Communications, FDIC, 550 17th Street, N.W., Washington, DC 20429 (telephone 202-898-6996). Where the FDIC is named as a party, service of process shall be made pursuant to the Federal Rules of Civil Procedure, and upon the Executive Secretary (or designee), FDIC, 550 17th Street N.W., Washington, DC 20429, or upon the agent designated to receive service of process in the state, territory, or jurisdiction in which any insured depository institution is located. Identification of the designated agent in the state, territory, or jurisdiction may be obtained from the Office of the Executive Secretary or from the Office of the General Counsel, FDIC, 550 17th Street N.W., Washington, DC 20429. The Executive Secretary (or designee), Regional Director or designated agent shall immediately forward any subpoena, court order or legal process to the General Counsel. The Corporation may require the payment of fees, in accordance with the fee schedule referred to in § 309.5(c)(3), prior to the release of any records requested pursuant to any subpoena or other legal process.

(b) *Notification by person served.* If any current or former officer, director, employee or agent of the Corporation, or any other person who has custody of records belonging to the FDIC, is served with a subpoena, court order, or other process requiring that person's attendance as a witness concerning any matter related to official duties, or the production of any exempt record of the Corporation, such person shall promptly

advise the Office of the Corporation's General Counsel of such service, of the testimony and records described in the subpoena, and of all relevant facts which may be of assistance to the General Counsel in determining whether the individual in question should be authorized to testify or the records should be produced. Such person should also inform the court or tribunal which issued the process and the attorney for the party upon whose application the process was issued, if known, of the substance of this section.

(c) *Appearance by person served.* Absent the written authorization of the Corporation's General Counsel, or designee, to disclose the requested information, any current or former officer, director, employee, or agent of the Corporation, and any other person having custody of records of the Corporation, who is required to respond to a subpoena or other legal process, shall attend at the time and place therein specified and respectfully decline to produce any such record or give any testimony with respect thereto, basing such refusal on this section.

By Order of the Board of Directors.

Dated at Washington, DC this 14th day of November, 1995.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

*Deputy Executive Secretary.*

[FR Doc. 95-28718 Filed 11-29-95; 8:45 am]

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## **DEPARTMENT OF TRANSPORTATION**

### **Office of the Secretary**

#### **14 CFR Parts 221 and 292**

[Docket No. 49827]

RIN 2105-AC09

#### **Exemption From Property Tariff-Filing Requirements**

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Department is exempting U.S. and foreign air carriers from their statutory and regulatory duty to file international property ("cargo") tariffs with DOT, subject to the reimposition of the duty in specific cases when consistent with the public interest. Commencing with the date of effectiveness of the final rule, currently effective rate tariffs are canceled as a matter of law, pending tariff applications are dismissed, and new tariffs will not be accepted for filing. In response to comments, currently effective cargo rules related to carrier

rights and/or obligations, set forth in general governing rules tariffs, may continue in legal effect for 90 days from the date of effectiveness of the final rule, although carriers may elect to cancel them earlier and also may deviate from such rules through express contract. This action is taken on the Department's initiative in order to streamline government operations and eliminate unjustified regulatory burdens.

**DATES:** This regulation is effective on November 30, 1995.

However the cancellation of certain tariffs pursuant to the first sentence of § 292.22(b) will take place on March 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. Keith A. Shangraw or Mr. John H. Kiser, Office of the Secretary, Office of International Aviation, X-43, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366-2435.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 41504 of Title 49 of the United States Code requires every U.S. and foreign air carrier to file with the Department, and to keep open for public inspection, tariffs showing all prices for foreign air transportation between points served by that carrier, as well as all rules relating to that transportation to the extent required by the Department. This includes prices and rules for the carriage of cargo.

Over the years, cargo rate tariffs have provided U.S. regulatory authorities with a means to exercise close regulatory supervision over cargo pricing, either for consumer protection and other public policy reasons, or in the context of bilateral aviation relations. While much less frequent, regulatory supervision of cargo rules was also occasionally exercised. During the last two decades, however, cargo tariff requirements have been reduced substantially by both legislative and regulatory action in favor of placing primary reliance on competitive market forces to achieve essential public policy objectives.<sup>1</sup> For this and other reasons discussed in our Notice of Proposed

<sup>1</sup> In the cargo area, only international scheduled cargo rate tariffs continue to be filed with the Department. Domestic scheduled service cargo tariffs were eliminated in 1978 by Regulation ER-1080, 43 FR 53635, November 16, 1978. Similarly, both domestic and international charter rate tariffs were eliminated in 1979 by ER-1125, 44 FR 33056, June 8, 1979, while domestic and international tariffs of air freight forwarders (part of a class of carriers called "indirect cargo air carriers" or "foreign indirect air carriers") were eliminated by ER-1094, 44 FR 6634, February 1, 1979, and by ER-1159, 44 FR 69635, December 4, 1979.

Rulemaking (NPRM), published October 24, 1994 (59 FR 53377), we have tentatively found that the remaining cargo rate tariffs are no longer necessary to protect the public interest, and that this tariff regime is costly and burdensome to everyone associated with it.

As discussed in the NPRM, the Department's regulatory policy regarding international cargo rates appears at 14 CFR § 399.41. Under this regulation, carrier prices in most international cargo rate categories are effectively deregulated.<sup>2</sup> Barring extreme circumstances, the only tariff rates over which we continue to exercise regulatory supervision are general cargo rates (GCRs) up to and including the 500 kilogram weightbreak, and certain non-standard "exception" rates.<sup>3</sup> Even this oversight is not applicable to markets governed by bilateral air transport agreements that establish liberal entry and pricing regimes.

Since the regulation's adoption in 1983, virtually no complaints have been received against filed cargo tariffs, and in many markets carriers have not used the upward flexibility available to them to raise rates to the SFRL ceilings. The international cargo market has continued to evolve to the point where today we believe we no longer need to rely on the routine government supervision of cargo tariffs to protect the public.

Yet, carriers are still filing, and we are still processing, thousands of pages of tariff material each year that has little, if any, meaningful regulatory consequence.<sup>4</sup> Requiring carriers to continue filing cargo tariffs thus burdens the industry unnecessarily, and continuing the physical processing and storage of such tariffs at the Department

<sup>2</sup> Agreements containing international cargo rates that carriers coordinate through the tariff conferences of the International Air Transport Association (IATA) must be filed with and approved by the Department before they can be implemented. These agreements are subject to economic justification requirements and Department analysis that are independent of its tariff policy and procedures. The new rule is not intended to affect the review of IATA agreements in any way.

<sup>3</sup> Section 399.41 set zones of pricing flexibility for GCRs up to 500 kilograms, and established a Standard Foreign Rate Level (SFRL) for each market as the basis for these zones of flexibility. The SFRL is recalculated periodically to reflect changes in the cost experiences of the carriers. The SFRL zones also govern exception rates, priced at levels higher than comparable GCRs for shipments of live animals, perishable goods and other kinds of specialized cargo.

<sup>4</sup> In 1994 alone, we received and processed 9,721 pages of cargo tariffs.

needlessly wastes scarce and diminishing governmental resources.

We have therefore proposed to amend our tariff regulations to end the routine filing and review of price and other tariff information relating to the scheduled foreign air transportation of cargo, *i.e.* to/from U.S. points. As in the case of the previous elimination of domestic and other cargo tariffs, this proposal would take the form of an exemption of U.S. and foreign carriers from their statutory and regulatory duty to file with the Department, and adhere to, tariffs containing rates or any other rules or conditions of service relating to such transportation. The exemption would encompass all material currently filed in international cargo tariffs with the Department.<sup>5</sup> Similarly, the exemption would be mandatory; it would not permit such filings. However, the duty to file tariffs in any respect could be reimposed in particular cases where consistent with the public interest.

**Comments**

We received comments on our proposal from Aeromexpress, S.A. de C.V.; the Air Freight Association (AFA); the Air Transport Association of America (ATA); American Airlines, Inc. (American); Athearn Transportation Consultants, Inc. (Athearn); British Airways PLC (BA); Evergreen International Airlines, Inc. (Evergreen); Haupauge Industrial Association (HIA); the International Air Transport Association (IATA); International Support Systems (ISS); Korean Air Lines, Co. (KAL); Nippon Cargo Airlines Co., Ltd. (Nippon); Ocean Freight Consultants, Inc. (OFC); Pakistan International Airlines (PIA); and United Air Lines, Inc. (UAL).

In general, the carriers, ATA and AFA support the proposal; IATA takes no position on the elimination of the requirement to file rate tariffs, but supports the continued filing of cargo rules tariffs; HIA wants the Department to require carriers to make information on their cargo rates available to shippers within a reasonable amount of time; and Athearn, ISS and OFC oppose the proposal in its entirety.

ATA, AFA, and several carriers, however, condition their support upon several modifications or clarifications to the proposal regarding (1) its effect on their ability to incorporate contract terms by reference and/or provide requisite public notice, and (2) its effect

<sup>5</sup> Part 221 provides for the filing of up to four separate kinds of international cargo tariffs: rates tariffs, governing rules tariffs, rate classification tariffs, and restricted articles tariffs.

on federal preemption of State law governing contracts or the regulation of common carriers. Their position on both issues coincides in certain fundamental respects with IATA's reasons for urging the continued filing of cargo rules tariffs, and therefore we will discuss these comments together. Then we will address the arguments of the parties who support the continuation of cargo rates tariffs as well.

#### Decision

We have decided to adopt the NPRM substantially as proposed. However, we are making certain minor changes in response to the comments. First, as a transition measure, we will permit the carriers to maintain in effect as official tariffs their current rules relating to the general conditions of carriage,<sup>6</sup> for a period of up to ninety days, in order to maintain the legal framework for current contracts while the carriers are drafting new language for air waybill and/or other documents to provide acceptable forms of actual notice to shippers of such terms. We do not find a similar transitional need for cargo rate tariffs, including related applicability rules,<sup>7</sup> because pricing is a key term negotiated and stated in every contract. At the same time, we are providing expressly that carriers may cancel any or all rules tariffs prior to 90 days, and that they may deviate from any filed rules by express contract provision. Second, we are providing explicitly that carrier compliance with the notice requirements set forth in 14 CFR 221.177 permits incorporation of contract terms as a matter of federal law, and that such requirements supercede any contrary State contract law requirements relating to incorporation by reference. On the other hand, we are also making clear that terms cannot be enforced against shippers without proper notice. We also make explicit, in our discussion below, that this cargo tariff exemption is not intended to undermine in any respect the scope of the statutory preemption of State economic regulation provided under 49 U.S.C. 41713.

We find that this final rule should be made effective immediately upon publication in the Federal Register because it grants an exemption from costly regulatory burdens and relieves certain restrictions.

<sup>6</sup>This would include all rules in separate governing rules tariffs and separate restricted articles tariffs.

<sup>7</sup>This would include rate "classification" tariffs, which, as IATA notes, may be filed in the rate tariffs or separately.

#### Discussion of Comments and Issues

1. Notice. Most of the concerns raised by our proposal involve the issue of legal notice of contract terms. While taking no position on the elimination of the requirement to file cargo *rate* tariffs, IATA contends that the proposed rule should be amended to permit the continued filing of cargo *rules* tariffs governing such matters as consignments, liability for loss, claims procedures, handling of dangerous or other restricted goods, acceptability of cargo, and other general matters of concern to shippers of cargo to/from U.S. points. It argues primarily that such rules should continue to be deemed a part of each contract of carriage as a matter of tariff law, regardless of any actual notice to shippers of their existence or content.<sup>8</sup> ATA, AFA, American and United support the elimination of all official tariffs, but want the proposed rule amended or clarified so that a carrier's continued publication of its cargo tariffs or the "filing of its rates and rules with a named tariff publishing agent" will "provide constructive notice to the public of their contents."<sup>9</sup> In the alternative, ATA and American request that cargo tariffs be permitted to remain in effect for 180 days in order to allow carriers to revise existing air waybill language to provide adequate notice of all contract terms. British Airways requests at least a 90-day transition period, paralleling the action of the Civil Aeronautics Board (CAB) in eliminating charter tariffs, forwarder tariffs and carrier tariffs for domestic cargo transportation.

IATA joins ATA, American and British Airways in arguing that an immediate elimination of official rules tariffs will cause a disruption in the administration of existing contracts because most waybills state only generally that carriage is subject to the carrier's "applicable tariffs."<sup>10</sup> We are persuaded, as was the CAB in taking similar actions, that a brief transition period of 90 days is justified to permit clarification of any existing contracts that may be rendered ambiguous by reference to rules tariffs no longer officially on file with the Department

<sup>8</sup>See, e.g. Slick Airways, Inc. v. U.S., 292 F. 2d 515 (1961).

<sup>9</sup>ATA comments, page 3.

<sup>10</sup>The argument presumes that such a general reference would not constitute a valid "incorporation by reference" of tariff provisions into the contract of carriage under State contract law, nor would it fully comply with the Department's notice regulations in 14 CFR Part 221. Without the specificity of certain tariff provisions, these parties contend, the waybill contract might be rendered ambiguous or uncertain.

and to facilitate the redrafting of waybills and other contract documents to provide acceptable actual notice of any missing terms, whether through incorporation by reference or otherwise. A longer period may cause confusion and appears unnecessary. Carriers are neither required nor expected to completely replace their current waybill stock in this 90-day period. The period should be sufficient, however, for them to print notices or other supplemental contractual materials to conform such stock to the new environment until it can be replaced. Carriers needing less time should be able to cancel their rules tariffs when ready, while no carrier should be bound to tariffs on file during the transition where negotiations with shippers suggest a different result.

IATA argues that in the longer term eliminating rules tariffs will not only force carriers to incur the cost of redrafting waybills or other contract documents to provide adequate forms of notice of contract terms, but also that efforts to incorporate terms by reference could engender litigation under State contract law. It also contends that many matters not now subject to direct carrier-shipper negotiation would become so, with the effect of reducing uniformity among carriers, complicating transactions, and hindering the introduction of a paperless "electronic data interface." In IATA's view, such burdens greatly outweigh the perceived cost savings related to the elimination of rules which assertedly change infrequently and impose relatively few administrative costs on DOT and filing parties. IATA contends that the Department's "narrow cost-benefit analysis" fails to recognize that the tariff system provides the most efficient means of establishing uniform, binding and predictable contract conditions of carriage, and that therefore the Department has failed to demonstrate that the exemption is "compelled" by the public interest.

At the outset, we note that IATA's position contains two fundamental errors. First, the filing of rules tariffs is not a statutory requirement. Rather, rules are to be filed to the extent that the Secretary requires by regulation. It is sufficient to find that the continued filing and review of such tariffs can no longer be justified by the public interest factors underlying the promulgation of the original filing requirement in Part 221, which is certainly the case. Secondly, we do not presume that carriers will cease publishing their rates and rules in tariff-like formats. To the contrary, we assume that the carriers will continue to promulgate, publish and disseminate, directly or through

agents, a number of documents containing both rules and rates, as indicated by ATA, American and United. In addition to foreign tariff-filing requirements, the carriers indicate that such publications are necessary to reach potential customers and to incorporate terms into the waybill by reference, where necessary.

IATA's characterization of constructive notice of official tariff material as more "efficient" than the forms of actual notice that have been used successfully where cargo tariffs have been eliminated is, in our view, questionable. More fundamentally, its emphasis on official tariffs as a means to produce "uniformity" among carrier rules ignores many of the considerations of procompetitive and market-oriented public policy that underlay previous reductions in filing requirements. Those considerations are equally present here and form an additional basis for our conclusion that the continued filing of international cargo rates and rules tariffs is no longer in the public interest.

Most of IATA's arguments relating to the long-run desirability of maintaining constructive notice of cargo rules through filed tariffs are similar to those found unpersuasive by the Civil Aeronautics Board when it eliminated domestic cargo tariffs and international air freight forwarder tariffs.<sup>11</sup> More importantly, IATA has not effectively challenged the reasons given in the NPRM for concluding that the elimination of filed tariffs should have no significant impact on the ability of carriers and shippers to deal with the general terms and conditions of carriage.

Thus, the NPRM noted that domestic cargo tariffs were eliminated without significant difficulty; that international forwarder tariffs were eliminated in 1979 with no apparent adverse effect on the forwarders' ability to do business with their customers, many of whom are smaller shippers; that most international small shipper traffic is handled by large forwarder intermediaries and small package specialists who are familiar with direct carrier services and are able to negotiate the best price/service options; that most areas of potential carrier and shipper concern are governed directly by provisions of the Warsaw Convention and that, largely as a result of its requirements, the basic conditions of service for international cargo transportation are already stated in the carriers' waybills; and that to the

extent that shippers have questions about the application or interpretation of certain contract provisions, it is likely that they consult the carrier directly rather than its tariffs. IATA has not demonstrated that the elimination of cargo rules tariffs in the past has created any of the longer-term difficulties it describes, nor has it even alleged that to be the case. Moreover, IATA does not address the fact that domestic cargo carriers have functioned effectively without the presumed advantage of federal incorporation rules, since 14 CFR Part 253 was limited to passenger transportation. All general conditions of domestic carriage are either fully stated on contract documents or are incorporated by reference to other sources accessible to shippers without apparent significant risk of challenge under State contract law requirements.<sup>12</sup>

While IATA and AFA both assert that international rates, classifications, and rules are more complex than domestic ones, they have not cited significant differences, nor have they indicated how current international waybills or other transportation documents would need to be revised to provide sufficient actual notice of all necessary conditions of carriage.<sup>13</sup> AFA has not discussed examples of revisions required by the elimination of international forwarder tariffs in 1979. Moreover, no party has challenged the Department's observation that international waybills are already drafted with considerable specificity to accommodate the detailed requirements of the Warsaw Convention, which governs major elements of the contract of carriage regardless of the existence of filed tariffs, as well as other important matters. Indeed, of the important general rules cited by IATA, all are governed by the Warsaw Convention and are dealt with specifically in the IATA waybill, which is a model for many carriers.<sup>14</sup>

<sup>12</sup> A typical domestic waybill incorporates by reference the "rates, rules and classifications set forth in the most recent Official Airline Cargo Rate Tariff," an unofficial carrier document. All other terms and conditions are stated on the waybill.

<sup>13</sup> IATA claims that the development of "paperless transactions" will suffer, but does not explain how the electronic medium is any less adapted to providing information, including requisite notice, than the paper medium. The incorporation by reference rules in 14 CFR 221.177 already contemplate notice through electronic media.

<sup>14</sup> The IATA waybill states that carriage is subject to the Warsaw Convention, and, where not in conflict with it, to the carrier's "general conditions of carriage," applicable domestic laws and regulations, and "applicable tariffs" of such carrier. Tariffs, which are not necessarily filed officially in many countries, are at most one of several means of supplementing the basic conditions of contract.

There is therefore no record basis for concluding that the elimination of international cargo rules tariffs will impose significant economic or administrative burdens on carriers or shippers. However, the NPRM noted that, to the extent that tariffs might set forth certain conditions of carriage in greater detail than does the current waybill, such details could be incorporated into the contract if notice is given in conformity with the Department's alternative posting requirements in 14 CFR § 221.177, which are incorporation-by-reference standards essentially identical to those provided for domestic passenger transportation by 14 CFR Part 253.<sup>15</sup> In giving the carriers an alternative to the paper tariff notice requirement, which most had found difficult to comply with, it was the Department's intention to shift from a constructive to an actual notice system consonant with contract principles. To the extent that carriers wish to rely upon such an incorporation mechanism for cargo, Part 221.177 is already in place and it is likely that some, if not many, carriers are already complying with its graduated notice provisions in preference to the earlier requirement in Part 221.170 that complete paper tariffs be made available for inspection at each sales office.

While ATA, AFA, American and United support the elimination of all official tariffs in favor of an incorporation by reference mechanism, they request that the final rule make the provisions of section 221.177 more explicit in certain respects, including a specific request by ATA, AFA and United that carriers be authorized to incorporate terms and conditions of service included in a "tariff" published either individually or through a recognized and identified agent. All four commenters, plus IATA, emphasize a need for assurance that carrier reliance upon federal incorporation by reference requirements will be protected from challenge under possibly divergent State law requirements.

AFA questions whether the provisions of 14 CFR § 221.177 permit

<sup>15</sup> Under section 221.177, carriers must give written notice, on or with the waybill or other contract instrument, that the contract of carriage may include terms incorporated by law from public tariffs or by reference from other sources; that the customer may inspect the full text of such terms at any carrier sales office and request a mailed copy thereof; and that the customer may receive an immediate explanation of any terms covering carrier liability limits, claims restrictions, service modification rights, or contract modification rights. In addition, direct written notice of the salient features of incorporated terms that restrict refunds, impose monetary penalties, or permit price changes must be provided on or with the waybill or other contract instrument.

<sup>11</sup> Moreover, when it adopted uniform rules for incorporation by reference of domestic passenger conditions in 14 CFR Part 253, the CAB found that insufficient grounds had been presented to warrant extending those rules to domestic cargo transportation.

the incorporation by reference of material filed in unofficial carrier tariffs or other documents, since the current language of subsection 221.177(b)(1) refers to notice of the possible incorporation of "terms and conditions filed in public tariffs with U.S. authorities." Supporting ATA's request, AFA suggests that this reference be changed to cover unofficial tariffs filed with a recognized tariff publishing agent, or that a similar provision be made in proposed Part 292.

While the NPRM proposed a "rule of construction" in section 292.20 which would implicitly permit such incorporation by reference, subject to the various specific notice requirements set forth in section 221.177, we agree with the commenters that the final rule should be clarified in this and several other respects. We have decided to add provisions to Part 292 which will expressly authorize carriers exempt from filing tariffs under that Part to incorporate any terms by reference into their contracts for the carriage of cargo in scheduled foreign air transportation upon compliance with all of the notice, inspection, explanation and other requirements set forth in section 221.177.<sup>16</sup> Completing the basic parallel to 14 CFR Part 253, we will also expressly provide that shippers are not bound by incorporated terms unless the carrier complies with such requirements, and that the requirements are intended to preempt any State requirements governing incorporation of contract terms by reference. The NPRM contained a similar preemption statement in the explanatory section, but, given the concerns of the carriers and AFA on this subject, we will clarify our intention in Part 292 itself.

At the same time, we are not prepared to consider weakening the notice requirements contained in Section 221.177 to further simplify incorporation by reference of terms for cargo carriage. The graduated system of written notice and right of immediate inspection for most general terms coupled with direct notice and/or a right to immediate explanation of certain more important terms constitutes a deliberate balance between ease of contract formation and the

importance of informed assent. Once on actual notice that terms may be incorporated by reference, the customer is under an obligation to inquire and understand them. A general desire to minimize necessary modifications to existing waybills is not, in our view, a justification for modifying this balance.<sup>17</sup>

American, and to some extent United, are also concerned that carriers will continue to face a public notice requirement that is currently satisfied by the filing of tariffs. American points to the statement in the NPRM that 14 CFR Part 249 and section 221.177 will continue to require each carrier, individually and through its agents, to maintain pertinent information on its cargo prices and rules, and to make that information available to the public upon request. The carriers have apparently misunderstood the scope of that statement, which was a narrow reference to the record retention requirements of Part 249 and the notice provisions of section 221.177 applicable solely in cases of incorporation by reference.<sup>18</sup> We construe the term "tariff information" in section 221.170 to mean tariffs filed with the Department. Thus, in their absence, there is no general "duty" to make such information public. Our experience with the elimination of domestic cargo tariffs and other tariffs has demonstrated clearly that carriers have ample marketplace incentives to disseminate their rates and rules as broadly as possible, and that the threat of administrative enforcement action to compel a general duty in this regard has little influence. Similarly, our experience has been that carriers have strong economic incentives to maintain evidence of past rates and rules, as well as specific waybills beyond the time requirement of Part 249, as a defense against litigation. Such evidence is discoverable by other parties in the event of litigation. Therefore, we have not proposed a general public notice requirement for exempted carriers, nor have the comments persuaded us that one is necessary.

2. Preemption. In addition to the requests of ATA, AFA, American, United, and IATA that the final rule make as clear as possible that State contract law requirements governing incorporation by reference differing

from those in 14 CFR § 221.177 are preempted, several of these commenters have also expressed concern that the tariff exemption itself might be construed by some courts as evidence that State regulatory requirements might have increased applicability to airline activities. We do not believe such a concern to be well founded. While the legal effect of filed tariffs was at one time an important element in the consideration of the scope of federal preemption by the courts, Congress in 1978 adopted a broad preemption provision protecting the "rates, routes and services" of carriers with federal authority<sup>19</sup> in anticipation of the statutory sunset of domestic tariffs and other public utility regulation. The statute has been given a broad reading by the courts, most recently in *American Airlines, Inc. v. Wolens*, 115 S. Ct. 817, 130 L. Ed. 2d 63 (1995). IATA's argument that the absence of a federal rules tariff facility "actively supervised by the Department" may generate unnecessary and costly litigation over both State contract and public utility law requirements ignores the fact that domestic cargo carriage has flourished without the benefit of either filed tariffs or federal incorporation rules for well over a decade. As noted above, domestic waybills do make some use of incorporation by reference. Some litigation may be inevitable in this area, in part because the statute also preserves many remedies at common law. However, we see no reason to assume that the elimination of the tariff requirement for cargo rules will result in an increased risk of litigation for the carriers.

3. Rates and other issues. Athearn, ISS and OFC, shipping consultants which, as part of their services, audit international shipping invoices to determine if their customers have been properly charged, all oppose the proposal.<sup>20</sup> In general, they contend that the proposal will deny shippers and/or their auditors the only assured, complete source of factual information on international carrier rates and rules; that carriers are reluctant to provide customers with precise rate information while cargo agents, whose commissions are based on gross sales, will not always quote the best rates; that existing alternative sources of tariff information,

<sup>16</sup> Amending section 221.177 itself is neither necessary nor desirable, since tariff-filing requirements could be reimposed in specific cases. To correct ambiguities in existing language, it is sufficient to provide in Part 292 that the sign required by subsection 221.177(a)(3) is not required of exempt carriers, and that notices required of such carriers under subsection 221.177(b) shall refer to the title or general nature of the publication or document containing the referenced terms rather than to "terms and conditions filed in public tariffs with U.S. authorities." See section 292.21(a)(1).

<sup>17</sup> Moreover, a DOT rule defining tariffs published by carriers or their agents as "official," "filed," "applicable" or any other term suggesting legal effect in order to accommodate existing waybill language would be potentially misleading.

<sup>18</sup> Where no incorporation of rules by reference to unofficial sources is made, shippers will have direct notice of all contract of carriage terms on the waybill or other accompanying document.

<sup>19</sup> Now codified as 49 U.S.C. 41713.

<sup>20</sup> OFC also seeks an extension of the comment period, arguing that the proposal has not been well publicized among the shipping community. We do not believe such an extension to be necessary. The NPRM was published in the Federal Register, which is legal notice, and the breadth of the comments received indicates industry awareness of the proposal.

such as The Air Cargo Tariff (TACT), are inadequate since they are infrequently issued and incomplete; that these sources often do not include all rates available, especially the lowest ones; and that shipper costs will increase due to de facto cargo rate increases.

In addition, the shipping consultants assert that, because these tariffs are a matter of public record, they also serve to protect unsophisticated shippers by discouraging carriers from engaging in unreasonable practices and charging unfair rates; that the proposal will undermine this public benefit, which facilitates the recovery of thousands of dollars annually from overcharges; that the elimination of easily monitored, published tariffs, defining carriers' maximum rates, would increase forwarders' opportunities for misrating; and that without filed tariffs, shippers will lose their ability to apply reasonable controls on shipping expenses.<sup>21</sup>

ISS contends that the lack of complaints indicates that the current system is working, and provides important protection to consumers; and that while many shipments tendered by large volume forwarders or "consolidators" are governed by negotiated "contract rates," most of the air waybills issued by forwarders acting as carrier agents are governed by filed tariffs and are often misrated. Athearn contends that the Department has overstated the proposal's cost savings since, even with the exemption, carriers will still bear the costs of disseminating their prices. If the Department needs to reduce costs, it should recognize that paper tariffs are obsolete, and explore converting them to less expensive electronic media so that they will continue to be available to the public at one central location.

These commenters have not substantiated their basic contention that filed tariffs are an essential source of pricing information that is not, or will not be, available to shippers through normal marketplace incentives and mechanisms. Notwithstanding the contrary experience following domestic cargo and international forwarder tariff deregulation, Athearn states that it is "questionable" whether carriers will continue to publish and routinely make available to the public the comprehensive rate information contained in tariffs. However, Athearn

also states that the general source of international rate information for forwarders today is the unofficial memorandum tariff identified as TACT, and further that "because most rates have been available through tariff publication firms, there has not been the need by shippers or their auditors to deal with each carrier." This corresponds with the Department's experience that very few requests are received each year from the public for certified copies of present or past cargo tariffs, as well as with our findings in support of the alternative notice requirement in 14 CFR 221.177 that most carrier tariffs maintained at sales offices were incomplete, inaccessible and infrequently used by the public.<sup>22</sup> In general, both the CAB and the Department have found that filed tariffs are not an effective means of informing the public of a carrier's prices and services. The airline commenters in this proceeding agree, affirming that they will continue to publish international rates and rules in formats similar to those used now for both legal and promotional reasons.<sup>23</sup>

Finally, the rate consultants have not substantiated their contentions that tariff-filing discourages unreasonable carrier practices and prices, and acts as a necessary check on "misrating." As the Department has found, it is competition in the marketplace, not the filing of tariffs or the Department's substantive review policies, that keeps prices and practices within reasonable bounds. The concepts of "overcharging" and "misrating" used by these commenters have meaning only in the context of approved tariffs, not the free marketplace where shippers are free to negotiate the best deal for each contract and may be expected to place their business with carriers and/or agents that provide the best information and the best rate options. It is this competition and this freedom to negotiate which provides the greatest economic benefits to the shipping public. The rate consultants have provided no sound basis for their argument that cargo tariffs should continue to be required.

#### Regulatory Analyses and Notices

##### *Executive Order 12866 and DOT Regulatory Policies and Procedures*

The Department has determined that this rule is not significant under Executive Order 12866 and the Department's Regulatory Policies and

Procedures (44 CFR 11034; Feb. 26, 1979). A regulatory evaluation in this Docket shows that the benefits of the proposed rule exceed the costs to the industry and the Federal government significantly, since it eliminates a regulatory burden, without imposing other requirements. This rule could result in net savings to the airlines of approximately \$600,000 per year.

##### *Executive Order 12612*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"), and the Department has determined the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

##### *Regulatory Flexibility Act*

I certify that this rule will not have a significant economic impact on a substantial number of small entities, because the tariff filing requirements apply to scheduled service air carriers. The vast majority of the air carriers filing international ("foreign") air cargo tariffs are large operators with revenues in excess of several million dollars each year. Small air carriers operating aircraft with 60 seats or less and 18,000 pounds payload or less that offer on-demand air-taxi service are not required to file such tariffs.

##### *Paperwork Reduction Act*

With respect to the Paperwork Reduction Act, this rule eliminates information collection requirements that require the approval of the Office of Management and Budget pursuant to the Act. This proposal reduces paperwork burdens, as described in detail in the Regulatory Evaluation in this docket.

The implementation of these regulations will reduce tariff filings of cargo rates, rules and charges by almost 10,000 cargo tariff pages and about 200 Cargo Special Tariff Permission Applications (STPA's) filed each year, saving the air carriers a filing fee of \$2 a cargo page and \$12 a cargo STPA (which generally consists of about three double-sided pages for each STPA form).

Such filing fees, now paid to DOT, total about \$22,400 or less annually. In addition, ATPCO charges carriers \$18 for preparing each STPA for submission to the Department, which amounts to an additional \$3,600 per year for an average of 200 STPA's.

Air carriers and their cargo filing agents also will avoid the burden of filing the tariffs with DOT, estimated to be about 5.34 hours for each of the 10,200 cargo tariff pages and STPA

<sup>21</sup> OFC asks that any final rule give shippers access to the Department's resources so as to ensure that carriers will furnish complete information on their cargo rates and rules to shippers on request and within a reasonable amount of time. We do not believe this to be necessary. Normal contract law has the tools needed to accomplish these goals.

<sup>22</sup> 53 FR 52677, December 29, 1988.

<sup>23</sup> IATA also concurs that shippers and interested agent/intermediaries can access applicable rates directly from carriers "as efficiently as through tariff filings."

forms, or about 54,468 burden hours, which at an estimated industry salary rate of about \$10.40 an hour would indicate a savings of approximately \$566,467.

In addition, other costs incurred by carriers to formulate and disseminate the cargo rate and rule pages to their customers (by the air carriers or their agent, such as the Airline Tariff Publishing Company (ATPCO) or Cargo Rate Services (CRS)) may be affected. Elimination of government filing may favorably affect some portion of their overall cost other than the DOT filing fee; for instance, \$48 for an international cargo tariff page publication/distribution cost in 1994 by the Airline Tariff Publishing Company (ATPCO) in Cargo Tariff Bulletin No. 19, dated November 18, 1993.

The reporting and recordkeeping requirements associated with this rule are being submitted to OMB for approval in accordance with 44 U.S.C. chapter 35 under OMB NO. 2137-AC48; Administration: Department of Transportation; TITLE: Exemption From Property Tariff-Filing Requirements; NEED FOR INFORMATION: Exempts a data page filing requirement; PROPOSED USE OF INFORMATION: Exemption is based on "de minimis" regulatory use; FREQUENCY: Currently, an initial tariff filing is required of each respondent; changes are voluntary, whenever an air carrier elects; BURDEN ESTIMATE: 5.34 hours for an STPA or a cargo rate page; RESPONDENTS: 45; FORM(S): 10,200 pages or forms per annum; AVERAGE BURDEN HOURS PER RESPONDENT: 1,210 hours.

For further information on paperwork reduction contact: The Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, (202) 366-4735 or Edward Clarke, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503.

Any comments regarding the burden estimate or any aspect of these information requirements, including suggestions for reducing the burden, may be sent to: Director, Office of International Aviation, X-40, U.S. Department of Transportation, Office of the Secretary, 400 Seventh Street SW., Room 6402, Washington, D.C. 20590-0001 as well as the above contact.

**Regulation Identifier Number**

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each

year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

**List of Subjects**

**14 CFR Part 221**

Air rates and fares, Freight, Reporting and recordkeeping requirements.

**14 CFR Part 292**

Air rates and fares, Freight, Reporting and recordkeeping requirements, Preemption.

For the reasons set forth herein, and under the authority delegated in 49 CFR 1.56(j)(2)(ii), the Department of Transportation amends 14 CFR Part 221 and adds a new Part 292 as follows:

**PART 221—TARIFFS**

1. The authority citation for Part 221 is revised to read as follows:

Authority: 49 U.S.C. 40101, 40109, 40113, 46101, 46102, Chapter 411, Chapter 413, Chapter 415 and Subchapter I of Chapter 417.

2. Section 221.3 is amended by removing the period at the end of paragraph (d)(8) and adding a semicolon in its place, and by adding a new paragraph (d)(9) to read as follows:

**§ 221.3 Carrier's duty.**

\* \* \* \* \*

(d) \* \* \*

(9) Part 292, *International Cargo Transportation*, except as provided in 292.

\* \* \* \* \*

3. A new Part 292 is added to read as follows:

**PART 292—INTERNATIONAL CARGO TRANSPORTATION**

**Subpart A—General**

Sec.  
292.1 Applicability.  
292.2 Definitions.

**Subpart B—Exemption From Filing Tariffs**

292.10 Exemption.  
292.11 Revocation of exemption.

**Subpart C—Effect of Exemption**

292.20 Rule of construction.  
292.21 Incorporation of contract terms by reference.  
292.22 Effectiveness of tariffs on file.

Authority: 49 U.S.C. 40101, 40105, 40109, 40113, 40114, 41504, 41701, 41707, 41708, 41709, 41712, 46101; 14 CFR 1.56(j)(2)(ii).

**Subpart A—General**

**§ 291.1 Applicability.**

This part applies to direct air carriers providing scheduled transportation of cargo in foreign air transportation.

**§ 292.2 Definitions.**

For purposes of this part:

*Cargo* means property other than baggage accompanied or checked by passengers, or mail.

*Cargo tariff* means a tariff containing rates, charges or provisions governing the application of such rates or charges, or the conditions of service, applicable to the scheduled transportation of cargo in foreign air transportation.

*Direct air carrier* means an air carrier or foreign air carrier directly engaged in the operation of aircraft under a certificate, regulation, order, exemption or permit issued by the Department or its predecessor, the Civil Aeronautics Board.

**Subpart B—Exemption From Filing Tariffs**

**§ 292.10 Exemption.**

Direct air carriers are exempted from the requirement to file cargo tariffs with the Department of Transportation provided in 49 U.S.C. 41504 and 14 CFR Part 221.

**§ 292.11 Revocation of exemption.**

(a) The Department, upon complaint or upon its own initiative, may, immediately and without hearing, revoke, in whole or in part, the exemption granted by this part with respect to a carrier or carriers, when such action is in the public interest.

(b) Any such action will be taken in an order issued by the Assistant Secretary for Aviation and International Affairs, and will identify:

- (1) The tariff matter to be filed; and
- (2) The deadline for carrier compliance.

(c) Revocations under this section will have the effect of reinstating all applicable tariff requirements and procedures specified in the Department's regulations for the tariff material to be filed, unless otherwise specified by Department order.

**Subpart C—Effect of Exemption**

**§ 292.20 Rule of construction.**

Carriers holding an effective exemption from the duty to file tariffs under this part shall not, unless otherwise directed by order of the Department, be subject to tariff posting, notification or subscription requirements set forth in 49 U.S.C. 41504 or 14 CFR part 221, *except* as provided in § 292.21 of this part.

**§ 292.21 Incorporation of contract terms by reference.**

(a) Carriers holding an effective exemption from the duty to file tariffs under this part may incorporate contract

terms by reference (*i.e.* without stating their full text) into the waybill or other document embodying the contract of carriage for the scheduled transportation of cargo in foreign air transportation, *provided that*:

(1) The notice, inspection, explanation and other requirements set forth in 14 CFR 221.177(a)(1), (a)(2), (a)(4), (b), (c) and (d) are complied with, to the extent applicable, except that the notice required under 14 CFR 221.177(b)(1) shall refer to the title or general nature of the publication(s) or document(s) containing the full text of the referenced terms rather than to "terms and conditions filed in public tariffs with U.S. authorities";

(b) In addition to other remedies at law, a carrier may not claim the benefit as against a shipper or consignee of, and a shipper or consignee shall not be bound by, any contract term which is incorporated by reference under this part unless the requirements of paragraph (a)(1) of this section are complied with, to the extent applicable; and

(c) The purpose of this section is to set uniform disclosure requirements, which preempt any State requirements on the same subject, for terms incorporated by reference into contracts of carriage for the scheduled transportation of cargo in foreign air transportation.

#### **§ 292.22 Effectiveness of tariffs on file.**

(a) Cargo rate tariffs on file with the Department, including related classification and/or applicability rules, cease to be effective as tariffs under 49 U.S.C. 41504 and 41510, as well as under the provisions of 14 CFR Part 221, and they are canceled by operation of law.

(b) As of March 1, 1996, all remaining cargo tariffs on file with the Department cease to be effective as tariffs under 49 USC 41504 and the provisions of 14 CFR part 221, and are cancelled by operation of law. Any such tariffs may be cancelled voluntarily prior to that date. With respect to terms expressly agreed in the contract of carriage, carriers, agents and other persons are relieved from the requirement of adherence to filed tariffs in 49 USC 41510 and the related provisions of 14 CFR part 221 as of November 30, 1995.

(c) Applications for filing and/or effectiveness of any cargo tariffs pending on November 30, 1995 are dismissed by operation of law. No new filings or applications will be permitted except as provided under § 292.11.

Issued in Washington, D.C. on November 13, 1995.

Patrick V. Murphy,

*Deputy Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 95-28474 Filed 11-29-95; 8:45 am]

BILLING CODE 4910-62-P

### **Coast Guard**

#### **33 CFR Part 165**

[CGD13-95-008]

RIN 2115-AA97

#### **Safety Zone Regulations; Bellingham Bay, Bellingham, WA**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is establishing a permanent safety zone for the annual Fourth of July Blast Over Bellingham Fireworks Display in Bellingham, Washington. This event is held each year on the Fourth of July on the waters of Bellingham Bay. In the past, the Coast Guard has established a temporary safety zone each year to protect the safety of life on the navigable waters during the event. However, because the event recurs annually, the Coast Guard is adopting a permanent rule to better inform the boating public.

**EFFECTIVE DATE:** January 2, 1996.

**ADDRESSES:** Documents referred to in this preamble are available for inspection or copying at U.S. Coast Guard Group Seattle, 1519 Alaskan Way South, Building One, Room 130, Seattle, WA 98134. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

LT Ben White, Assistant Operations Officer, U.S. Coast Guard Group Seattle (Telephone: (206) 217-6009).

**SUPPLEMENTARY INFORMATION:**

Drafting Information: The principal persons involved in drafting this document are LT Susan Workman, Project Manager, U.S. Coast Guard Group Seattle, and LCDR John Odell, Project Counsel, Thirteenth Coast Guard District Legal Office.

#### **Regulatory History**

On April 10, 1995, the Coast Guard published a Notice of Proposed Rulemaking (entitled Safety Zone Regulations, Bellingham Bay, Bellingham, WA) in the Federal Register (60 FR 18063). The Coast Guard received no letters commenting on the proposal. No public hearing was requested, and none was held.

#### **Background and Purpose**

The Coast Guard is adopting permanent safety zone regulations for the annual Fourth of July Blast Over Bellingham in Bellingham, Washington. This event is held on the waters of Bellingham Bay each year from 9:30 p.m. to 11 p.m. on July fourth and is sponsored by the Whatcom County Chamber of Commerce. The Coast Guard (by adopting a permanent safety zone through this action) intends to promote the safety of spectators and participants during this event. The fireworks display is conducted from a barge located on the waters of Bellingham Bay, Bellingham, Washington. To promote the safety of both the spectators and participants and to keep spectators away from the fireworks barge during the fireworks display, this rule establishes a safety zone around the fireworks barge and prohibits entry into the area that surrounds the fireworks barge during the event. This safety zone will be enforced by representatives of the Captain of the Port, Puget Sound, Seattle, Washington. The Captain of the Port may be assisted by other federal agencies.

#### **Regulatory Evaluation**

This rule is not a significant action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone established by this regulation would encompass less than a half of one square nautical mile on Bellingham Bay adjacent to Squalicum Harbor. Entry into the safety zone will be restricted for less than three hours on the day of the event. These restrictions will have little effect on maritime commerce in the area.

#### **Small Entities**

The impact on small entities is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

**Collection of Information**

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

**Federalism**

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

**Environment**

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation. Appropriate environmental analysis of the Blast Over Bellingham Fireworks Display will be conducted in conjunction with the marine event permitting process each year. Any environmental documentation required under the National Environmental Policy Act will be completed prior to the issuance of a marine event permit for the event.

**List of Subjects in 33 CFR Part 165**

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

**Final Regulations**

For the reasons set out in the preamble, the Coast Guard amends 33 CFR 165 as follows:

**PART 165—[AMENDED]**

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

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

2. A new section 165.1304 is added to read as follows:

**§ 165.1304 Bellingham Bay, Bellingham, WA**

(a) *Location.* The following area is a safety zone: All portions of Bellingham Bay bounded by the following coordinates: Latitude 48°44'09" N, Longitude 122°30'07" W; thence to Latitude 48°44'09" N, Longitude 122°29'57" W; thence to Latitude 48°44'02" N, Longitude 122°29'57" W; thence to Latitude 48°44'02" N, Longitude 122°30'07" W; thence returning to the origin. This safety zone resembles a square centered around the

barge from which the fireworks demonstration will be launched. Floating markers will be placed by the sponsor of the fireworks demonstration to delineate the boundaries of the safety zone. [Datum: NAD 1983].

(b) *Effective dates.* This section is effective annually on July fourth from 9:30 p.m. to 11 p.m. unless otherwise specified by Federal Register notice.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port, Puget Sound, Seattle, WA.

Dated: November 13, 1995.

R.K. Softye,

*Captain, U.S. Coast Guard, Captain of the Port Puget Sound.*

FR Doc. 95-29274 Filed 11-29-95; 8:45 am]

BILLING CODE 4910-14-M

**33 CFR Part 165**

[CGD13-95-009]

RIN 2115-AA97

**Safety Zone Regulations; Commencement Bay, Tacoma, WA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a permanent safety zone for the annual Fourth of July Freedom Fair Airshow and Fireworks Display in Tacoma, Washington. This event is held each year on the Fourth of July on the waters of Commencement Bay. In the past, the Coast Guard has established a temporary safety zone each year to protect the safety of life on the navigable waters during this event. However, because the event recurs annually, the Coast Guard is adopting a permanent rule to better inform the boating public.

**EFFECTIVE DATE:** January 2, 1996.

**ADDRESSES:** Documents referred to in this preamble are available for inspection or copying at U.S. Coast Guard Group Seattle, 1519 Alaskan Way So., Building One, Room 130, Seattle, WA 98134. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Ben White, Assistant Operations Officer, U.S. Coast Guard Group Seattle, (Telephone: (206) 217-6009).

**SUPPLEMENTARY INFORMATION:**

**Drafting Information:** The principal persons involved in drafting this document are LT Susan Workman, Project Manager, U.S. Coast Guard Group Seattle, and LCDR John Odell, Project Counsel, Thirteenth Coast Guard District Legal Office.

**Regulatory History**

On April 10, 1995, the Coast Guard published a Notice of Proposed Rulemaking (entitled Safety Zone Regulations, Commencement Bay, Tacoma, WA) in the Federal Register (60 FR 18066). The Coast Guard received no letters commenting on the proposal. No public hearing was requested, and none was held.

**Background and Purpose**

The Coast Guard is adopting permanent safety zone regulations for the annual Fourth of July Freedom Fair Airshow and Fireworks Display in Tacoma, Washington. This event is held on the waters of Commencement Bay each year from 2 p.m. on July fourth to 12:30 a.m. on July fifth and is sponsored by the Tacoma Fourth of July Commission. The Coast Guard, (by adopting a permanent safety zone through this action), intends to promote the safety of spectators and participants in this event. The airshow is conducted over the waters of Commencement Bay just off shore from Ruston Way and the Old Town area. The Federal Aviation Administration (FAA) requires that the waters below the airshow aerobatics be closed to all spectators. This required closed area measures 1000 yards by 1800 yards on the waters of Commencement Bay, Tacoma, Washington, along the shoreline of Ruston Way. The fireworks display is conducted from a barge located inside the airshow closure area. The fireworks display will take place late in the evening after the airshow is complete. To promote the safety of both the spectators and participants, and to keep spectators away from both the airshow aerobatics area and the fireworks barge during the events, this rule establishes a safety zone and prohibits entry into the area surrounding the events. This safety zone will be enforced by representatives of the Captain of the Port Puget Sound, Seattle, Washington. The Captain of the Port may be assisted by other federal agencies.

**Regulatory Evaluation**

This rule is not a significant action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this

regulation to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone established by this regulation will encompass less than a one square nautical mile on Commencement Bay adjacent to the Old Town area on Ruston Way. Entry into the safety zone will be restricted for less than nine hours on the day of the event. These restrictions will have little effect on maritime commerce in the area.

#### Small Entities

The impact on small entities is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

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

#### Federalism

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

#### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation. Appropriate environmental analysis of the Fourth of July Freedom Fair Airshow and Fireworks Display will be conducted in conjunction with the marine event permitting process each year. Any environmental documentation required under the National Environmental Policy Act will be completed prior to the issuance of a marine event permit for this event.

#### List of Subjects in 33 CFR Part 165

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

#### Final Regulations

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

### PART 165—[AMENDED]

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

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

2. A new section 165.1305 is added to read as follows:

#### § 165.1305 Commencement Bay, Tacoma, WA.

(a) *Location.* The following area is a safety zone: All portions of Commencement Bay bounded by the following coordinates: Latitude 47°17'34" N, Longitude 122°28'36" W; thence to Latitude 47°17'06" N, Longitude 122°27'40" W; thence to Latitude 47°16'42" N, Longitude 122°28'06" W; thence to Latitude 47°17'10" W, Longitude 122°29'02" W; thence returning to the origin. This safety zone resembles a rectangle lying adjacent to the shoreline along Ruston Way. Floating markers will be placed by the sponsor of the event to delineate the boundaries of the safety zone. [Datum: NAD 1983].

(b) *Effective dates.* This section is effective annually on July the fourth from 2 p.m. to 12:30 a.m. July the fifth unless otherwise specified by Federal Register notice.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port, Puget Sound, Seattle, WA.

Dated: November 13, 1995.

R.K. Softye,

*Captain, U.S. Coast Guard, Captain of the Port Puget Sound.*

[FR Doc. 95-29272 Filed 11-29-95; 8:45 am]

BILLING CODE 4910-14-M

### 33 CFR Part 165

[CGD13-95-007]

RIN 2115-AA97

#### Safety Zone Regulations; Elliott Bay, Seattle, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is adopting a permanent safety zone for the annual Fourth of July Ivar's Fireworks Display in Seattle, Washington. This event is held each year on the Fourth of July on the waters of Elliott Bay. In the past, the Coast Guard has established a temporary safety zone each year to protect the safety of life on the navigable waters during this event. However, because the

event recurs annually, the Coast Guard is adopting a permanent rule to better inform the boating public.

**EFFECTIVE DATE:** January 2, 1996.

**ADDRESSES:** Documents referred to in this preamble are available for inspection or copying at U.S. Coast Guard Group Seattle, 1519 Alaskan Way South, Building One, Room 130, Seattle, WA 98134. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Ben White, Assistant Operations Officer, U.S. Coast Guard Group Seattle (Telephone: (206) 217-6009).

#### SUPPLEMENTARY INFORMATION:

##### Drafting Information

The principal persons involved in drafting this document are LT Susan Workman, Project Manager, U.S. Coast Guard Group Seattle, and LCDR John Odell, Project Counsel, Thirteenth Coast Guard District Legal Office.

##### Regulatory History

On April 10, 1995, the Coast Guard published a Notice of Proposed Rulemaking (entitled Safety Zone Regulations; Elliott Bay, Seattle, WA) in the Federal Register (60 FR 18068). The Coast Guard received no letters commenting on the proposal. No public hearing was requested, and none was held.

##### Background and Purpose

The Coast Guard is adopting permanent safety zone regulations for the annual Fourth of July Ivar's Fireworks Display in Seattle, Washington. This event is held on the waters of Elliott Bay each year from 9:30 p.m. to 11 p.m. on July fourth and is sponsored by Ivar's, Incorporated. The Coast Guard (by adopting a permanent safety zone through this action) intends to promote the safety of spectators and participants during this event. Each year, as part of the event, a fireworks display is conducted from a barge located on the waters of Elliott Bay, Seattle, Washington. To promote the safety of both the spectators and participants and to keep spectators away from the fireworks barge during the fireworks display, this rule establishes a safety zone around the fireworks barge and prohibits entry into the area that surrounds the fireworks barge during the event. This safety zone will be enforced by representatives of the Captain of the Port, Puget Sound, Seattle, Washington. The Captain of the Port may be assisted by other federal agencies.

### Regulatory Evaluation

This rule is not a significant action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone established by the proposed regulation will encompass less than a half of one square nautical mile on Elliott Bay adjacent to Myrtle Edwards Park. Entry into the safety zone will be restricted for less than three hours on the day of the event. These restrictions will have little effect on maritime commerce in the area.

### Small Entities

The impact on small entities is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

### Collection of Information

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

### Federalism

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

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation. Appropriate environmental analysis of the Ivar's Fourth of July Fireworks Display will be conducted in conjunction with the marine event permitting process each year. Any environmental documentation required under the National Environmental Policy Act will be completed prior to the issuance of a marine event permit for this event.

### List of Subjects in 33 CFR Part 165

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

### Final Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR 165 as follows:

#### **PART 165—[AMENDED]**

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

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

2. A new section 165.1307 is added to read as follows:

#### **§ 165.1307 Elliott Bay, Seattle, WA.**

(a) *Location.* The following area is a safety zone: All portions of Elliott Bay bounded by the following coordinates: Latitude 47°37' 22" N, Longitude 122° 22' 06" W; thence to Latitude 47° 37' 06" N, Longitude 122° 21' 55" W; thence to Latitude 47° 36' 54" N, Longitude 122° 22' 05" W; thence to Latitude 47° 36' 09" N, Longitude 122° 22' 25" W; thence returning to the origin. This safety zone resembles a square centered around the barge from which the fireworks will be launched and begins 100 yards from the shoreline of Myrtle Edwards Park. Floating markers will be placed by the sponsor of the fireworks display to delineate the boundaries of the safety zone. [Datum: NAD 1983]

(b) *Effective dates.* This section is effective annually on July fourth from 9:30 p.m. to 11 p.m. unless otherwise specified by Federal Register notice.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port, puget sound, Seattle, WA.

Dated: November 13, 1995.

R.K. Softye,

*Captain, U.S. Coast Guard, Captain of the Port Puget Sound.*

[FR Doc. 95-29275 Filed 11-29-95; 8:45 am]

**BILLING CODE 4910-14-M**

### **33 CFR Part 165**

**[CGD13-95-010]**

**RIN 2115-AA97**

#### **Safety Zone Regulations; Lake Union, Seattle, WA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is adopting a permanent safety zone for the annual Fourth of July Fireworks Display on Lake Union, Seattle, Washington. This event is held each year on the Fourth of July on the waters of Lake Union. In the past, the Coast Guard has established a temporary safety zone each year to protect the safety of life on the navigable waters during this event. However, because the event recurs annually, the Coast Guard is adopting a permanent rule to better inform the boating public.

**EFFECTIVE DATE:** January 2, 1996.

**ADDRESSES:** Documents referred to in this preamble are available for inspection or copying at U.S. Coast Guard Group Seattle, 1519 Alaskan Way South, Building One, Room 130, Seattle, WA 98134. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Ben White, Assistant Operations Officer, U.S. Coast Guard Group Seattle, (Telephone: (206) 217-6009).

#### **SUPPLEMENTARY INFORMATION:**

**Drafting Information:** The principal persons involved in drafting this document are LT Susan Workman, Project Manager, U.S. Coast Guard Group Seattle, and LCDR John Odell, Project Counsel, Thirteenth Coast Guard District Legal Office.

#### **Regulatory History**

On April 10, 1995, the Coast Guard published a notice of proposed rulemaking (entitled Safety Zone Regulations; Lake Union, Seattle, WA) in the Federal Register (60 FR 18065). The Coast Guard received no letters commenting on the proposal. No public hearing was requested, and none was held.

#### **Background and Purpose**

The Coast Guard is adopting permanent safety zone regulations for the annual Fourth of July Fireworks Display on Lake Union, Seattle, Washington. This event is held on the waters of Lake Union each year from 9:30 p.m. to 11 p.m. on July fourth and is sponsored by One Reel, Incorporated. The Coast Guard, (by adopting a permanent safety zone through this action), intends to promote the safety of spectators and participants in this event. Each year, as part of this event, a fireworks display is conducted from a barge located on the waters of Lake Union, Seattle, Washington. To promote the safety of both the spectators and participants and to keep spectators away from the fireworks barge during the fireworks display, this rule establishes a safety zone around the fireworks barge and prohibits entry into the area that

surrounds the fireworks barge during the event. Under this rule, the Captain of the Port may establish transit lanes along the east and west shorelines of Lake Union. If established, boaters will be allowed to transit north and south through the safety zone in these lanes. These lanes will remain open until 10 p.m. and then be closed until the conclusion of the fireworks display. This safety zone will be enforced by representatives of the Captain of the Port Puget Sound, Seattle, Washington. The Captain of the Port may be assisted by other federal agencies.

#### Regulatory Evaluation

This rule is not a significant action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone established by this regulation will encompass less than eight hundred square yards in the center of Lake Union. Entry into the safety zone will be restricted for less than three hours on the day of the event. These restrictions will have little effect on maritime commerce in the area.

#### Small Entities

The impact on small entities is expected to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

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

#### Federalism

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

#### Environment

The Coast Guard considered the environmental impact of this rule and

concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation. Appropriate environmental analysis of the Lake Union Fireworks Display will be conducted in conjunction with the marine event permitting process each year. Any environmental documentation required under the National Environmental Policy Act will be completed prior to the issuance of a marine event permit for this event.

#### List of Subjects in 33 CFR Part 165

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

#### Final Regulations

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

#### **PART 165—[AMENDED]**

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

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

2. A new section 165.1306 is added to read as follows:

#### **§ 165.1306 Lake Union, Seattle, WA.**

(a) *Location.* The following area is a safety zone: All portions of the waters of Lake Union bounded by the following coordinates: Latitude 47°38'32" N, Longitude 122°20'34" W; thence to Latitude 47°38'32" N, Longitude 122°19'48" W; thence to Latitude 47°38'10" N, Longitude 122°19'45" W; thence to Latitude 47°38'10" N, Longitude 122°20'24" W; thence returning to the origin. This safety zone begins 1,000 feet south of Gas Works Park and encompasses all waters from east to west for 2,500 feet. Floating markers will be placed by the sponsor of the fireworks demonstration to delineate the boundaries of the safety zone. [Datum: NAD 1983]

(b) *Effective dates.* This section is effective annually on July fourth from 9:30 p.m. to 11 p.m. unless otherwise specified by Federal Register notice.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into the safety zone is prohibited unless authorized by the Captain of the Port, Puget Sound, Seattle, WA. The Captain of the Port may establish transit lanes along the east and west shorelines of Lake Union and may allow boaters to transit north

and south through the safety zone in these lanes. If established, these transit lanes will remain open until 10 p.m. and then be closed until the end of the fireworks display (approximately 30 minutes).

Dated: November 13, 1995.

R.K. Softye,  
Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 95-29273 Filed 11-29-95; 8:45 am]

BILLING CODE 4910-14-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Part 440

[MB-085-F]

RIN 0938-AG73

#### Medicaid Program: Nurse-Midwife Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

**SUMMARY:** In accordance with section 13605 of the Omnibus Budget Reconciliation Act of 1993, this final rule expands coverage of nurse-midwife services under the Medicaid program by including coverage for those services that nurse-midwives perform outside the maternity cycle as allowed by State law and regulation. In addition, this rule includes several clarifying revisions to the Medicaid regulations.

**EFFECTIVE DATE:** January 2, 1996.

**FOR FURTHER INFORMATION CONTACT:** Linda Sizelove, (410) 786-4626.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

##### A. Scope of Covered Services

Title XIX of the Social Security Act (the Act) authorizes States to establish Medicaid programs to provide medical assistance to needy individuals. Section 1902(a)(10) of the Act describes the two broad classifications of most individuals to whom medical assistance may be provided: the categorically needy (section 1902(a)(10)(A)) and the medically needy (section 1902(a)(10)(C)). Section 1905 of the Act defines medical assistance as payment of part or all of the costs of specified services to eligible individuals.

Section 1905(a)(17) of the Act includes, as a service for which medical assistance may be available, nurse-midwife services which the nurse-midwife is authorized to provide under

State law or regulation. Nurse-midwife services are mandatory for the categorically needy under section 1902(a)(10)(A) of the Act. At the State's option, a State may also provide these services to the medically needy.

Before October 1, 1993, section 1905(a)(17) of the Act (through a cross-reference to section 1861(gg) of the Act) and implementing regulations at 42 CFR 440.165 required that a nurse-midwife must be a registered nurse who (1) is either certified as a nurse-midwife by an organization recognized by the Secretary or has completed a program of study and clinical experience that has been approved by the Secretary and (2) performs services in the care of mothers and babies throughout the maternity cycle. Section 1905(a)(17) (again, through a cross-reference to section 1861(gg) of the Act) also specifies that the services that a nurse-midwife is legally authorized to perform under State law and regulations must be covered regardless of whether the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider.

Section 13605 of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93), Pub. L. 103-66, amended section 1905(a)(17) of the Act to remove the limitation that a nurse-midwife can provide services only during the maternity cycle.

#### B. Current Regulatory Provisions

There are four existing sections of Medicaid regulations that are affected by this final rule. Section 440.165 defines nurse-midwife services as a distinct service category and lists the requirements for coverage of services under that category. Three other sections, §§ 440.10, 440.20, and 440.90, contain cross-references to § 440.165 to indicate that nurse-midwife services may be performed in specified settings. Sections 440.10 and 440.20 provide that nurse-midwife services may be performed in inpatient and outpatient hospital settings. Section 440.90 provides that nurse-midwife services may be performed in clinic settings.

#### II. Provisions of the Proposed Regulations

On July 18, 1994, we published a proposed rule that set forth changes to the Medicaid regulations based on the provisions of OBRA '93 and our reexamination of existing regulations (59 FR 36419). Specifically, we proposed the following revisions:

- To amend § 440.165 by removing paragraphs (a)(1) and (c) to delete the definition of, and all other references to, the maternity cycle in accordance with

the OBRA '93 amendment that provides for the coverage of nurse-midwife services regardless of whether the services are performed in the management of care of mothers and babies throughout the maternity cycle. Removal of this limitation will allow nurse-midwives to perform any service that is allowed under State law or regulation.

- To remove the exception cross-references to § 440.165 contained in §§ 440.10, 440.20, and 440.90. Because nurse-midwife services are defined as a distinct service category under § 440.165, we have determined that the inclusion of cross-references to the description of covered nurse-midwife services within the descriptions of other covered Medicaid services is more confusing than clarifying.

#### III. Discussion of Public Comments

In response to the July 18, 1994 proposed rule, we received 30 timely items of correspondence. We have summarized the comments and present them below with our responses.

*Comment:* Several commenters requested that we revise the regulations to clarify that nurse-midwife services may be provided in a variety of settings. The commenters suggested that we explain in the regulations that a nurse-midwife can order home health visits, can be reimbursed for services provided in freestanding birth centers and clinics, and can be reimbursed for patient services provided in the home without regard to whether the services were provided under the direction of a physician or other health care provider. One commenter suggested that we revise § 440.70 to clarify that nurse-midwife services may be provided in the home and that these services are not subject to the requirement that home health services must be on the order of the recipient's physician. Another commenter requested that we revise § 440.165 to specify the settings where nurse-midwife services may be performed.

Additionally, while several commenters supported our proposed revisions to §§ 440.10, 440.20, and 440.90, other commenters were concerned that our proposal to remove the cross references to nurse-midwife services in these sections may lead parties to mistakenly believe that the supervision of a physician is required for nurse-midwife services furnished in inpatient or outpatient hospital settings or clinic settings. The majority of the comments we received focused on the issues described above.

*Response:* To help clarify our position on the settings where nurse-midwife

services may be provided and the restrictions imposed on services furnished in those settings, we will provide some general information on how Medicaid services are paid. We will follow this with specific information on nurse-midwife services.

#### A. General Principles

Generally, Medicaid services are classified by three types of categories. Each separate category may have specific Federal requirements relating to supervision or location of services. First, services are described in terms of the setting in which they are provided. Some services included in this category are inpatient or outpatient hospital services and clinic services. Second, services are described by the type of services being furnished, such as rehabilitation or physical therapy services. Finally, services are described in terms of the individual providing the service such as physician, nurse practitioner, and nurse-midwife services. Each category is separate and has a distinct set of regulatory requirements.

While we view each category of service as separate and distinct, the categories are not mutually exclusive. Some services, including nurse-midwife services, can be classified in more than one category. It is also possible that a service provided may meet the requirements under one category and not another even though, as a general rule, the service could be classified under either category. The specific circumstances under which a service is provided and how the provider bills for the service determines how the service is categorized and which regulatory requirements apply.

#### B. Nurse-Midwife Services

The general principles of Medicaid coverage discussed above apply to nurse-midwife services. There are no Federal restrictions on settings where nurse-midwife services may be furnished. Nurse-midwife services are limited only through State licensure or scope of practice laws. Additionally, the Act does not dictate that a nurse-midwife who practices in a hospital or clinic must receive payment through that facility. Nurse-midwife services are similar to physician services in that they may be billed in their own distinct category or alternatively may be billed under other categories such as hospital or clinic services. If nurse-midwife services are provided under the classification of inpatient or outpatient hospital services or clinic services, and billed as such, then the requirements outlined in §§ 440.10, 440.20, or 440.90

must be met. For example, nurse-midwife services performed in a hospital setting could be billed as either nurse-midwife services or hospital services. If the hospital bills Medicaid for the nurse-midwife services, the services will be categorized as inpatient hospital services (or outpatient hospital services as the case may be) and all Federal requirements relating to inpatient (or outpatient) hospital services must be met. That is, in accordance with § 440.10, the hospital services provided by the nurse-midwife must be provided under the overall direction of a physician. If a nurse-midwife bills for the services as nurse-midwife services (which happen to be furnished in a hospital setting), all Federal regulatory requirements relating to nurse-midwife services must be met. Thus, under § 440.165, the services may be performed without regard to whether the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider.

This same rationale applies to nurse-midwife services furnished in the home. As long as the services are billed as nurse-midwife services, the nurse-midwife may provide services in the home and receive payment for such services without regard to whether the services were ordered by the recipient's physician. However, if the services are billed through a home health agency, the Federal requirements set forth in § 440.70 for home health services must be met.

Similarly, if nurse-midwife services provided in freestanding birth centers are billed as clinic services, then the Federal requirements outlined in § 440.90 for clinic services must be met in order to receive payment. Therefore, the services would have to be performed under the direction of a physician. If the nurse-midwife bills for the services performed in the clinic as nurse-midwife services, regulations at § 440.165 must be followed. That is, nurse-midwife services which happen to be provided in the clinic setting may be furnished without regard to whether the nurse-midwife is under the direction of a physician.

Thus, there are no restrictions on settings where a nurse-midwife may furnish services. Whether supervision by a physician or other health care provider is necessary depends on how the services are classified when they are billed. Therefore, we do not believe that the revisions suggested by the commenter are necessary since the proposed regulations already provide for nurse-midwife services in a variety of settings. We note that this regulation does not implement any new

requirements. We removed the cross references to § 440.165 in §§ 440.10, 440.20, and 440.90 for the sake of clarity. These revisions do not impose new supervision requirements.

*Comment:* Several commenters noted that the regulations did not include any reference to out-of-hospital birth centers. One commenter stated that § 440.90(c), which defines "clinic services," clearly includes services furnished in freestanding birth centers. The commenter expressed concern that removal of the cross reference to § 440.165 in this section could be interpreted to mean that nurse-midwife services furnished in freestanding birth centers are not covered under Medicaid. Commenters suggested that we revise § 440.90 to indicate that nurse-midwife services furnished in a freestanding birth center are covered under Medicaid. Other commenters recommended that specific reference to birth centers should be inserted in § 440.165(a)(1).

*Response:* Nurse-midwife services are practitioner services that are ordinarily furnished on an outpatient basis, except that nurse-midwife services may be furnished to patients in an inpatient setting reimbursable under section 1905(a) of the Act, such as a hospital or nursing facility. We do not believe that the specific inclusion of "freestanding birth center" or "out-of-hospital birth center" in § 440.165(a)(1) or the addition of such terms to the definition of clinic services found at § 440.90 is necessary. The current definition of clinic services as those services that are "preventive, diagnostic, therapeutic, rehabilitative, or palliative services that are furnished by a facility that is not part of a hospital but is organized and operated to provide medical care to outpatients" clearly includes the services of a freestanding or out-of-hospital birth center that meets the other conditions of clinic services. Nurse-midwife services furnished at a birth center would be claimed as outpatient care, either under the category of nurse-midwife services or as clinic services, unless the birth center met the definition of a hospital or nursing facility.

*Comment:* Two commenters believe that we should require nurse-midwives to have a predetermined arrangement with a physician to assure the orderly availability of physician care for purposes of consultations and referrals beyond the scope of the nurse-midwife's practice and to aid in emergency and other situations a nurse-midwife may encounter in the course of providing care.

*Response:* Section 1905(a)(17) of the Act provides in part for services furnished by a nurse-midwife that the nurse-midwife is legally authorized to perform under State law, regardless of whether the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider. We do not have statutory authority to amend the regulations to require that a nurse-midwife have a predetermined arrangement with a physician. Such an arrangement would be an "association" with a physician within the meaning of section 1905(a)(17) of the Act. Congress intended State law, or the appropriate State regulatory mechanism, to define a nurse-midwife's scope of practice, including any physician supervision or association requirements.

*Comment:* One commenter stated that our proposal to remove reference to "maternity cycle" in § 440.165 is consistent with section 1905(a)(17) of the Act. The commenter noted, however, that it is important that the regulations not be interpreted to preempt State law or regulations setting scope of practice. The elimination of the "only during the maternity cycle" limitation should not be considered as the authority for nurse-midwives to receive payment for any service they may perform. The commenter gave the example that while a nurse-midwife may provide some child care services for a newborn in the course of care for a woman during her maternity cycle, this does not mean the nurse-midwife has the training necessary to provide pediatric care services.

*Response:* As discussed above, the Act specifies that a nurse-midwife's scope of practice is defined by State law or State regulatory mechanisms. Federal regulations cannot dictate the extent of services a nurse-midwife may furnish. If State law allows a nurse-midwife to provide pediatric care services, then such services are covered under Medicaid. As long as the service is categorized as nurse-midwife services and the nurse-midwife meets the requirements set in State and Federal regulations, the nurse-midwife may provide the service and receive payment for such services as nurse-midwife services.

*Comment:* One commenter stated that certified nurse-midwives should be covered as surgical, or first assistants.

*Response:* As stated above, certified nurse-midwife services are limited in scope of practice only by State law or State regulatory mechanisms. The State determines the services a nurse-midwife can legally perform. If the State laws and regulations provide that a nurse-midwife can perform surgical assistant

or first assistant duties, these services will be covered under Medicaid.

*Comment:* One commenter stated that additional amendments to § 440.165(b)(4) are necessary to reflect actual statutes and regulations relating to licensure in the various States.

Specifically, the commenter proposed that § 440.165(b)(4) (i) and (ii) be revised to indicate current certification of nurse-midwives by the American College of Nurse-Midwives (ACNM) Certification Council, Inc. Since 1991, the certification function has been conducted by the ACNM Certification Council (ACC), a corporation separate from the ACNM which was created to handle certification functions separately from the membership structure and other functions of the ACNM.

*Response:* We agree with the commenter and will revise section 440.165(b)(4) (i) and (ii) by adding "or by the ACNM Certification Council, Inc. (ACC)." This revision will recognize the current certification of nurse-midwives by the ACC.

*Comment:* One commenter suggested that if for any reason the definition of "maternity cycle" must be retained, it should be amended to reflect the generally recognized postpartum period as 6 weeks rather than 60 days.

*Response:* The definition of maternity cycle at § 440.165(c), which included the statutory Medicaid definition of the postpartum period, is not retained in this regulation because OBRA '93 deleted the maternity cycle definition from section 1905(a)(17) of the Act. Nurse-midwife services are no longer limited by the "during the maternity cycle" requirement.

IV. Provisions of the Final Rule

In this final rule we are adopting the provisions as proposed with one addition. Specifically, in response to a public comment, we are revising § 440.165(b)(4) (i) and (ii) to include the American College of Nurse-Midwives Certification Council as an organization that may certify nurse-midwives.

V. Impact Statement

We generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a final rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all providers and suppliers of health care and services for Medicaid recipients to be small entities. Individuals and States are not included in the definition of a small entity.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any final rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

We have determined, and the Secretary certifies, that these final regulations will not have a significant impact on a substantial number of small entities and will not have a significant impact on the operation of a substantial number of small rural hospitals. Therefore we have not prepared a regulatory flexibility analysis or an analysis of the effect on small rural hospitals.

Cost savings will occur regardless of the promulgation of these regulations. The provisions of this rule merely conform the regulations to the legislative provisions of OBRA '93. In accordance with the provisions of Executive Order 12866, this final rule was not reviewed by the Office of Management and Budget.

VI. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

List of Subjects in 42 CFR Part 440

Grant programs—health, Medicaid.

42 CFR part 440 would be amended as set forth below:

**PART 440—SERVICES: GENERAL PROVISIONS**

1. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 440.10 the introductory text of paragraph (a) is republished, paragraph (a)(2) is revised, the introductory text of paragraph (a)(3) is republished, and paragraph (a)(3)(iii) is revised to read as follows:

**§ 440.10 Inpatient hospital services, other than services in an institution for mental diseases.**

(a) *Inpatient hospital services* means services that—

\* \* \* \* \*

(2) Are furnished under the direction of a physician or dentist; and

\* \* \* \* \*

(3) Are furnished in an institution that—

\* \* \* \* \*

(iii) Meets the requirements for participation in Medicare as a hospital; and

\* \* \* \* \*

3. In § 440.20 the introductory text to paragraph (a) is republished, paragraph (a)(2) is revised, the introductory text of paragraph (a)(3) is republished and paragraph (a)(3)(ii) is revised to read as follows:

**§ 440.20 Outpatient hospital services and rural health clinic services.**

(a) *Outpatient hospital services* means preventive, diagnostic, therapeutic, rehabilitative, or palliative services that—

\* \* \* \* \*

(2) Are furnished by or under the direction of a physician or dentist; and

\* \* \* \* \*

(3) Are furnished by an institution that—

\* \* \* \* \*

(ii) Meets the requirements for participation in Medicare as a hospital; and

\* \* \* \* \*

4. Section 440.90 is amended by removing paragraph (c).

5. In § 440.165, the introductory text of paragraph (a) is republished, paragraph (a)(1) is removed, paragraphs (a)(2) and (a)(3) are redesignated paragraphs (a)(1) and (a)(2) respectively and republished, the introductory text of paragraph (b) is republished, paragraphs (b)(4)(i) and (b)(4)(ii) are revised and paragraph (c) is removed. The revisions are to read as follows:

**§ 440.165 Nurse-midwife services.**

(a) *Nurse-midwife services* means services that—

(1) Are furnished by a nurse-midwife within the scope of practice authorized by State law or regulation, and in the case of inpatient or outpatient hospital services or clinic services, are furnished by or under the direction of a nurse-midwife to the extent permitted by the facility; and

(2) Unless required by State law or regulation or a facility, are paid without regard to whether the nurse-midwife is under the supervision of, or associated

with a physician or other health care provider. (See § 441.21 of this chapter for provisions on independent provider agreements for nurse-midwives.)

\* \* \* \* \*

(b) *Nurse-midwife* means a registered professional nurse who meets the following requirements:

\* \* \* \* \*

(4) \* \* \*

(i) Is currently certified as a nurse-midwife by the American College of Nurse-Midwives (ACNM) or by the ACNM Certification Council, Inc. (ACC).

(ii) Has satisfactorily completed a formal education program (of at least one academic year) that, upon completion qualifies the nurse to take the certification examination offered by the American College of Nurse-Midwives (ACNM) or by the ACNM Certification Council, Inc. (ACC).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: October 25, 1995.

Bruce C. Vladeck,  
*Administrator, Health Care Financing Administration.*

[FR Doc. 95-29194 Filed 11-29-95; 8:45 am]

BILLING CODE 4120-03-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Subchapter F (6000)

[WO-420-1800-00-24 1A]

RIN 1004-AC48

#### Wildlife Management, Protection and Preservation of Natural Values; Removal and Reservation

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rule.

**SUMMARY:** This administrative final rule removes the Subchapter F subject heading and 43 CFR part 6220 in its entirety. The rule reserves Subchapter F (6000) for future regulatory guidance. This action is necessary because the Subchapter F subject heading and the material contained in 43 CFR part 6220 are obsolete and do not provide regulatory guidance. In turn, removal of the subject heading and part 6220 will render Subchapter F (6000) entirely without content, so that reservation of this Subchapter for future regulatory guidance is both appropriate and necessary.

**EFFECTIVE DATE:** January 2, 1996.

**FOR FURTHER INFORMATION CONTACT:** Matthew Reed, 202-452-5069.

**SUPPLEMENTARY INFORMATION:** 43 CFR part 6220 contains only a single paragraph, (Sec. 6220.0-1 Purpose), which is general and introductory in nature. The specific regulatory guidelines contemplated by this single introductory paragraph do not exist. Accordingly, part 6220 is obsolete and without purpose. The Bureau of Land Management (BLM) does not intend to use Subchapter F for regulatory guidance concerning wildlife management. Accordingly, this rule removes the title heading "Wildlife Management" from Subchapter F. The BLM has determined for good cause that notice and public procedure on this rule are unnecessary and contrary to the public interest, as the material that this rule removes does not contain any regulatory substance or guidance. The principal author of this final rule is Matthew Reed, Regulatory Management Team, BLM.

This rule is an administrative action and not a major rule for the purposes of E.O. 12291. Accordingly, neither an environmental impact analysis nor a regulatory flexibility analysis is required. This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

#### 43 CFR SUBCHAPTER F—WILDLIFE MANAGEMENT (6000)

*Subchapter F (6000) [Removed and reserved]*

Under the authority of 43 U.S.C. 1740, subchapter F (6000) is removed and reserved.

Dated: November 8, 1995.

Bob Armstrong,

*Assistant Secretary of the Interior.*

[FR Doc. 95-28966 Filed 11-29-95; 8:45 am]

BILLING CODE 4310-84-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 90

[PR Docket No. 89-553, PP Docket No. 93-253, GN Docket No. 93-252]

#### SMR Systems in the 900 MHz Frequency Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Correction to final rule.

**SUMMARY:** This document contains corrections to the final regulations which were published Thursday, September 21, 1995 (60 Fed. Reg. 48913). The regulations involved the

service and auction rules for the 900 MHz Specialized Mobile Radio (SMR) service.

**EFFECTIVE DATE:** January 2, 1996.

**FOR FURTHER INFORMATION CONTACT:** Diane Law (202) 418-0660, Wireless Telecommunications Bureau.

#### SUPPLEMENTARY INFORMATION:

##### Background

The final regulations that are the subject of this correction were adopted in the *Second Order on Reconsideration and Seventh Report and Order*, PR Docket No. 89-553, PP Docket No. 93-253, GN Docket No. 93-252, FCC 95-395, released on September 14, 1995.

##### Need for Correction

As published, the final regulations contain a minor error which may prove to be misleading and is in need of clarification.

##### Correction of Publication

Accordingly, the publication on September 21, 1995 of the final regulations (FCC 95-395) is corrected as follows:

#### § 90.665 [Corrected]

On page 48918, in the third column, § 90.665(c) of the Commission's rules is corrected in the second sentence by removing "license grant or, alternatively," and inserting "license grant; or alternatively," in its place.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

[FR Doc. 95-29087 Filed 11-29-95; 8:45 am]

BILLING CODE 6712-01-M

## NATIONAL TRANSPORTATION SAFETY BOARD

### 49 CFR Part 800

#### Organization and Functions of the Board and Delegations of Authority

**AGENCY:** National Transportation Safety Board.

**ACTION:** Final rules.

**SUMMARY:** The Board is updating various organizational rules to reflect current operations.

**EFFECTIVE DATE:** January 2, 1996.

**FOR FURTHER INFORMATION CONTACT:** Jane F. Mackall, (202) 382-6540.

**SUPPLEMENTARY INFORMATION:** The current rules, at 49 CFR Part 800, have not been updated since June 27, 1984. The changes adopted here reflect the current functioning of the various offices at the Board. Because these rule

changes affect only internal "rules of agency organization procedure or practice," notice and comment procedures are not required and are not provided here. 5 U.S.C. 553(b)(B).

#### List of Subjects in 49 CFR Part 800

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

#### Organization and Functions of the Board and Delegations of Authority

1. The Authority citation for Part 800 continues to read as follows:

Authority: Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*); Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*).

2. Section 800.2 is revised to read as follows:

#### § 800.2 Organization.

The Board consists of five Members appointed by the President with the advice and consent of the Senate. One of the Members is designated by the President as Chairman with the advice and consent of the Senate, and one was Vice Chairman. The Members exercise various functions, powers and duties set forth in Titles VI and VII of the Federal Aviation Act of 1958 (49 U.S.C. 44101–46501), and the Independent Safety Board Act of 1974 (88 Stat. 2166 *et seq.*) (49 U.S.C. 1101 *et seq.*). The Board is an independent agency of the United States. A detailed description of the Board and its components is published in the Board's internal orders, which are available for inspection and copying in the public reference room in the Washington office of the Board. Various special delegations of authority from the Board and the Chairman to the staff are set forth in Subpart B of this part. The Board's staff is comprised of the following principal components:

(a) The Office of the Managing Director, which assists the Chairman in the discharge of his functions as executive and administrative head of the Board; coordinates and directs the activities of the staff; is responsible for the day-to-day operation of the Board; and recommends and develops plans to achieve the Board's program objectives. The Office of the Managing Director also provides executive secretariat services to the Board.

(b) The Office of Public Affairs, which supplies the public, the transportation industry and the news media, with current, accurate information concerning the work, programs, and objectives of the Board.

(c) The Office of Government Affairs, which supplies the Congress and Federal, State and local government

agencies with information regarding the Safety Board's activities, programs and objectives.

(d) The Office of the General Counsel, which provides legal advice and assistance to the Board and its staff components; prepares Board rules, opinions and/or orders, and advice to all offices and bureaus on matters of legal significance; and represents the Board in court actions to which the Board is a party or in which the Board is interested.

(e) The Office of Administrative Law Judges, which conducts all formal proceedings arising under the Federal Aviation Act of 1958, as amended, including proceedings involving civil penalties and suspension or revocation of certificates, and appeals from actions of the Administrator in refusing to issue airman certificates.

(f) The Office of Aviation Safety, which conducts investigations of all aviation accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future aviation accidents; participates in the investigation of accidents that occur in foreign countries and involve U.S.-registered and/or U.S.-manufactured aircraft; and conducts special investigations into selected aviation accidents involving safety issues of concern to the Board.

(g) The Office of Surface Transportation Safety, which conducts investigations of highway, railroad, pipeline, and marine accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future surface transportation accidents; participates in the investigation of accidents that occur in foreign countries and involve U.S.-registered vessels; and conducts special investigations into selected surface accidents involving safety issues of concern to the Board.

(h) The Office of Safety Recommendations, which oversees the Board's safety recommendations program, including the Board's "MOST WANTED" recommendations.

(i) The Office of Research and Engineering, which provides technical advice and services; conducts research and carries out analytical studies and tests on all aspects of the Board's accident investigation, accident prevention and safety promotion activities; conducts safety studies of specific safety issues; performs statistical analyses of transportation accident and incident data; maintains archival records of the Board's accident investigation and safety promotion activities and supports public access to these records; and supports the Board's data processing, computing and information management requirements.

(j) The Office of Administration, which provides administrative support for the Board in the following areas: budget, accounting and audit; personnel, training and payroll; information management and automatic data processing; property, space, communications, facilities and transportation management; and printing, publications, mail, procurement, contracting, and accident inquiry services.

3. Section 800.3 is revised to read as follows:

#### § 800.3 Functions.

(a) The primary function of the Board is to promote safety in transportation. The Board is responsible for the investigation, determination of facts, conditions, and circumstances and the cause or probable cause or causes of: all accidents involving civil aircraft, and certain public aircraft; highway accidents, including railroad grade-crossing accidents, the investigation of which is selected in cooperation with the States; railroad accidents in which there is a fatality, substantial property damage, or which involve a passenger train; pipeline accidents in which there is a fatality, significant injury to the environment, or substantial property damage; and major marine casualties and marine accidents involving a public and a non-public vessel or involving Coast Guard functions. The Board makes transportation safety recommendations to Federal, State, and local agencies and private organizations to reduce the likelihood of recurrences of transportation accidents. It initiates and conducts safety studies and special investigations on matters pertaining to safety in transportation, assesses techniques and methods of accident investigation, evaluates the effectiveness of transportation safety consciousness and efficacy in preventing accidents of other Government agencies, and evaluates the adequacy of safeguards

and procedures concerning the transportation of hazardous materials.

(b) Upon application of affected parties, the Board reviews in quasijudicial proceedings, conducted pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, denials by the Administrator of the Federal Aviation Administrator of applications for airman certificates and orders of the Administrator modifying, amending, suspending, or revoking certificates or imposing civil penalties. The Board also reviews on appeal the decisions of the Commandant, U.S. Coast Guard, on appeals from orders of administrative law judges suspending, revoking, or denying seamen licenses, certificates, or documents.

(c) The Board, as provided in Part 801 of this chapter, issues reports and orders pursuant to its duties to determine the cause or probable cause or causes of transportation accidents and to report the facts, conditions and circumstances relating to such accidents; issues opinions and/or orders after reviewing on appeal the imposition of a civil penalty or the suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary of the Department of Transportation (who acts through the Administrator of the Federal Aviation Administration or the Commandant of the United States Coast Guard); and issues and makes available to the public safety recommendations, safety studies, and reports of special investigations.

4. Section 800.4 is amended by revising paragraph (a) to read as follows:

**§ 800.4 Operation.**

\* \* \* \* \*

(a) The Board's staff, consisting of specialized offices dealing with particular areas of transportation safety and performing administrative and technical work for the Board. The staff advises the Board and performs duties for the Board that are inherent in the staff's position in the organizational structure or that the Board has delegated to it. The staff is described more fully in § 800.2.

\* \* \* \* \*

5. Section 800.5 is revised to read as follows:

**§ 800.5 Office locations.**

The principal offices of the National Transportation Safety Board are located at 490 L'Enfant Plaza East, SW., Washington, DC 20594. The Board maintains field offices in selected cities throughout the United States.

6. Section 800.21 is revised to read as follows:

**§ 800.21 Purpose.**

The purpose of this Subpart B is to publish special delegations of authority to staff members.

7. Section 800.22 is revised to read as follows:

**§ 800.22 Delegation to the Managing Director.**

(a) The Board delegates to the Managing Director the authority to:

(1) Make the final determination, on appeal, as to whether to withhold a Board record from inspection or copying, pursuant to Part 801 of this chapter.

(2) Approve for publication in the Federal Register notices concerning issuance of accident reports and safety recommendations and responses to safety recommendations, as required by sections 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (49 U.S.C. 1131(d) and 1135(c)).

(b) The Chairman delegates to the Managing Director the authority to exercise and carry out, subject to the direction and supervision of the Chairman, the following functions vested in the Chairman:

(1) The appointment and supervision of personnel employed by the Board;

(2) The distribution of business among such personnel and among organizational components of the Board; and

(3) The use and expenditure of funds.

8. Section 800.23 is revised to read as follows:

**§ 800.23 Delegation to the administrative law judges, Office of Administrative Law Judges.**

The Board delegates to the administrative law judges the authority generally detailed in its procedural regulations at Part 821 of this chapter.

9. Section 800.24 is revised to read as follows:

**§ 800.24 Delegation to the General Counsel.**

The Board delegates to the General Counsel the authority to:

(a) Approve, disapprove, request more information, or otherwise handle requests for testimony of Board employees with respect to their participation in the investigation of accidents, and, upon receipt of notice that an employee has been subpoenaed, to make arrangements with the court either to have the employee excused from testifying or to give the employee permission to testify in accordance with the provisions of Part 835 of this Chapter.

(b) Approve or disapprove in safety enforcement proceedings, for good cause shown, requests for extensions of

time or for other changes in procedural requirements subsequent to the initial decision, grant or deny requests to file additional and/or *amicus* briefs pursuant to §§ 821.9 and 821.48 of this Chapter, and raise on appeal any issue the resolution of which he deems important to the proper disposition of proceedings under § 821.49 of this Chapter.

(c) Approve or disapprove, for good cause shown, requests to extend the time for filing comments on proposed new or amended regulations.

(d) Issue regulations for the purpose of making editorial changes or corrections in the Board's rules and regulations.

(e) Issue orders staying or declining to stay, pending judicial review, orders of the Board suspending or revoking certificates, and consent to the entry of judicial stays with respect to such orders.

(f) Compromise civil penalties in the case of violations arising under The Independent Safety Board Act of 1974, as amended, or any rule, regulation, or order issued thereunder.

(g) Issue orders dismissing appeals from initial decisions of Board administrative law judges pursuant to the request of the appellant or, where the request is consensual, at the request of any party.

(h) Correct Board orders by eliminating typographical, grammatical, and similar errors, and make editorial changes therein not involving matters of substance.

(i) Take such action as appropriate or necessary adequately to compromise, settle, or otherwise represent the Board's interest in judicial or administrative actions to which the Board is a party or in which the Board is interested.

10. Section 800.25 is revised to read as follows:

**§ 800.25 Delegation to the Directors of Office of Aviation Safety and Office of Surface Transportation.**

The Board delegates to the Directors, Office of Aviation and Office of Surface Transportation, the authority to:

(a) Order an investigation into the facts, conditions, and circumstances of accidents that the Board has authority to investigate.

(b) Disclose factual information pertinent to all accidents or incidents as provided for in Part 801 of this chapter.

(c) Determine the probable cause(s) of accidents in which the determination is issued in the "Brief of Accident" format, except that the Office Director will submit the findings of the accident investigation to the Board for

determination of the probable cause(s) when (1) any Board Member so requests, (2) it appears to the Office Director that, because of significant public interest, a policy issue, or a safety issue of other matter, the determination of the probable cause(s) should be made by the Board, or (3) the accident investigation will be used to support findings in a special investigation or study. Provided, that a petition for reconsideration or modification of a determination of the probable cause(s) made under § 845.41 of this Chapter shall be acted on by the Board.

(d) Consistent with Board resources, investigate accidents as provided under § 304(a) of the Independent Safety Board Act of 1974, as amended (49 U.S.C. 1131(a)) and the Appendix to this Part.

11. Section 800.26 is revised to read as follows:

**§ 800.26 Delegation to the Director, Office of Administration.**

The Board delegates to the Director, Office of Administration, the authority to:

(a) Determine, initially, the withholding of a Board record from inspection or copying, pursuant to Part 801 of this Chapter.

(b) Settle claims for money damages of \$2,500 or less against the United States arising under Section 2672 of 28 United States Code (the Federal Tort Claims Act) because of acts or omissions of Board employees.

12. Section 800.27 is revised to read as follows:

**§ 800.27 Delegation to investigative officers and employees of the Board.**

The Board delegates to any officer or employee of the Board designated by the Chairman of the Safety Board the authority to sign and issue subpoenas, and administer oaths and affirmations, and to take depositions or cause them to be taken in connection with the investigation of transportation accidents or incidents.

**§ 800.28 [Removed]**

13. Section 800.28 is removed.

Issued in Washington, DC, this 27th day of November 1995.

Jim Hall,

*Chairman.*

[FR Doc. 95-29227 Filed 11-29-95; 8:45 am]

BILLING CODE 7533-01-M

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 32**

**RIN 1018-AD31**

**Addition of Ottawa National Wildlife Refuge to the List of Open Areas for Big Game Hunting in Ohio**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) adds Ottawa National Wildlife Refuge to the list of areas open for big game hunting in Ohio along with pertinent refuge-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

**EFFECTIVE DATE:** This rule is effective November 30, 1995.

**FOR FURTHER INFORMATION CONTACT:** Stephen R. Vehrs, Telephone (703) 358-2029, X-5242.

**SUPPLEMENTARY INFORMATION:** National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action must also be in accordance with provisions of all laws applicable to the areas, consistent with the principles of sound wildlife management, and otherwise be in the public interest. This rulemaking opens Ottawa National Wildlife Refuge to big game (white-tailed deer) hunting.

In the July 13, 1995, issue of the Federal Register, 60 FR 36196, the Service published a proposed rulemaking and invited public comment. All substantive comments were reviewed and considered following a 60-day public comment period.

Four organizations and two individuals provided comments opposing the rule based on the rationale that recreational deer hunting was not justified nor compatible with the primary purpose for which the refuge

was established. These comments also indicated an opinion that the Service failed to show adequate evidence that the proposed reduction of deer numbers through hunting is based on solid scientific evidence, and that alternative herd reduction methods were considered.

Comments further indicated that an explanation was not presented explaining that hunting could destabilize this refuge deer herd and cause a compensatory rebound of offspring within the hunted population, and that the majority of the public is opposed to hunting on national wildlife refuges.

The Refuge Manager conducted a compatibility determination, on behalf of the Service, of the feasibility of deer hunting being applied as a management tool to control the refuge white-tailed deer population as well as to provide a quality wildlife-dependent recreational opportunity for deer hunters. The Manager's documented findings within the compatibility determination as well as within the environmental assessment were as follows: 1. The proposed white-tailed deer hunt was indeed compatible with the major purposes for which the refuge was established; 2. the proposed hunt was within the policy guidelines of the Service to be applied as both a herd management tool, and as a method to provide recreational opportunities for deer hunters; and 3. abundant scientific evidence exists which concludes that the recreational hunting of deer as a harvest technique is indeed a biologically sound practice, which could be expected to produce and sustain a healthy refuge white-tailed deer herd.

Substantive comments were also received referencing the environmental assessment completed for this hunt proposal, and that the preferred alternative, which parallels the proposal outlined in this Federal Register notice, provides for wildlife-dependent recreation while effectively protecting and controlling deer populations within the refuge. Other comments supported hunting as a management tool to control deer depredations on private land surrounding the refuge.

The Service agrees, of the alternative herd management methods proposed in the Refuge Environmental Assessment and adopted and presented in the Federal Register, recreational deer hunting is a biologically sound management technique that provides the best herd management and depredation control.

Consideration was given to delaying this final rule for a 30-day period, however, it was determined by the Service that any further delay in the

implementation of this refuge-specific regulation will hinder the effective planning and administration of the hunt. Public comment was received on this proposal during the Environmental Assessment planning phase as well as the 60-day comment period for this rule. A delay of an additional 30 days would specifically jeopardize holding the hunt this year, or shorten its duration and thereby lessen the herd management effectiveness of this regulation. Therefore, in accordance with (5 U.S.C. 553(d)(3)), the Service finds good cause to make this rule effective upon publication.

#### Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when the Secretary determines that such uses are compatible with the purposes for which each refuge was established. The Service administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

#### Opening Package

In preparation for this opening, the refuge unit has included in its "openings package" for Regional review and approval from the Washington Office the following documents: a hunting-fishing plan; an environmental assessment; a Finding of No Significant Impact (FONSI); a section 7 evaluation or statement, pursuant to the Endangered Species Act, that these openings are not likely to adversely affect a listed species or its critical habitat; a letter of concurrence from the affected States; and refuge-specific regulations to administer the hunts. From a review of the totality of these documents, the Service has determined that the opening of the Ottawa National Wildlife Refuge to big game hunting is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSA and the RRA. The Service has also determined that this opening for big game hunting is compatible and consistent with the primary purposes for which the refuge was established. A brief description of the hunting program is as follows:

#### *Ottawa National Wildlife Refuge*

The Ottawa National Wildlife Refuge (NWR) is situated on the southwestern edge of Lake Erie in what was once part of a 300,000 acre forested wetland known as the Great Black Swamp.

Approximately 10% of the original habitat exists—mostly as modified, impounded wetland units formerly owned by agricultural or sport-hunting interests. Ottawa NWR was established on July 28, 1961, with land acquired under the authority of the Migratory Bird Conservation Act. The primary purpose of the refuge is for use as an inviolate sanctuary, or for any other management purpose, and for administration of areas of land, water or interest therein to conserve and protect migratory birds in accordance with treaty obligations and (to conserve) other species of wildlife found therein, including adequate wildlife habitat.

The total refuge acreage is 8,318 acres of which 5,350 acres are either open pools, marsh, or moist soil units. The remaining acreage is a mixture of grassland and shrubland, fallow fields, wet meadows, forests (310 acres), and croplands (600 acres).

Ottawa NWR is an important migration stopover for migratory birds. The refuge bird list contains 267 normally observed species. The refuge supports 32 native mammal species along with 53 indigenous amphibian and reptile species.

Public hunting is to be used primarily as a management tool for balancing the white-tailed deer population objectives with other wildlife objectives, thereby inhibiting this species from impacting the quality of vegetative habitat. In addition, the proposed hunt will provide limited public hunting opportunities on the refuge. The deer population estimate at the refuge was determined from a winter helicopter survey. The refuge estimates indicate that the current deer population is at 47.3 deer per square mile. In Ohio, the buck harvest estimates indicate a pre-harvest density for Lucas and Ottawa counties of 0.6 and 0.9 deer per square mile. The refuge population estimate is 315% above the upper end of average densities reported for the agricultural Midwest region. Wildlife managers expend a lot of time and money responding to deer-vehicle accident and

crop depredation complaints. Without a hunting program specifically used as a management tool, the refuge deer population may degrade habitat quality not only for that population but other important species. Controlled access, blind placement and hunting opportunity in designated management zones and seasonal restrictions will limit human disturbance of wildlife and provide wildlife a refuge interior sanctuary.

Opening the refuge to big game hunting has been found to be compatible in a separate compatibility determination. The hunting program will be reviewed annually to ensure that a harvestable surplus of animals exist, and that sensitive habitats are protected from disturbance. A Section 7 evaluation pursuant to the Endangered Species Act was conducted. The Service determined that the proposed action is not likely to adversely affect any Federally listed or proposed for listing threatened or endangered species or their critical habitats. Pursuant to the National Environmental Policy Act (NEPA), an environmental assessment was made and a Finding of No Significant Impact (FONSI) was made regarding the hunt. During the preparation of the environmental assessment, biologists and management personnel within the Ohio Division of Wildlife were consulted. Comments were solicited from the public during the draft environmental assessment phase. Articles on this assessment were carried in the local newspapers and sent to Federal, State and local legislators and conservation groups.

The Service has determined that there would be sufficient funds within the station budget to administer the proposed hunt.

#### Paperwork Reduction Act

The information collection requirements for Part 32 are found in 50 CFR Part 25 and have been approved by the Office of Management and Budget under Public Law 104-13 and assigned clearance number 1018-0014. The information is being collected to assist the Service in administering these program in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments

on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018-0014), Washington, DC 20503.

**Economic Effect**

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) has revealed that the rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. While there would be an increase in the sale of firearms, ammunition, hunting gear, etc., this proposed rule would have minimal effect on such entities as this is not a big hunting program and hunting is otherwise allowed in surrounding areas.

**Federalism**

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

**Environmental Considerations**

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental Assessments, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that these openings are not likely to adversely affect a listed species or its critical habitat.

**Primary Author**

Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

**List of Subjects in 50 CFR Part 32**

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

For the reasons set forth in the preamble, Part 32 of chapter I of Title 50 of the *Code of Federal Regulations* is amended to read as follows:

**PART 32—[AMENDED]**

1. The authority citation for Part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Section 32.54 *Ohio* is amended by revising paragraph (c) to read as follows:

**§ 32.54 Ohio.**  
\* \* \* \* \*

Ottawa National Wildlife Refuge

\* \* \* \* \*

*C. Big Game Hunting.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

1. Permits are required.
2. Hunters are required to check in and out of the refuge each day that they hunt.
3. No shooting from refuge roads or dikes is permitted.

\* \* \* \* \*

Dated: October 20, 1995.  
George T. Frampton, Jr.,  
*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 95-29105 Filed 11-29-95; 8:45 am]  
BILLING CODE 4310-55-M

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 611, 672, 676, and 677**

[Docket No. 951120272-5272-01; I.D. 110295A]

**Groundfish of the Gulf of Alaska; Limited Access; Foreign Fishing; Interim 1996 Harvest Specifications**

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

**ACTION:** Interim 1996 harvest specifications for groundfish; associated management measures; and closures.

**SUMMARY:** NMFS issues interim 1996 total allowable catch (TAC) amounts for each category of groundfish and specifications for prohibited species bycatch allowances for the groundfish fishery of the Gulf of Alaska (GOA). NMFS is closing certain fisheries as specified in the interim 1996 groundfish specifications. The intended effect is to conserve and manage the groundfish resources in the GOA.

**EFFECTIVE DATE:** 0001 hours, Alaska local time (A.L.T.), January 1, 1996, until the effective date of the Final 1996 Harvest Specifications for Groundfish, which will be published in the Federal Register.

**ADDRESSES:** The preliminary Stock Assessment and Fishery Evaluation (SAFE) Report, dated September 1995, is available from the North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501-2252.

**FOR FURTHER INFORMATION CONTACT:** Kaja Brix, 907-586-7228.

**SUPPLEMENTARY INFORMATION:**

**Background**

The domestic and foreign groundfish fisheries in the exclusive economic zone of the GOA are managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fisheries at 50 CFR parts 672, 676, and 677. General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 620.

The Council met September 27 through October 2, 1995, to review scientific information concerning groundfish stocks. The preliminary specifications are based on the current stock assessments contained in the preliminary Gulf of Alaska Groundfish SAFE Report, dated September 1995, as well as recommendations by the GOA Groundfish Plan Team, Advisory Panel, and Scientific and Statistical Committee. The preliminary SAFE Report was prepared and presented to the Council by the GOA Groundfish Plan Team and summarizes the best available scientific information. Copies of the SAFE Report are available from the Council (see **ADDRESSES**). The Council recommended a preliminary total TAC amount of 267,917 metric tons (mt) and a preliminary total acceptable biological catch (ABC) amount of 477,110 mt for the 1996 fishing year.

Under § 672.20(c)(1)(ii), NMFS is publishing in the Proposed Rules section of this issue of the Federal Register for review and comment proposed initial harvest specifications for groundfish and associated management measures in the GOA for the 1996 fishing year. Those proposed specifications contain detailed

information on the 1996 specification process and provides a discussion of the preliminary ABCs, proposed establishment of the 1996 annual TAC amounts and apportionments thereof among domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF) and reserves for each target species and the "other species" category, apportionments of pollock and Pacific cod TAC, apportionments of the sablefish TAC to vessels using hook-and-line and trawl gear, halibut prohibited species catch (PSC) limits, and seasonal allocations of the halibut PSC limits.

Regulations at § 672.20(c)(1)(ii)(A) require that one-fourth of the preliminary or proposed specifications (not including the reserves and the first quarterly allowance of pollock), one-fourth of the inshore and offshore allocations of Pacific cod in each regulatory area, and one-fourth of the halibut PSC amounts become effective at 0001 hours, A.I.t., January 1, on an interim basis and remain in effect until superseded by the final harvest specifications, which will be published in the Federal Register.

This action provides interim TAC specifications and apportionments thereof for the 1996 fishing year that will become available on January 1, 1996, on an interim or preliminary basis. Background information concerning the 1996 groundfish harvest specification process upon which this interim action is based is provided in the proposed initial harvest specifications appearing in the Proposed Rules section of this Federal Register issue.

Species TAC amounts are apportioned initially among DAP, JVP, TALFF, and

reserves under §§ 611.92(c)(1) and 672.20(a)(2). DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processors at sea. TALFF amounts are intended for harvest by foreign fishermen. Existing harvesting and processing capacity allows the U.S. industry to utilize the entire 1996 TAC specified for GOA groundfish. Therefore, the Council recommended that DAP equal TAC for each species category, which results in no proposed amounts of TALFF or JVP for the 1996 fishing year.

The reserves for the GOA are 20 percent of the TAC amounts for pollock, Pacific cod, flatfish species, and the "other species" category. Given that the GOA groundfish TAC amounts have been utilized fully by DAP since 1987, NMFS has reapportioned all the reserves to DAP. The interim TAC amounts contained in Table 1 reflect the reapportionment of reserves to DAP.

Amendment 23 to the FMP and Amendment 18 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area established inshore and offshore component allocations of Pacific cod and pollock in the GOA and inshore and offshore component allocations of pollock in the Bering Sea and Aleutian Islands management area during the years 1993 through 1995. Because Amendments 23 and 18 and their implementing regulations expire on December 31, 1995, and because the Council has yet to complete development of its comprehensive plan to address problems caused by the open access nature of the Alaska groundfish fisheries, the Council voted

unanimously at its June 1995 meeting to adopt Amendments 40 and 38, which would extend the provisions of the expiring Amendments 23 and 18 through December 31, 1998. The Council has submitted to NMFS for review and approval under the Magnuson Act proposed Amendments 40 and 38. On September 18, 1995, NMFS published a proposed rule that would implement the inshore and offshore allocations through 1998 (60 FR 48087). However, at this time, NMFS has not determined that either Amendment 40 or Amendment 38 is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws.

This interim specification document specifies allocations of pollock and Pacific cod to inshore and offshore components. If NMFS disapproves proposed Amendment 40 to the FMP, NMFS will revise the applicable GOA interim pollock and Pacific cod TAC allocations specified in this document before the start of the 1996 fishing season. The revised interim TAC allocations of pollock and Pacific cod will be published in the Federal Register.

*1. Interim TAC Amounts and Apportionments Thereof*

Table 1 provides interim TAC amounts, interim TAC allocations of Pacific cod to the inshore and offshore components, first quarterly allowances of pollock in the combined Western and Central regulatory areas, and interim sablefish TAC apportionments to hook-and-line and trawl gear. These interim TAC amounts and apportionments thereof become effective at 0001 hours, A.I.t., January 1, 1996.

TABLE 1.—INTERIM 1996 TAC AMOUNTS OF GROUND FISH FOR THE COMBINED WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYAK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA (GOA)<sup>1 2 3</sup>. FIRST QUARTERLY ALLOWANCES OF POLLOCK IN THE COMBINED W/C REGULATORY AREAS. INTERIM SABLEFISH TAC APPORTIONMENTS TO HOOK-AND-LINE (H/L) AND TRAWL (TRW) GEAR. AMOUNTS ARE IN METRIC TONS.

Species	Area	Interim TAC	
Pollock <sup>4 5</sup>	W (61)	6,125	
	C (62)	3,125	
	C (63)	3,250	
	Subtotal .....	W/C E	12,500 675
Total .....		13,175	
Pacific cod <sup>6</sup>	Inshore .....	W	4,241
	Offshore .....	W	471
	Inshore .....	C	9,653
	Offshore .....	C	1,073

TABLE 1.—INTERIM 1996 TAC AMOUNTS OF GROUND FISH FOR THE COMBINED WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYAK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA (GOA)<sup>1 2 3</sup>. FIRST QUARTERLY ALLOWANCES OF POLLOCK IN THE COMBINED W/C REGULATORY AREAS. INTERIM SABLEFISH TAC APPORTIONMENTS TO HOOK-AND-LINE (H/L) AND TRAWL (TRW) GEAR. AMOUNTS ARE IN METRIC TONS.—Continued

Species	Area	Interim TAC
Inshore .....	E	731
Offshore .....	E	81
Total .....		16,250
Flatfish, Deep-water <sup>7</sup>		
	W	115
	C	1,875
	E	780
Total .....		2,770
Rex sole		
	W	200
	C	1,763
	E	460
Total .....		2,423
Flathead Sole		
	W	500
	C	1,250
	E	685
Total .....		2,435
Flatfish, Shallow-water <sup>8</sup>		
	W	1,125
	C	3,238
	E	295
Total .....		4,658
Arrowtooth flounder		
	W	1,250
	C	6,250
	E	1,250
Total .....		8,750
Sablefish <sup>9 10 11</sup>		
H/L .....	W	N/A(520)
TRW .....	W	130
H/L .....	C	N/A(1,720)
TRW .....	C	430
H/L .....	WYak	N/A(974)
TRW .....	WYak	51
H/L .....	SEO	N/A(1,473)
TRW .....	SEO	78
Total .....		5,376
Pacific ocean perch <sup>12</sup>		
	W	315
	C	833
	E	592
Total .....		1,740
Shortraker/rougheye <sup>13</sup>		
	W	43
	C	303
	E	133
Total .....		479
Rockfish, northern <sup>14</sup>		

TABLE 1.—INTERIM 1996 TAC AMOUNTS OF GROUND FISH FOR THE COMBINED WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYAK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA (GOA)<sup>1 2 3</sup>. FIRST QUARTERLY ALLOWANCES OF POLLOCK IN THE COMBINED W/C REGULATORY AREAS. INTERIM SABLEFISH TAC APPORTIONMENTS TO HOOK-AND-LINE (H/L) AND TRAWL (TRW) GEAR. AMOUNTS ARE IN METRIC TONS.—Continued

Species	Area	Interim TAC
	W	160
	C	1,153
	E	5
Total .....		1,318
Rockfish, other <sup>15 16</sup>		
	W	45
	C	293
	E	1,440
Total .....		1,778
Rockfish, pelagic shelf <sup>17</sup>		
	W	228
	C	800
	E	270
Total .....		1,298
Rockfish, Demersal Shelf SEO <sup>18</sup>	SEO	145
Thornyhead rockfish	GW	390
Atka mackerel	W	578
	C	231
	E	1
Total .....		810
Other species <sup>19</sup> .....		3,190
GOA Total Interim TAC .....		66,985

(Interim TAC amounts have been rounded.)

<sup>1</sup> Amounts specified as JVP and TALFF are proposed to be zero and are not shown in this table.

<sup>2</sup> Reserves have been reapportioned to DAP and are reflected in the interim TAC amounts. (See § 672.20(a)(2)(ii))

<sup>3</sup> See § 672.2 for definitions of regulatory area, regulatory district, and statistical area.

<sup>4</sup> Pollock is apportioned to three statistical areas in the combined Western/Central Regulatory Area, and is further divided into equal quarterly allowances. The first quarterly allowances are in effect on an interim basis as of January 1, 1996. In the Eastern Regulatory Area, pollock is not divided into quarterly allowances, and one-fourth of the TAC is available on an interim basis.

<sup>5</sup> The TAC apportionment for pollock in all regulatory areas and all quarterly allowances is divided into inshore and offshore components. The inshore component is apportioned 100 percent of the pollock TAC in each regulatory area after subtraction of amounts that are determined by the Director, Alaska Region, NMFS, to be necessary to support the bycatch needs of the offshore component in directed fisheries for other groundfish species. At this time, these bycatch amounts are unknown and will be determined during the fishing year. (See § 672.20(a)(2)(v)(A))

<sup>6</sup> The TAC apportionment of Pacific cod in all regulatory areas is divided into inshore and offshore components. The inshore and offshore component allocations are 90 percent and 10 percent, respectively, of the Pacific cod TAC in each regulatory area. (See § 672.20(a)(2)(v)(B))

<sup>7</sup> "Deep-water flatfish" means Dover sole and Greenland turbot.

<sup>8</sup> "Shallow-water flatfish" means flatfish not including "deep-water flatfish," flathead sole, rex sole, or arrowtooth flounder.

<sup>9</sup> Sablefish TAC amounts for each of the regulatory areas and districts are assigned to hook-and-line and trawl gear. In the Central and Western Regulatory Areas, 80 percent of the TAC is allocated to hook-and-line gear and 20 percent to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is assigned to hook-and-line gear. Five percent is allocated to trawl gear and may only be used as bycatch to support directed fisheries for other target species. (See § 672.24(c))

<sup>10</sup> The sablefish hook-and-line (H/L) gear fishery is managed under the Individual Fishing Quota (IFQ) program and subject to regulations contained in subparts B and C of 50 CFR part 676. Annual IFQ amounts are based on the final TAC amount specified for the sablefish H/L gear fishery as contained in the final specifications for groundfish. Under § 676.16(c), retention of sablefish caught with H/L gear is prohibited unless the harvest is authorized under a valid IFQ permit and IFQ card. In 1996, IFQ permits and IFQ cards will not be valid prior to the effective date of the 1996 final specifications. Thus, fishing for sablefish with H/L gear will not be authorized under these interim specifications. Nonetheless, interim amounts are shown in parentheses to reflect assignments of one-fourth of the proposed TAC amounts among gear categories and regulatory areas in accordance with § 672.20(a)(7). See §§ 676.20 and 676.23(b) for guidance on the annual allocation of IFQ and the sablefish season.

<sup>11</sup> Sablefish caught in the GOA with gear other than hook-and-line or trawl gear must be treated as prohibited species and may not be retained.

<sup>12</sup> "Pacific ocean perch" means *Sebastes alutus*.

<sup>13</sup> "Shortraker/rougheye rockfish" means *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).

<sup>14</sup> "Northern rockfish" means *Sebastes polypsinis*.

<sup>15</sup> "Other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat District means slope rockfish and demersal shelf rockfish. The category "other rockfish" in the Southeast Outside District means slope rockfish.

<sup>16</sup>“Slope rockfish” means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), *S. babcocki* (redbanded), and *S. reedi* (yellowmouth).

<sup>17</sup>“Pelagic shelf rockfish” includes *Sebastes melanops* (black), *S. mystinus* (blue), *S. ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).

<sup>18</sup>“Demersal shelf rockfish” means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).

<sup>19</sup>“Other species” includes sculpins, sharks, skates, eulachon, smelts, capelin, squid, and octopus. The TAC for “other species” equals 5 percent of the TAC amounts of target species.

**2. Interim Halibut PSC Mortality Limits**

Under § 672.20(f), annual Pacific halibut PSC mortality limits are established for trawl and hook-and-line gear and may be established for pot gear. As in 1995, the Council proposes to exempt pot gear and the sablefish hook-and-line fishery from halibut PSC limits for 1996. The interim PSC limits are effective on January 1, 1996, and remain in effect until superseded by the Final 1996 Harvest Specifications, which will be published in the Federal Register. The interim halibut PSC limits are as follows: (1) 500 mt to trawl gear, (2) 73 mt to hook-and-line gear for fisheries other than demersal shelf rockfish, and (3) 2.5 mt to hook-and-line gear for demersal shelf rockfish fishery in the Southeast Outside District.

Regulations at § 672.20(f)(1) authorize apportionments of the trawl halibut PSC limit allowance as bycatch allowances to a deep-water species complex, comprised of rex sole, sablefish, rockfish, deep-water flatfish, and arrowtooth flounder, and a shallow-water species complex, comprised of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel,

and other species. The interim 1996 apportionment for the shallow-water species complex is 415 mt and for the deep-water species complex is 85 mt.

**3. Closures to Directed Fishing**

Under § 672.20(c)(2)(ii), if the Director, Alaska Region, NMFS (Regional Director), determines that the amount of a target species or “other species” category apportioned to a fishery or, with respect to Pacific cod, to an allocation to the inshore or offshore component, is likely to be reached, the Regional Director may establish a directed fishing allowance for that species or species group. In establishing a directed fishing allowance, the Regional Director shall consider the amount of that species group or allocation of Pacific cod to the inshore or offshore component that will be taken as incidental catch in directed fishing for other species in the same regulatory area or district. If the Regional Director establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or

species group in the specified regulatory area or district.

The Regional Director has determined that interim amounts of groundfish specified in Table 1 of these interim specifications for species or species groups identified in Table 2 will be necessary as incidental catch to support anticipated groundfish fisheries prior to the time that final specifications for groundfish are in effect for the 1996 fishing year. Therefore, NMFS is prohibiting directed fishing for those target species, gears, and components listed in Table 2 to prevent exceeding the interim amounts of groundfish TAC amounts specified. These closures will be in effect during the period that the 1996 interim specifications for groundfish TAC amounts are effective beginning at 0001 hours, A.l.t., January 1, 1996, until superseded by the Final 1996 Harvest Specifications for Groundfish. While the closures are in effect, the maximum retainable bycatch amounts at § 672.20(g) apply at any time during a fishing trip. Additional closures and restrictions may be found in existing regulations at 50 CFR part 672.

TABLE 2.—CLOSURES TO DIRECTED FISHING UNDER THE INTERIM 1996 TOTAL ALLOWABLE CATCH AMOUNTS IMPLEMENTED BY THIS ACTION<sup>1</sup> OFFSHORE = THE OFFSHORE COMPONENT; TRW = TRAWL; ALL = ALL GEARS; WG = WESTERN REGULATORY AREA; CG = CENTRAL REGULATORY AREA; EG = EASTERN REGULATORY AREA; GOA = ENTIRE GULF OF ALASKA

Fishery	Component	Gear	Closed areas
Atka mackerel .....	.....	ALL	GOA
Northern rockfish .....	.....	ALL	WG, EG
Pelagic shelf rockfish .....	.....	ALL	WG, EG
Other rockfish .....	.....	ALL	WG, CG
Pacific cod .....	Offshore .....	ALL	EG
Rex sole .....	.....	ALL	WG
Sablefish .....	.....	TRW	WG, CG
Shorthead/rougheye .....	.....	ALL	GOA
Thornyhead rockfish .....	.....	ALL	GOA

<sup>1</sup> These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 672.

After consideration of public comments on the proposed 1996 specifications and additional scientific information presented at its December 1995 meeting, the Council may recommend other closures to directed fishing. Additionally, NMFS may implement other closures at the time the

Final 1996 Specifications for Groundfish are implemented, or during the 1996 fishing year as necessary for effective management.

**Classification**

This action is authorized under 50 CFR 611.92, 672.20, and 676.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 24, 1995.

Nancy Foster,

Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

[FR Doc. 95-29262 Filed 11-29-95; 8:45 am]

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## 50 CFR Part 676

[Docket No.950123023-5271-02; I.D.  
110795E]

RIN 0648-AH38; 0648-AI09

### Limited Access Management of Federal Fisheries In and Off of Alaska; Determinations and Appeals; Individual Fishing Quota Program

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule  
adopting as final without change two  
interim rules that amended regulations  
implementing the Individual Fishing  
Quota (IFQ) Program for Pacific halibut  
and sablefish fixed gear fisheries in and  
off of Alaska.

**EFFECTIVE DATE:** This rule is effective  
November 30, 1995.

**FOR FURTHER INFORMATION CONTACT:**  
James Hale, 907-586-7228.

#### SUPPLEMENTARY INFORMATION:

##### Background

The IFQ Program is a regulatory  
regime developed by the North Pacific  
Fishery Management Council (Council)  
to promote the conservation and  
management of Pacific halibut  
(*Hippoglossus stenolepis*) and sablefish  
(*Anoplopoma fimbria*) stocks in Federal  
waters in and off of Alaska. The IFQ  
Program limits access to Pacific halibut  
and sablefish fixed gear fisheries  
through the annual issuance of IFQ.  
Holders of IFQ may harvest their IFQ,  
specific to species, vessel category, and  
regulatory area, any time during the IFQ  
fishing season. Further information  
about the IFQ Program is contained in  
the preamble to the final implementing  
regulations published at 58 FR 59375,  
November 9, 1993, and subsequent  
amendments.

This action makes final several  
changes to the IFQ implementing  
regulations that were originally effected  
by interim rules. One interim rule  
reduced the two-stage appeals  
procedures to a single-step process,  
shortened the length of time required for  
certain appeals-related actions, and  
established a quota shares (QS) reserve  
to permit the deferred allocation of IFQ

for qualified persons whose QS are in  
dispute at the time of annual IFQ  
allocation. The other interim rule  
allowed vessels subject to existing IFQ  
Program recordkeeping and observer  
coverage requirements to fish for IFQ  
species in regulatory areas for which  
persons aboard a vessel hold IFQ less  
than the total amount of IFQ species on  
board. These changes are described  
below.

#### Changes to the Determinations and Appeals Procedures

Final rules implementing the appeals  
procedure for limited access  
management of Federal fisheries in and  
off of Alaska became effective July 1,  
1994 (59 FR 28281, June 1, 1994). A  
detailed explanation of the procedure  
for appealing initial administrative  
determinations appeared in the  
preamble of the notice of proposed  
rulemaking published at 59 FR 5979 on  
February 9, 1994. NMFS identified three  
changes to the final rules as necessary  
to improve the efficiency of the appeals  
process. An interim rule published at 60  
FR 6448, February 2, 1995, effected  
these changes, as follows.

1. The first change eliminated  
applicants' right to appeal an appellate  
officer's decision to the Director, Alaska  
Region, NMFS (Regional Director), but  
retained the Regional Director's  
discretionary authority to renew,  
modify, reverse, or remand any such  
decision. This effectively changed the  
original two-stage appeals procedure to  
a single-step process. The original  
procedure provided an applicant a first-  
stage opportunity to appeal an initial  
administrative determination to an  
appellate officer and a second-stage  
opportunity to appeal the appellate  
officer's decision to the Regional  
Director. This interim rule eliminated  
the second-stage appeal; however, the  
Regional Director routinely reviews  
appellate officers' decisions and may  
reverse, modify, or remand those  
decisions for further consideration. The  
appellate officer's decision, unless acted  
on by the Regional Director, becomes  
the final agency action for purposes of  
judicial review 30 days after issuance.

2. The second change substantially  
reduced the time period within which  
an appellant may file an appeal from 90  
Federal business days to 60 calendar  
days after the date of the initial  
administrative determination. The  
original appeals filing period consisted  
of 90 days, not including weekends and  
holidays. The revised appeals filing  
period consists of 60 calendar days  
unless the last day falls on a weekend  
or holiday. The original appeals filing  
period was intended to provide an

appellant with a liberal period within  
which to prepare an appeal. NMFS  
determined that this period was  
unnecessarily long and would  
exacerbate expected delays in the  
resolution of appeals. Disputes in which  
two or more applicants make claims to  
the same vessel or catch data should be  
resolved at the same time. Without this  
change, one claimant could file a  
prompt appeal while another could  
delay filing for up to 4 months, thereby  
preventing the prompt issuance of  
disputed IFQ to the rightful party. The  
revised period provides appellants with  
adequate time to prepare and file  
appeals, and benefits all affected parties  
by accelerating the appeals process.

3. The third change shortened the  
period of delayed effectiveness of an  
appellate officer's decision from 45  
Federal business days to 30 calendar  
days after the date the decision is  
issued, unless, prior to that time, the  
Regional Director modifies the decision,  
issues an order staying the effectiveness  
of the decision pending review, or  
accelerates the effectiveness date. This  
change also accelerated the agency's  
final actions on appeals. NMFS  
determined that 30 calendar days are  
adequate for the Regional Director to  
review an appellate officer's decision  
and take any necessary action, such as  
a stay.

These changes implemented by the  
interim rule help to expedite the  
appeals process, which benefits the  
fishermen involved.

#### Changes to the Establishment of QS Pools

Regulations pertaining to the  
calculation of QS and the QS pool for  
an area are found at § 676.20. The  
interim rule at 60 FR 6448, February 2,  
1995, also amended § 676.20(d)(3) to  
establish a reserve within the QS pool  
of each IFQ regulatory area. Without  
such a reserve, contested catch history  
would not be included in the pool, and  
persons without QS included in the QS  
pool on January 31 of any year, when  
annual allocations of IFQ are  
determined, would be unable to  
participate in the IFQ fisheries in that  
year.

A problem of particular concern in  
the initial year of the IFQ Program was  
that numerous appeals involved  
disputes over who owned or leased a  
vessel that made qualified landings but  
not over the amount of those landings.  
Many of these appeals were not resolved  
by January 31, 1995. Failure to establish  
a reserve within the QS pool could have  
prevented the prevailing party from  
receiving and using IFQ during the IFQ

fishing season in 1995. It is possible that such situations may occur in the future.

To correct the problem, the interim rule established a QS pool reserve for catch history that would otherwise have been withheld from the QS pool due to the pendency, at the time of annual IFQ determinations, of an appeal involving contested catch history, vessel ownership, or vessel lease data by two or more QS applicants. The interim rule allowed NMFS to set aside QS in the reserve pool for deferred award to specific appellants, and to include this QS in the total QS pool for purposes of determining the amount of IFQ to be assigned to each holder of QS.

The interim rule addressed the problem that appeals involving multiparty contests could unjustly result in failure to allocate IFQ for the annual fishing season to applicants who make timely and sufficient application for participation in the IFQ Program. The QS pool reserve is used only in situations in which eligibility for qualifying pounds has been established but the appropriate party to be issued QS and resulting IFQ remains contested pending a decision.

#### Changes to General Prohibitions

Close monitoring of the harvest of IFQ halibut and IFQ sablefish is required to prevent exceeding the total allowable catch for halibut and sablefish fixed gear fisheries in each regulatory area. A regulation at § 676.16(d) was designed to ensure that an IFQ holder harvested his or her IFQ only in the regulatory area specified on his or her IFQ permit. This regulation, enforced by at-sea monitoring of catches, made it unlawful for any person to retain IFQ halibut or IFQ sablefish on a vessel in excess of the total amount of unharvested IFQ, applicable to the vessel category and IFQ regulatory area in which the vessel is operating, and that is currently held by all IFQ card holders on board the vessel.

The practical effect of this provision was to require persons to offload all IFQ species caught in one regulatory area before fishing IFQ in another regulatory area. IFQ holders with small amounts of IFQ in multiple regulatory areas were especially affected, because the IFQ held in one area was frequently too small to cover the IFQ species harvested in that area and another.

Members of the fishing industry requested the Council to relieve the requirement specified in § 676.16(d). At its meeting in June 21–25, 1995, the Council recommended that NMFS implement an emergency rule to allow vessels required to keep daily logs and carry 100 percent observer coverage to retain IFQ halibut or IFQ sablefish in excess of the total amount of unharvested IFQ applicable to that vessel in the IFQ regulatory area in which the vessel is operating. The Council also recommended that the regulations be so amended for future years.

NMFS determined that an interim rule was appropriate to effect the changes requested by the Council and, in the interim rule published at 60 FR 45378, August 31, 1995, amended § 676.16(d) to allow vessel operators subject to recordkeeping and observer coverage regulations to fish for IFQ species in regulatory areas for which persons aboard the vessel hold IFQ, even when the amount of IFQ held for a specific area is less than the total amount of IFQ species on board the vessel.

A vessel operator must comply with the requirements at § 676.16(d), unless the vessel has an observer aboard pursuant to 50 CFR part 677 while fishing for the IFQ species in the regulatory area concerned and complies with the applicable daily fishing logbook requirements at 50 CFR 301.15, 672.5(b)(2), and 675.5(b)(2). The observer and recordkeeping requirements enable authorized officers to verify that the IFQ halibut or IFQ sablefish on board was lawfully harvested in the appropriate IFQ regulatory area by an IFQ card holder with sufficient unused IFQ applicable to the vessel category. The interim rule thus provided added flexibility to the IFQ holder's fishing schedule while still allowing NMFS to monitor closely IFQ harvests.

Although the Council requested that this relief be provided in all IFQ regulatory areas, current provisions in 50 CFR 301 remain in force and partly diminish the benefits of the present action. Specifically, provisions in § 301.14 require a vessel operator who intends to harvest halibut in areas 4A, 4B, 4C, or 4D to obtain a vessel

clearance in designated ports before commencing harvest or landing of halibut. This vessel clearance requirement, while not in direct conflict with the interim rule, may diminish the intended effect. Any changes to the requirements of § 301.14 must be approved and adopted by the International Pacific Halibut Commission.

#### Classification

This final rule finalizes actions made effective by interim rules published at 60 FR 6448 on February 2, 1995, and 60 FR 45378 on August 31, 1995. Though the requirement for prior notice and an opportunity for public comment was waived for good cause on both of the interim rules, an opportunity for comment was provided. NMFS received no comments and adopts the interim rules as final without change. In that this rule finalizes actions already in effect, a delayed effectiveness period is unnecessary and is therefore waived for good cause pursuant to 5 U.S.C. 553(d)(3).

This final rule does not require the collection of new information, but adopts a shorter period of time within which affected persons would have to submit information. The collection of information necessary for this rule has been approved by the Office of Management and Budget (OMB), OMB control number 0648–0272 (regarding IFQs for Pacific halibut and sablefish), OMB control number 0648–0280 (North Pacific Fisheries Research Plan), and OMB control number 0648–0213 (logbook family of forms).

This final rule has been determined to be not significant for purposes of E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 22, 1995.

Gary Matlock,

*Program Management Officer, National Marine Fisheries Service.*

For the reasons set out in the preamble, the interim rules amending 50 CFR part 676 that were published at 60 FR 6448, February 2, 1995, and 60 FR 45378, August 31, 1995, are adopted as a final rule without change.

[FR Doc. 95–29198 Filed 11–29–95; 8:45 am]

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# Proposed Rules

Federal Register

Vol. 60, No. 230

Thursday, November 30, 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

### Grain Inspection, Packers and Stockyards Administration

#### 7 CFR Part 800

RIN 0580-AA40

#### Fees for Official Inspection and Official Weighing Services

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Grain Inspection Service (FGIS), of the Grain Inspection, Packers and Stockyards Administration (GIPSA), is proposing a change in the way it collects user fees for official inspection and weighing services performed in the United States under the United States Grain Standards Act (USGSA), as amended. Currently, FGIS assesses fees on an hourly basis. The proposed fee structure establishes fees for specific services using hourly rates and/or unit fees. This structure will provide customers with information to better assess the cost of specific services and allow FGIS to pass savings (in the form of fewer billable hours) to customers who invest in operational efficiencies. The proposed fee structure does include a 4 percent increase to recover salary increases.

**DATE:** Comments must be received on or before January 29, 1996.

**ADDRESSES:** Written comments must be submitted to George Wollam, USDA, GIPSA, Room 0623 South Building, P.O. Box 96454, Washington, DC 20090-6454, or FAX them to (202) 720-4628.

All comments received will be made available for public inspection during regular business hours in Room 0623, South Building, USDA, 1400 Independence Avenue, SW, Washington, DC 20090-6454 (7 CFR 1.27 (b)).

**FOR FURTHER INFORMATION CONTACT:** George Wollam, at above address or telephone (202) 720-0292.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been determined to be significant for the purposes of Executive Order 12866 and therefore has been reviewed by the Office of Management and Budget.

The proposed change in the way user fees are collected will provide customers with information to better assess the costs of specific inspection services because the fees will be more service specific than under the current hourly rate. Further, it will allow savings to be passed on to users of the service who invest in operational efficiencies. Currently, applicants choose only those services they want, but individual service costs are supported by the hourly rate without segregation. Fiscal year 1993 financial and volume data were used in developing the proposed fee structure. While certain fees are increased and new fees are established, the revenue generated using the fiscal year 1993 data is equivalent to the \$23,192,178 collected that year.

The proposed fee structure does include a 4 percent increase to recover salary increases since 1993 and would have generated sufficient revenue to cover costs for fiscal year 1994 and the anticipated costs for fiscal year 1995. For information, fiscal year 1994 revenues were \$20,662,062 with obligations of \$21,415,400. For the first half of fiscal year 1995, revenues were \$11,691,695 with obligations of \$12,027,624. Obligations include buy out costs, along with costs associated with office consolidations.

Presently, users of the inspection service are charged on an hourly basis. This hourly rate includes the salary and benefits for each service representative providing the service as well as a portion of overhead and program support costs. The overall cost of a wide variety of services, e.g., grading, weighing, wheat protein measurement, soybean protein and oil measurement, and aflatoxin detection, are averaged together and recovered through an hourly service rate. Under the proposed system, customers will be charged a lower base hourly rate plus a unit fee to cover the cost of the specific service they request such as wheat protein. Overhead and program support costs will be recovered through a per-metric-

ton volume fee assessed on all grain loaded from a facility.

This rule may have an economic impact on infrequent users of the service. FGIS incurs difficulty balancing costs and revenue in some locations where customers desire local FGIS service capability but use the service infrequently. The proposed fee schedule is designed to shift the cost of non-revenue producing time to those users responsible for incurring it. Consequently, infrequent users of the service may find the net effect of the proposed hourly fees and per-metric-ton administrative fee increases their total per-metric-ton cost for inspection service. Conversely, highly efficient and/or high-volume users of the service may realize a decrease in their per-metric-ton cost for inspection service, due to the reduced contract hourly rate, and the use of an administrative fee to cover overhead and program support expenses. Additional information provided in an impact assessment will be provided upon request.

James R. Baker, Administrator, GIPSA, has determined that this proposed action will not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have a retroactive effect. The USGSA provides in § 87g that no subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this proposed rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to provisions of this rule.

#### Regulatory Flexibility Act Certification

James R. Baker, Administrator, GIPSA, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services do not meet the requirements for small entities. FGIS is required by

statute to make services available and to recover costs of providing such services as nearly as practicable.

#### Information Collection and Recordkeeping Requirements

The requirement to collect information included in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)). The additional requirement results from FGIS providing an opportunity for the service customers to pay the proposed administrative costs in 12 equal payments. Comments on the collection of information should be sent to the Office of Management and Budget, Attn.: Desk Officer for the Department of Agriculture, Office of Information and Regulatory Affairs, Washington, DC 20224.

The additional collection of information is required by FGIS to provide the necessary information to collect and assess fees. FGIS, under the USGSA, is required to recover the cost of providing inspection and weighing services through the assessment of fees on the requestor of the services. The respondents are users of FGIS inspection and weighing services.

The estimated annual increase in reporting burden is 14.4 hours.

The estimated annual burden per respondent is .43 hours.

The estimated number of respondents is 12.

The estimated annual frequency of responses is 4 times per year.

#### Background

The USGSA requires FGIS to charge and collect reasonable fees for performing official inspection and weighing services. The fees are to cover, as nearly as practicable, FGIS's costs for performing these services, including related administrative and supervisory costs.

The current USGSA fees became effective on May 20, 1991 (56 FR 15803). They appear in 7 CFR 800.71, Schedule A, Fees for Official Inspection, Weighing, and Appeal Inspection Services Performed in the United States. FGIS currently provides service on an hourly basis with provisions for contract and noncontract rates. Hourly fees provide cost recovery for all direct and indirect costs.

Over the years, technology has expanded the variety of testing services available at local service points and has reduced the number of service representatives required to provide service, especially export inspection

and weighing service. These changes have enabled FGIS to provide improved and expanded services while maintaining a relatively constant cost to the grain industry when viewed as a cost per-metric-ton of grain exported. However, this trend toward increased services and fewer billable hours due to advances in technology makes it increasingly difficult to recover costs using an hourly rate basis.

The intent of the proposed change in the manner of fee collection is (1) to permit customers to realize more directly the costs of services requested and (2) to compensate FGIS for the imbalance between costs and revenue created due to technology, enabling a reduction in FGIS' direct costs and the corresponding billable hours at a greater rate than the reduction of indirect costs.

#### Proposed Action

FGIS proposes to: 1. Withdraw the Interim Final Rule: Fees for Official Inspection and Weighing Service published January 8, 1993 (58 FR 3213) and placed on indefinite hold pending review of need on January 23, 1993 (58 FR 5255).

2. Revise § 800.71, Schedule A—Fees for Official Inspection, Weighing, and Appeal Inspection Services Performed in the United States. Instead of one schedule covering all services, three tables are being proposed. The proposed tables are: Table 1, "Fees for Official Services Performed at an Applicant's Facility in an Onsite FGIS Laboratory;" Table 2, "Services Performed at Other Than an Applicant's Facility in an FGIS Laboratory;" and Table 3, "Miscellaneous Services."

*Schedule A, Table 1.* This table covers all services performed onsite at an applicant's facility and continues the existing provision for using contract and noncontract hourly rates. The hourly rates were calculated to include only those costs directly related to labor and do not include overhead. The current 1 year contract will be retained, but provisions have been included for 3- and 6-month contracts. FGIS will evaluate the use of 3- and 6-month contracts after 1 year to determine if they shall be continued. The rate differences between 1-year, 6-month, and 3-month contracts reflect the predicted costs associated with increased staff production under a contract.

1. *Hourly Rates.* The proposed new hourly rates will be divided into four categories related to how FGIS employees are paid: regular time (6 a.m. to 6 p.m.), 10 percent night differential (6 p.m. to 6 a.m.), overtime at 1-1/2 the regular hourly rate (for applicant-caused

or requested overtime), and holiday rates at double the regular hourly rate (all hourly rates other than those of regular time are calculated using only the average base hourly rate, this does not include personnel benefits).

2. *Additional Tests.* Additional unit fees are being proposed for certain tests such as Aflatoxin, Vomitoxin, Soybean protein and/or oil, Sunflower oil, Wheat protein, Waxy corn, and Class Y weighing. These fees will recover additional costs incurred such as testing materials, equipment, and hazardous waste disposal which are not recovered through the hourly fee or administrative fee.

3. *Administrative Fee.* A per metric ton administrative charge is being proposed to recover the indirect costs of FGIS field offices and headquarters such as the salaries and benefits for office management and support staff, and rent. This charge will be assessed on all *outbound* grain inspected and/or weighed at an applicant's facility. Six levels of fees are being proposed ranging from 1 metric ton or less to over 7,000,001 metric tons with fees decreasing as the number of metric tons inspected increases. The charge will be assessed in addition to the base hourly rate. At the beginning of each fiscal year (October 1), all applicants will pay the same per-metric-ton fee. Once a level has been reached, the fee for additional metric tons will be reduced until the maximum volume level is reached. Inspections performed on grain that cannot be captured as part of the metric ton charge will have a unit fee assessed in addition to the hourly rate to recover overhead costs. Inspections such as submitted samples, factor only and sacked grain are included.

*Schedule A, Table 2,* covers fees for inspection and weighing services where FGIS does not have an onsite laboratory at an applicant's facility. The fees proposed in this table are a mixture of hourly rates and unit fees. They cover a vast array of specific services presently provided under the current hourly rates. The hourly rates applied in Table 2 will be the appropriate rates from Table 1 unless specific hourly rates are identified. Unit fees cover the time required to perform the service plus a portion for overhead. The types of service provided under these fees include: inspection for grade and factor for specific carriers probe sampled or sampled online, additional services and testing (i.e., individual tests), Board appeals and appeals, weighing (Class X and Y), and stowage examinations.

*Schedule A, Table 3,* provides fees to cover a variety of services not included in the previous tables. As with Table 2,

the proposed change in the fee structure from an hourly fee that recovers all costs to a service-specific fee structure requires a listing of specific services currently funded by the hourly rate. These service-specific fees will be a mixture of hourly rates and unit fees and will apply to: Grain Grading Seminars, Certification of Diverter Samplers, Special Weighing Services: Scale Testing and Certification, Evaluation of Weighing and Material Handling Systems, National Type Evaluation Program (NTEP) Prototype Evaluation, NTEP Prototype Evaluation of Railroad Track Scales, Mass Standards Calibration and Reverification, Special Projects, Foreign Travel, On Line Customized Data Export Grain Information System (EGIS) Service, Samples Provided to Interested Parties, Divided-Lot Certificates, Extra Copies of Certificates, Faxing, Special Mailing, and Preparing Certificates Onsite.

Further, FGIS is proposing to establish a unit fee to recover expenses

incurred when FGIS employees are requested to provide consulting services outside the United States. Currently, there is no fee for recovering costs of salary, travel, per diem, and related costs which is not related to an official service provided on a shipment of grain at the time of export from the United States. For example, an exporter may ask for an FGIS microbiologist to consult with microbiologists in an importing country to resolve a dispute on the presence of grain fungi; or a USDA cooperator may request an FGIS inspector to conduct training for inspectors in an importing country.

FGIS is also proposing corresponding changes to §§ 800.72 and 800.73 of the regulations to further clarify the application of fees covered in Schedule A. Specifically, service provided under Schedule A will cover service provided within 25 miles of the employee's assigned duty point. Travel, per diem, and other related costs will be assessed for providing service beyond the 25-mile limit. A minimum fee will be

established for services identified in Table 2 performed outside of normal business hours Monday through Friday.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Grain.

For the reasons set out in the preamble, 7 CFR part 800 is proposed to be amended as follows:

**PART 800—GENERAL REGULATIONS**

1. The authority citation for part 800 continues to read as follows:

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

2. Section 800.71 is revised to read as follows:

**§ 800.71 Fees assessed by the Service.**

Schedule A—Fees for Official Inspection and Weighing Services Performed in the United States

Table 1

*Fees for Official Services Performed at an Applicant's Facility in an Onsite FGIS Laboratory<sup>1</sup>*

(1) Inspection and Weighing Services

HOURLY RATES

[Per Service Representative]

	Monday to Friday (6 a.m. to 6 p.m.)	Monday to Friday (6 p.m. to 6 a.m.)	Saturday, Sunday, and over-time <sup>2</sup>	Holidays
1-year contract .....	\$23.00	\$24.80	\$32.40	\$39.00
6-month contract .....	25.00	26.80	34.40	43.60
3-month contract .....	28.00	29.80	37.40	46.60
Noncontract .....	33.00	35.00	42.80	52.60
<b>(2) Additional Tests (cost per test, assessed in addition to the hourly rate)<sup>3</sup></b>				
(i) Aflatoxin (other than Thin Layer Chromatography) .....				\$8.50
(ii) Aflatoxin (Thin Layer Chromatography method) .....				20.00
(iii) Soybean protein and oil (one or both) .....				1.50
(iv) Wheat protein (per test) .....				1.50
(v) Sunflower oil (per test) .....				1.50
(vi) Vomitoxin (qualitative) .....				7.50
(vii) Vomitoxin (quantitative) .....				12.50
(viii) Waxy corn (per test) .....				1.50
(ix) Fees for other tests not listed above will be based on the lowest noncontract hourly rate.				
(x) Other services				
(a) Class Y Weighing (per carrier)				
(1) Truck/container .....				.30
(2) Railcar .....				1.25
(3) Barge .....				2.50
<b>(3) Administrative Fee (assessed in addition to all other applicable fees, only one administrative fee will be assessed when inspection and weighing services are performed on the same carrier)</b>				
(i) All outbound carriers (per-metric-ton) <sup>4</sup>				
(a) 1—1,000,000 .....				0.090
(b) 1,000,001—1,500,000 .....				0.082
(c) 1,500,001—2,000,000 .....				0.042
(d) 2,000,001—5,000,000 .....				0.032
(e) 5,000,001—7,000,000 .....				0.017
(f) 7,000,001— .....				0.002

- (ii) Additional services (assessed in addition to all other fees)<sup>3</sup>
  - (a) Submitted sample (per sample—grade and factor) ..... 1.50
  - (b) Submitted sample—Factor only (per factor) ..... 0.70

<sup>1</sup> Fees apply for original inspection and weighing, reinspection, and appeal inspection service include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles as found in §800.72 (1).

<sup>2</sup> Overtime rates will be assessed for all hours in excess of 8 consecutive hours that result from an applicant scheduling or requesting service beyond 8 hours, or if requests for additional shifts exceed existing staffing.

<sup>3</sup> Appeal and reinspection services will be assessed the same fee as the original inspection service.

<sup>4</sup> The administrative fee is assessed on an accumulated basis beginning at the start of the Service's fiscal year (October 1 each year).

Table 2

*Services Performed at Other Than an Applicant's Facility in an FGIS Laboratory<sup>1 2</sup>*

(1) Original Inspection and Weighing (Class X) Services	
(i) Sampling only (use hourly rates from Table 1)	
(ii) Stationary lots (sampling, grade/factor, & checkloading)	
(a) Truck/trailer/container (per carrier) .....	\$17.60
(b) Railcar (per carrier) .....	27.00
(c) Barge (per carrier) .....	173.60
(d) Sacked grain (per hour per service representative plus an administrative fee per hundred weight) .....	0.02 CWT
(iii) Lots sampled online during loading (sampling charge under (i) above plus):	
(a) Truck/trailer container (per carrier) .....	9.40
(b) Railcar (per carrier) .....	18.80
(c) Barge (per carrier) .....	107.60
(d) Sacked grain (per hour per service representative plus an administrative fee per hundred weight) .....	0.02 CWT
(iv) Other services	
(a) Submitted sample (per sample—grade and factor) .....	10.00
(b) Warehouseman inspection (per sample) .....	17.00
(c) Factor only (per factor—maximum 2 factors) .....	4.10
(d) Checkloading/condition examination (use hourly rates from Table 1, plus an administrative fee per hundred weight if not previously assessed) .....	0.02 CWT
(e) Reinspection (grade and factor only. Sampling service additional, item (i) above) .....	11.00
(f) Class X Weighing (per hour per service representative) .....	43.60
(v) Additional tests (excludes sampling)	
(a) Aflatoxin (per test—other than TLC method) .....	25.00
(b) Aflatoxin (per test—TLC method) .....	100.50
(c) Soybean protein and oil (one or both) .....	7.80
(d) Wheat protein (per test) .....	7.80
(e) Sunflower oil (per test) .....	7.80
(f) Vomitoxin (qualitative) .....	25.00
(g) Vomitoxin (quantitative) .....	30.00
(h) Waxy corn (per test) .....	9.00
(i) Canola (per test—00 dip test) .....	9.00
(j) Pesticide Residue Testing <sup>3</sup>	
(1) Routine Compounds (per sample) .....	200.00
(2) Special Compounds (per service representative) .....	100.00
(k) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1	
(2) Appeal inspection and review of weighing service. <sup>4</sup>	
(i) Board Appeals and Appeals (grade and factor) .....	74.60
(a) Factor only (per factor—max 2 factors) .....	38.00
(b) Sampling service for Appeals additional (hourly rates from Table 1)	
(ii) Additional tests (assessed in addition to all other applicable fees)	
(a) Aflatoxin (per test, other than TLC) .....	25.00
(b) Aflatoxin (TLC) .....	110.00
(c) Soybean protein and oil (one or both) .....	15.30
(d) Wheat protein (per test) .....	15.30
(e) Sunflower oil (per test) .....	15.30
(f) Vomitoxin (per test—qualitative) .....	35.00
(g) Vomitoxin (per test—quantitative) .....	40.00
(h) Vomitoxin (per test—HPLC Board Appeal) .....	125.70
(i) Pesticide Residue Testing <sup>3</sup>	
(1) Routine Compounds (per sample) .....	200.00
(2) Special Compounds (per service representative) .....	100.00
(j) Fees for other tests not listed above will be based on the lowest noncontract hourly rate from Table 1	
(iii) Review of weighing (per hour per service representative) .....	63.50
(3) Stowage examination (service-on-request) <sup>3</sup>	
(i) Ship (per stowage space) (minimum \$250 per ship) .....	50.00
(ii) Subsequent ship examinations (same as original) (minimum \$150 per ship)	
(iii) Barge (per examination) .....	40.00

- (iv) All other carriers (per examination) ..... 15.00
- <sup>1</sup> Fees apply for original inspection and weighing, reinspection, and appeal inspection service include, but are not limited to, sampling, grading, weighing, prior to loading stowage examinations, and certifying results performed within 25 miles of an employee's assigned duty station. Travel and related expenses will be charged for service outside 25 miles are found in § 800.72 (1).
- <sup>2</sup> An additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not cover what would have been collected at the applicable hourly rate as provided in § 800.72 (2).
- <sup>3</sup> If performed outside of normal business, 1½ times the applicable unit fee will be charged.
- <sup>4</sup> If, at the request of the Service, a file sample is located and forwarded by the Agency for an official agency, the Agency may, upon request, be reimbursed at the rate of \$2.50 per sample by the Service.

Table 3

Miscellaneous Services <sup>1 3</sup>

(1) Grain grading seminars (per hour per service representative) .....	\$43.60
(2) Certification of diverter-type mechanical samplers (per hour per service representative) .....	43.60
(3) Special weighing services (per hour per service representative)	
(i) Scale testing and certification .....	43.60
(ii) Evaluation of weighing and material handling systems .....	43.60
(iii) NTEP Prototype evaluation (other than Railroad Track Scales) .....	43.60
(iv) NTEP Prototype evaluation of Railroad Track Scales (plus usage fee per day for test car) .....	43.60
	100.00
(v) Mass standards calibration and reverification .....	43.60
(vi) Special projects .....	43.60
(4) Foreign travel (per day per service representative) .....	416.00
(5) On line customized data EGIS service	
(i) One data file per week for 1 year .....	500.00
(ii) One data file per month for 1 year .....	300.00
(6) Samples provided to interested parties (per sample) .....	2.50
(7) Divided-lot certificates (per certificate) .....	1.50
(8) Extra copies of certificates (per certificate) .....	1.50
(9) Faxing (per page) .....	1.50
(10) Special mailing (actual cost)	
(11) Preparing certificates onsite or during other than normal business hours (use hourly rates from Table 1)	

<sup>1</sup> Any requested service that is not listed will be performed at \$43.60 per hour.  
<sup>2</sup> Regular business hours-Monday thru Friday-service provided at other than regular hours charged at the applicable overtime hourly rate.

3. Section 800.72 is revised to read as follows:

**§ 800.72 Explanation of additional service fees for services performed in the United States only.**

(a) When transportation of the service representative to the service location (at other than a specified duty point) is more than 25 miles from an FGIS office, the actual transportation cost in addition to the applicable hourly rate for each service representative will be assessed from the FGIS office to the service point and return. When commercial modes of transportation (e.g., airplanes) are required, the actual expense incurred for the round-trip travel will be assessed. When services are provided to more than one applicant, the travel and other related charges will be prorated between applicants.

(b) In addition to a 2-hour minimum charge for service on Saturdays, Sundays, and holidays, an additional charge will be assessed when the revenue from the services in Schedule A, Table 2, does not equal or exceed what would have been collected at the applicable hourly rate. The additional charge will be the difference between the actual unit fee revenue and the hourly fee revenue. Hours accrued for travel and standby time shall apply in

determining the hours for the minimum fee.

4. Section 800.73 is revised to read as follows:

**§ 800.73 Computation and payment of service fees; general fee information.**

(a) *Computing hourly rates.* The applicable hourly rate will be assessed in quarter hour increments for:

(1) Travel from the FGIS field office or assigned duty station to the service point and return;

(2) The performance of the requested service, less mealtime.

(b) *Application of fees when service is delayed or dismissed by the applicant.* The applicable hourly rate will be assessed for the entire period of scheduled service when:

(1) Service has been requested at a specified location;

(2) A service representative is on duty and ready to provide service but is unable to do so because of a delay not caused by the Service; and

(3) FGIS officials determine that the service representative cannot be utilized to provide service elsewhere without cost to the Service.

(c) *Application of fees when an application for service is withdrawn or dismissed.* The applicable hourly rate will be assessed to the applicant for the entire period of scheduled service if the

request is withdrawn or dismissed after the service representative departs for the service point, or if the service request is not canceled by 2 p.m., local time, the business day preceding the date of scheduled service. However, the applicable hourly rate will not be assessed to the applicant if FGIS officials determine that the service representative can be utilized elsewhere or released without cost to the Service.

(d) *To whom fees are assessed.* Fees for inspection, weighing, and related services performed by service representatives, including additional fees as provided in § 800.72, shall be assessed to and paid by the applicant for the service.

(e) *Monthly payment of administrative fee.* At the option of the applicant, an agreement for 12 equal monthly payments may be entered into for payment of the administrative fee. These monthly payments will be based on the previous fiscal year's volume applied to the current year's administrative fee schedule. If the volume of grain inspected is more than the amount of grain agreed upon at the beginning of the fiscal year, at the point the agreed upon volume is exceeded, the current year's administrative fee schedule shall apply to the remaining amount of grain for the rest of the fiscal

year. If the volume of grain inspected is less than the agreed upon amount, any excess monies paid to the Service shall be applied to the next fiscal year's administrative fee unless a request for a refund is made by the applicant.

(f) *Advance payment.* As necessary, the Administrator may require that fees shall be paid in advance of the performance of the requested service. Any fees paid in excess of the amount due shall be used to offset future billings, unless a request for a refund is made by the applicant.

(g) *Form of payment.* Bills for fees assessed under the regulations for official services performed by FGIS shall be paid by check, draft, or money order, payable to the U.S. Department of Agriculture, Grain Inspection, Packers and Stockyards Administration.

Dated: November 22, 1995.

James R. Baker,

*Acting Assistant Secretary, Marketing and Regulatory Programs.*

[FR Doc. 95-29115 Filed 11-29-95; 8:45 am]

BILLING CODE 3410-EN-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 185 and 186

[FAP 4H5710/P636; FRL-4983-5]

RIN 2070-AC18

### Deltamethrin; Food and Feed Additive Regulations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to establish food and feed additive regulations for residues of the pyrethroid deltamethrin in or on food and feed items as a result of use in food- and feed-handling establishments. Roussel Uclaf Corp. requested these regulations pursuant to Federal Food, Drug and Cosmetic Act (FFDCA) that would establish the maximum permissible levels for residues of the pesticide in or on certain food and feed items.

**DATES:** Comments, identified by the document control number [PP4H5710/P636], must be received on or before January 2, 1996.

**ADDRESSES:** Submit written comments by mail to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921

Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any parts or all of that information as "Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures as set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1132 at the above address, from 8 a.m. through 4:30 p.m., Monday through Friday, excluding legal holidays. Comments and data may also be submitted by sending electronic mail (e-mail) to:

opp-docket@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 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 4H5710/P636]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

**FOR FURTHER INFORMATION CONTACT:** By mail: George T. LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6100; e-mail: larocca.george@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a notice, published in the Federal Register of February 8, 1995 (60 FR 7541), which announced that, Roussel Uclaf Corp., 95 Chestnut Ridge Rd., P.O. Box 30, Montvale, NJ 07645, had submitted pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 348, a food additive petition, FAP 4H5710, that proposed amending 40 CFR part 185 by establishing a food additive regulation to permit residues of the insecticide deltamethrin [(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-*alpha*-cyano-3-phenoxybenzyl ester] in or on food as a result of use in food-

handling establishments at 0.02 part per million (ppm). On March 20, 1995, Roussel Uclaf Corp. submitted a request to amend 40 CFR part 186 by proposing a feed additive regulation to permit residues of the insecticide deltamethrin in or on feed items as a result of use in feed-handling establishment at 0.02 ppm.

The scientific data submitted in the petitions and other relevant material have been evaluated. The toxicological and metabolism data and analytical methods for enforcement purposes considered in support of these tolerances include the following:

1. Chronic 2-year feeding in dogs with a systemic NOEL greater than 40 ppm (highest doses treated (HDT)).

2. A 24-month chronic feeding/carcinogenicity study in rats with a systemic NOEL of 20 ppm (1 mg/kg/day) and LEL of 50 ppm (2.5 mg/kg/day based on decreased body weight. No carcinogenic effects were observed in this study.

3. Mutagenicity tests include an Ames assay, a structural chromosomal aberration assay in Chinese hamster ovary (CHO) cells, and an unscheduled DNA synthesis assay in rat hepatocyte. All tests were negative for genotoxicity.

4. A metabolism study in rats demonstrates that deltamethrin is relatively well absorbed. Urine and fecal excretions were almost complete at 48 hours post dose.

5. An oral development toxicity study in rats with a developmental NOEL of 11 mg/kg/day (highest dose tested). The maternal NOEL was 3.3 mg/kg/day with the LEL of 7 mg/kg/day based on one death and excessive salivation. An oral developmental toxicity study in rabbits with a maternal NOEL of 10 mg/kg/day and a maternal LEL of 25 mg/kg/day based on decreased defecation. The developmental NOEL was 25 mg/kg/day with a developmental LEL of 100 mg/kg/day based on statistically significant trend for an increase in fetal incidence of unossification of pubic and tail bones.

6. A three-generation reproduction study in rats noted no parental effects. NOEL greater than 50 ppm.

A chronic dietary exposure/risk assessment was performed for deltamethrin using a reference dose (RfD) of 0.01 mg/kg bwt/day based on a NOEL 1.00 mg/kg bwt/day from the 2-year rat feeding study with an uncertainty factor of 100. The end-point effect of concern was decreased body weight. The Theoretical Maximum Residue Contribution (TMRC) from established tolerances utilizes 3.7% of the RfD for the U.S. population and 2.3% of the RfD for the subpopulation

most highly exposed, nonnursing infants (less than 1-year old). Establishing the new tolerances would utilize 5.1% of the RfD for the U.S. population and 20.7% for nonnursing infants (less than 1-year old). If the new tolerances are approved, the total percentages of the RfD utilized for the U.S. population and nonnursing infants (less than 1-year old) are 8.8% and 23.0%, respectively. Generally speaking, EPA has no cause for concern if total residue contribution for published tolerances is less than the RfD. EPA concludes that the chronic dietary risk of deltamethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

The nature of the deltamethrin residue in plants and animals for this use is adequately understood. The residues of concern is deltamethrin. There is no reasonable expectation of secondary residues in eggs, meat, milk, or poultry from the proposed use as delineated in 40 CFR 180.6(a)(3).

The metabolism of the chemical in animals for this use is adequately understood. An adequate analytical method, gas-liquid chromatography, is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual Vol. II (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency 401 M St., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5232.

There are presently no actions pending against the continued registration of this chemical.

The pesticide is considered useful for the purposes for which it is sought. Based on the information and data considered, the Agency concludes that the proposed tolerances will protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking

proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [FAP 4H5710/P636]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [FAP 4H5710/P636] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:  
opp-Docket@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 rulemaking, 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 rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy,

productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not a "significant regulatory action" because it does not meet any of the regulatory significance criteria listed above.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements, or establishing or raising food additive regulations do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

This proposed regulatory action does not contain any information collection requirements subject to review by OMB under the Paper Reduction Act of 1980, 44 U.S.C. 3501 et seq.

This proposed rule contains no Federal mandates under Title II of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, for State, local, or tribal governments or the private sector because it would not impose enforceable duties on them.

List of Subjects in 40 CFR Parts 185 and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 7, 1995.

Susan Lewis,  
*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, it is proposed that 40 CFR parts 185 and 186 be amended as follows:

#### **PART 185—[AMENDED]**

1. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

b. In § 185.1580, by designating the existing text as paragraph (a) and by adding new paragraph (b), to read as follows:

**§ 185.1580 Deltamethrin.**

\* \* \* \* \*

(b) A food additive tolerance of 0.02 part per million is established for residues of the insecticide deltamethrin [(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-*alpha*-cyano-3-phenoxybenzyl ester] as follows:

(1) In or on all food items (other than those covered by a higher tolerance as a result of use on growing crops) resulting from use in food-handling establishments.

(2) The insecticide may be present as a residue from application of deltamethrin in food-handling establishments, including food service, manufacturing and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries in accordance with the following prescribed conditions:

(i) Application shall be limited to a general surface and spot and/or crack and crevice treatment in food-handling establishments where food and food products are held, processed, prepared, and served. General surface application may be used only when facility is not in operation provided exposed food is covered or removed from area being treated. Spot and/or crack and crevice application may be used while the facility is in operation provided exposed food is covered or removed from area being treated prior to application. Spray concentration shall be limited to a maximum of 0.06 percent active ingredient. Contamination of food-contact surfaces shall be avoided.

(ii) To assure safe use of the pesticide, its label and labeling shall conform to that registered with the U.S. Environmental Protection Agency and shall be used in accordance with such label and labeling.

**PART 186—[AMENDED]**

2. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. By adding new § 186.1580, to read as follows:

**§ 186.1580 Deltamethrin.**

(a) A feed additive tolerance of 0.02 part per million is established for residues of the insecticide deltamethrin [(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-*alpha*-cyano-3-phenoxybenzyl ester] as follows:

(1) In or on all feed items (other than those covered by a higher tolerance as a result of use on growing crops) resulting from use in feed-handling establishments.

(2) The insecticide may be present as a residue from application of deltamethrin in feed-handling establishments, including feed manufacturing and processing establishments in accordance with the following prescribed conditions:

(i) Application shall be limited to a general surface and spot and/or crack and crevice treatment in feed-handling establishments where feed and feed products are held, processed, prepared, and served. General surface application may be used only when facility is not in operation provided exposed food is covered or removed from area being treated. Spot and/or crack and crevice application may be used while the facility is in operation provided exposed feed is covered or removed from area being treated prior to application. Spray concentration shall be limited to a maximum of 0.06 percent active ingredient. Contamination of feed-contact surfaces shall be avoided.

(ii) To assure safe use of the pesticide, its label and labeling shall conform to that registered with the U.S. Environmental Protection Agency and shall be used in accordance with such label and labeling.

(b) [Reserved]

[FR Doc. 95-29251 Filed 11-29-95; 8:45 am]

BILLING CODE 6560-50-F

**40 CFR Parts 261, 271, and 302**

[SWH-FRL-5336-3]

**Extension of Comment Period for the Proposed Identification and Listing of Hazardous Waste/Dye and Pigment Industries**

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA or Agency) again is extending the comment period for the proposed listing determination for the dyes and pigments industry, which appeared in the Federal Register

on December 22, 1994 (see 59 FR 66072-66114). The public comment period for this proposed rule was to end on November 30, 1995. The purpose of this notice is to extend again the comment period to end on December 15, 1995.

**DATES:** EPA will accept public comments on this proposed listing determination until December 15, 1995.

**ADDRESSES:** The public must send an original and two copies of their comments to EPA RCRA Docket Number F-94-DPLP-FFFFF, RCRA Information Center (5305W), U.S. EPA, 401 M Street, SW, Washington, DC. To hand-deliver comments, or to review docket materials, the address is U.S. EPA, Crystal Gateway, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The docket is open from 9 am to 4 pm, Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (703) 603-9230. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at \$0.15 per page for additional copies.

**FOR FURTHER INFORMATION CONTACT:** For technical information concerning this notice, please contact Wanda Levine, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 260-7458.

**SUPPLEMENTARY INFORMATION:** This proposed rule was issued under Section 3001(b) of RCRA. EPA proposed to list certain wastes generated during the production of dyes and pigments because these wastes may pose a substantial present or potential risk to human health or the environment when improperly managed. See 59 FR 66072-114 (December 22, 1994) for a more detailed explanation of the proposed rule.

These proposed hazardous waste listings were based in part upon data claimed as confidential by certain dye and pigment manufacturers. Although EPA hopes to publish these data or information derived from these data to the extent relevant to the proposed listing, the Agency is unable to do so at the present time due in large part to the issuance of a preliminary injunction against EPA in *Magruder Color Co. v. EPA*, Civ. No. 94-5768 (D.N.J.). EPA is pursuing avenues to allow publication of the information and hopes to supplement the public record with and allow public comment on such information prior to issuance of a final listing. However, because EPA anticipates that its obligation to publish a final rule pursuant to a consent decree

entered in *EDF v. Browner*, Civ. No. 89-0598 (D.D.C.) will be extended only to on or about January 19, 1996, at this time EPA is extending the comment period only until December 15, 1995.

Dated: November 22, 1995.

Michael H. Shapiro,  
Director, Office of Solid Waste.  
[FR Doc. 95-29244 Filed 11-29-95; 8:45 am]  
BILLING CODE 6560-50-P

#### 40 CFR Part 300

[FRL-5335-2]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Intent To Delete the Whitewood Creek Superfund Site From the National Priorities List: Request for Comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region VIII announces its intent to delete the Whitewood Creek Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the State of South Dakota (State) have determined that all appropriate CERCLA response actions have been implemented and that no further response actions are necessary at the Site except required operations and maintenance activities (O&M). Moreover, EPA and the State have determined that remedial activities conducted at the Site are protective of human health and the environment.

**DATES:** Comments concerning the proposed deletion of the Whitewood Creek Site may be submitted to EPA on or before January 2, 1996.

**ADDRESSES:** Comments may be mailed to: Mr. Michael H. McCeney, Remedial Project Manager, U.S Environmental Protection Agency, Region VIII, Mail Code 8EPR/SR, 999 18th Street, Suite 500, Denver, CO 80202, Telephone: (303) 312-6226.

Comprehensive information on this site is available through EPA, Region VIII public docket, located at EPA, Region VIII, Superfund Records Center and is available for viewing from 8:00 AM to 4:30 PM, Monday through Friday excluding holidays. Requests for

documents should be directed to the EPA, Region VIII Superfund Records Center.

The address for the Region VIII Superfund Records Center is: Superfund Records Center, U.S. Environmental Protection Agency, 999 18th Street, 5th Floor, Denver, CO 80202, Telephone: (303) 312-6473.

Background information from the Regional public docket is also available for viewing at the following location: Ms. Judy Meverden, Lawrence County Registry of Deeds Office, P.O. Box 565, Deadwood, South Dakota 57732-0565, Telephone: (605) 578-3930.

**FOR FURTHER INFORMATION CONTACT:** Michael H. McCeney (303) 312-6226.

#### SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Site Deletion

#### I. Introduction

The Environmental Protection Agency (EPA), Region VIII announces its intent to delete the Whitewood Creek Site located in Butte, Meade, and Lawrence Counties, South Dakota, from the National Priorities List (NPL) and requests comments on this deletion. The NPL constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), Title 40 of the Code of Federal Regulations (40 CFR), as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as a list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that future conditions at the site warrant such action.

EPA intends to delete the Whitewood Creek Site from the NPL. EPA will accept comments on this proposed deletion for thirty days following publication of this notice in the Federal Register.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Whitewood Creek Site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations with regard to an individual site. The NPL is designed primarily for informational

purposes and to assist EPA management.

#### II. NPL Deletion Criteria

The NPL establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider whether any of the following criteria have been met:

(i) EPA, in consultation with the State, has determined that responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and EPA, in consultation with the State, has determined that no further response action by responsible parties is appropriate; or

(iii) Based on a remedial investigation, EPA, in consultation with the State, has determined that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

For all Remedial Actions (RAs) which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, EPA shall review such action no less often than every five years after initiation of the selected RA.

#### III. Deletion Procedures

EPA, Region VIII will accept and evaluate public comments before making a final decision to delete the Whitewood Creek Site. The following procedures were used for the intended deletion of this Site:

(1) EPA, Region VIII has recommended deletion of the Whitewood Creek Site and has prepared the relevant documents;

(2) The State of South Dakota has concurred with EPA's recommendation for deletion;

(3) Concurrent with this National Notice of Intent to Delete, a notice has been published in local newspapers and has been distributed to appropriate Federal, State and local officials, and other interested parties; and

(4) EPA, Region VIII has made all relevant documents available in the Regional Office and local Site information repositories.

Comments received during the notice and comment period will be evaluated before making a final decision to delete. Region VIII will prepare a Responsiveness Summary, which will

address the comments received during the public comment period. After the public comment period, a deletion will occur after EPA publishes a Notice of Deletion in the Federal Register. The NPL will reflect any deletions in the next final update. Public notices and copies of the Responsiveness Summary will be made available to local residents by EPA Region VIII.

#### IV. Basis for Intended Site Deletion

The following summary provides EPA's rationale for recommending deletion of the Whitewood Creek Superfund Site.

The Whitewood Creek Superfund Site is located in Butte, Meade and Lawrence Counties in western South Dakota. The Site includes the floodplain of an 18 mile stretch of Whitewood Creek between the Crook City Bridge and the confluence with the Belle Fourche River. The Site also includes areas surrounding the floodplain which fall within the 100 milligrams per kilogram (mg/kg) arsenic concentration isopleths as defined during remedial design (RD).

Disposal of mill tailings from area gold mines into Whitewood Creek for more than 100 years caused contamination at the Site. This practice ended in 1977. Homestake Mining Company (Homestake) of Lead, South Dakota was the largest contributor of this mine waste material. As Whitewood Creek flowed northeast out of the Black Hills, mine tailings were deposited on the banks of the creek and throughout the floodplain. An estimated 30 million tons of mill tailings were deposited within the Site. These tailings were found to contain elevated levels of arsenic and other heavy metals.

In 1981, at the request of the governor of South Dakota, the Site was placed on the "Interim NPL". Subsequently the Site was placed on the NPL on September 8, 1983 (48 Fed. Reg. 40658). The hazardous substance release pathways of concern at the Site were ground water and surface water. These pathways were used to develop the Site's hazard ranking system score. The hazardous substances of concern were arsenic, copper, zinc, selenium, and mercury.

Following placement of the Site on the Interim NPL, EPA, the State of South Dakota, and Homestake entered into a three-party agreement to perform studies to determine the nature and extent of contamination at the Site. In 1989, EPA determined that this study, combined with several others conducted between 1982 and 1986, constitutes the functional equivalent of a remedial investigation for the Site. The remedial

investigation reports, as well as any other reports referred to in this notice, can be found in the public docket for this Site.

Under an administrative agreement with EPA, Homestake conducted a feasibility study in 1989 to evaluate cleanup alternatives. The feasibility study and the remedial investigation reports concluded that the primary concern for human health and the environment at the Site was exposure to arsenic-contaminated tailings, soils, and groundwater.

EPA issued a Record of Decision (ROD) for the Whitewood Creek Site on March 30, 1990. The remedy selected for the Site was two-fold; (1) remove and/or cover tailings-contaminated soils in existing residential areas; and (2) implement institutional controls (ICs) to control access to the tailings and groundwater. To achieve a detailed understanding of the ROD, refer to the ROD dated March 30, 1990.

In August of 1990, EPA and Homestake signed a consent decree (CD) for Homestake to conduct remedial design and remedial action (RD/RA) at the Site. Under EPA oversight, Homestake, in coordination with Site residents, developed plans and specifications for removal and/or cover of arsenic-contaminated materials at sixteen residential yards.

Homestake conducted cleanup of the residential yards in 1991 and 1992. A total of 4,500 cubic yards of contaminated material was removed from the individual sites and placed in an on-site disposal facility.

Community relations activities throughout the Superfund process at the Site included:

- a. a public meeting followed by a comment period to present the preferred cleanup plan before issuing the ROD;
- b. a responsiveness summary to address comments received from the public regarding EPA's proposed clean up plan;
- c. regular site updates in the form of fact sheets mailed to the community;
- d. meetings with site residents to develop acceptable cleanup plans for residential yards; and
- e. community meetings.

Also as part of RD/RA, the following institutional controls have been implemented at the Site:

- (a) Butte, Meade, and Lawrence Counties adopted ordinances that: prohibit construction of any new residential or commercial structures on the tailings deposits; restrict future development in tailings-impacted areas of the Site; and prohibit the removal and

use of tailings from outside the tailings areas; however, mining would be allowed subject to South Dakota regulations. These ordinances were adopted in 1992 and 1993;

- (b) since 1993, Homestake has been distributing a Site fact sheet at least once a year to educate the public on Site hazards and ways to minimize the risk posed by residual contamination;

- (c) a State ban on shallow aquifer water supply wells in the floodplain of Whitewood Creek has been maintained.

Administration of the above institutional controls is on-going and will continue indefinitely. In addition, Homestake is responsible for several operations and maintenance (O&M) activities at the site including but not limited to:

- (1) monitoring the surface water quality of Whitewood Creek at least four times yearly for significant releases of remaining hazardous substances at the Site;
- (2) re-sampling the soil in residential yards at least once every five years to ensure that re-contamination has not occurred; in the event of unacceptable levels of recontamination, Homestake will remediate the yard; and
- (3) submitting reports to EPA on O&M activities four times yearly.

Further details of Homestake's O&M responsibilities at the Site can be found in the *Whitewood Creek Superfund Site, Post Closure Operations, Maintenance, and reporting Plan*, dated July 27, 1994. Deletion of the Site from the NPL in no way affects Homestake's continued obligations to perform O&M at the Site.

Because hazardous substances remain at this Site EPA must review Site conditions no less often than every five years from the start of remedial action at the Site to ensure that the remedy continues to remain protective of human health and the environment. The first five year review will begin no later than September 1996.

Dated: November 8, 1995.

William P. Yellowtail,  
Regional Administrator, U.S. E.P.A., Region VIII.

[FR Doc. 95-29037 Filed 11-29-95; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Health Care Financing Administration****Centers for Disease Control and Prevention****42 CFR Part 493**

[HSQ-233-P]

**CLIA Program; Cytology Proficiency Testing**

**AGENCY:** Health Care Financing Administration (HCFA) and Centers for Disease Control and Prevention (CDC), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** In this proposal, HHS is complying with a court order requiring publication of a proposed rule to require that cytology proficiency testing (PT) be conducted, to the extent practicable, under normal working conditions. In accordance with the court order, we are proposing to revise regulations that implement the Clinical Laboratory Improvement Amendments of 1988 (CLIA) to require that PT be conducted at a pace corresponding to the maximum workload rate for individuals examining cytology slides. As a separate matter, we use this opportunity to solicit comments on the use of computer facsimile representations of cytology specimens, as an alternative to glass slide PT.

**DATES:** Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on January 29, 1996.

**ADDRESSES:** Mail written comments (1 original and 3 copies) to the following address: Centers for Disease Control and Prevention, Attention: HSQ-233-P, 4770 Buford Hwy, N.E., MS F11, Atlanta, Ga. 30341-3724.

If you prefer, you may deliver your written comments (1 original and 3 copies) to the following address: Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HSQ-233-P. Comments received timely will be available for public inspection as they are received in Room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690-7890).

For comments that relate to information collection requirements,

mail a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydtt, HCFA Desk Officer.

**FOR FURTHER INFORMATION CONTACT:** Rhonda S. Whalen, (770) 488-7670.

**SUPPLEMENTARY INFORMATION:****I. Background**

Under section 353 of the Public Health Service Act (42 U.S.C. 263a), which embodies provisions of the Clinical Laboratory Improvement Amendments of 1988 (CLIA), all laboratories that examine human specimens for the diagnosis, prevention or treatment of any disease or impairment of, or the assessment of the health of, human beings must meet certain requirements to perform the examination. On February 28, 1992 (57 FR 7002), we published regulations to implement CLIA at 42 CFR part 493, with most sections of the regulations effective September 1, 1992. On January 14, 1993, plaintiffs, the Consumer Federation of America and Public Citizen, filed a lawsuit in the United States District Court for the District of Columbia, challenging the Department of Health and Human Services' implementation of CLIA (*Consumer Federation of America and Public Citizen v. HHS*, Civil Action No. 93-97 (D.D.C.)). As one aspect of their complaint, plaintiffs argued that the regulations violated the requirements of the law by failing to require cytology proficiency testing (PT) "to the extent practicable, under normal working conditions."

On August 29, 1995, the court ruled that the regulations did not strictly conform to the statute. The court ruled that, within 90 days of this order, we publish proposed regulations in the Federal Register, in accordance with 42 U.S.C. 263a(f)(4)(B)(iv) regarding proficiency testing of cytologists, to ensure that cytologists are tested, to the extent practicable, under normal working conditions, and request public comment. The court further ruled that we are to issue a final rule regarding the same within a reasonable time thereafter. As provided in the court's August 29 ruling, the PT regulations promulgated by the Department on February 28, 1992, remain in effect pending the issuance of the final PT regulations required by the court. It should be noted that this particular notice only addresses matters in the court order pertaining to cytology PT, and it is not designed to respond to a

separate part of the court order pertaining to test classification and personnel standards.

**II. Proposed Rule**

In this proposed rule, we are complying with that portion of the court order requiring the publication of proposed regulations and solicitation of public comment to ensure that PT of cytology personnel is conducted, to the extent practicable, under normal working conditions. We note, however, that the Department of HHS has filed a notice of appeal with respect to the order. If the order is reversed on appeal, we would still review the comments and carefully consider the appropriate course of action.

The current PT regulations are based on the principle that effective and appropriate PT should not be equated to the routine examination of patient specimens. Nevertheless, in accordance with the court's ruling, we are soliciting comments on a proposal to change the current regulations (which authorize the examination of PT slides at a rate of five slides per hour), to require the examination of PT slides at a new rate, which is set at the maximum workload rate of 12.5 slides per hour. To achieve this PT workload rate, in this rule, we are proposing to change the amount of time allowed for completion of the PT examination from 2 hours to 45 minutes, while retaining the same number of slides (10) per test. (For a 20-slide PT retest, the test time would change from 4 hours to 90 minutes.)

We recognize that there may be other options for complying with the court order requiring that PT be conducted under normal working conditions. One option for consideration to comply with the order would be to maintain the current 2-hour testing time period but increase the number of slides per PT examination (in other words, require the examination of 25 slides in a 2-hour period and, for a retest, require 50 slides to be examined in a 4-hour period). We are cautious about supporting this alternative because we have concerns about the practical feasibility of obtaining sufficient referenced slides for a nationally-administered 25-slide test set for PT; however, we are interested in receiving comments on this option. Another option would be to specify that PT be conducted at each individual's actual workload rate (which could be less than the maximum workload rate) for examining patient slides. We recognize that this alternative will present problems in administering PT but are interested in receiving comments on the appropriateness of such a proposal, together with

suggestions for specific regulatory language that could implement such a provision in a fair and consistent manner.

We also are interested in receiving comment on several alternatives.

- We are interested in receiving comment on the establishment of an average workload rate (perhaps within an interval) that would be based upon available empirical data on cytotechnologist productivity and would accurately reflect normal working conditions.

- We solicit comments on varying the ratio of abnormal PT slides so the failure rate would better reflect such a rate under "normal working conditions."

- We solicit comment on establishing differing definitions of "normal working conditions," dependent on the ratio of abnormal PT slides.

- We solicit further comment on the feasibility of blind testing in cytology PT.

- We solicit comment on the feasibility and desirability of mandating unannounced PT, both on-site and off-premises.

- Finally, we solicit comment on the appropriateness of defining "normal working conditions" as maximum workloads for non-PT slides, as defined in § 493.1257(b).

#### A. Rationale for the PT Timeframe in Current Regulations

In the regulations published February 28, 1992, we established the time limits for cytology PT to provide for equitable testing on a national scale and to allow individuals sufficient time to complete the test at a normal pace without unduly restricting or extending the time for the examination. (57 FR 7041) This maximum time frame established for the administration of PT was not intended to hold individuals to a workload limit related to their examination of patient material because we believe that this would be an unreasonable standard, since there are salient differences between the routine examination of patient material and cytology PT.

We note several reasons why cytology PT is not identical to the routine evaluation of patient material, both in terms of the microscopic examination and the reporting of results. To assess the proficiency of personnel, slides used for cytology PT include a high percentage of abnormal preparations which could be up to 80 percent of the challenges for the testing event, whereas a laboratory's routine patient case load might vary, with abnormal cases representing 5 percent to 25 percent of the total volume. In our judgment, compared to normal cases, examination

of abnormal cases may take significantly longer to analyze and determine conclusively whether the cells are benign or malignant and to specify the type of abnormality and recommendations for treatment or follow up. A complex scale for categorizing and grading such abnormal PT results is defined in the current regulation in abundant detail in the tables at 42 CFR 493.945. The 12.5 slides per hour maximum workload rate is based upon a normal, "real world" distribution of 5 percent abnormal slides per day. On the other hand, the PT rate of 5 slides per hour is based upon an intentionally constructed testing mixture of up to 80 percent abnormal slides in the PT test set.

The current PT regulation is based on the principle that, in the limited time available to conduct cytology PT, it is appropriate to test cytology personnel using a high rate of abnormal slides. The reason for this is that there are many types of diagnostic abnormalities and it is important to evaluate the examinee's ability to correctly identify the abnormal conditions. In our view, it is inefficient to test these individuals using the natural distribution rate of 5 percent abnormal because it would take many more PT examinations to develop any reliable information about an individual's proficiency over the spectrum of possible abnormal specimens. In addition, although all slides will be evaluated and assessed for appropriateness for inclusion in test sets, in some instances examinees may note that staining used for PT slides varies in intensity from that used in their laboratories for the evaluation of patient specimens. Since there is no uniform or standard format used by laboratories to report Pap smear results, for scoring purposes, PT report forms and nomenclature may be different from the examinee's usual workplace experience. Individuals, who are perfectly capable of examining patient slides, may need additional time to adjust to the testing model, which may include unavoidable differences from routine working conditions. Every effort should be made to ensure that individuals are fairly assessed in their ability to examine patient specimens and are not unfairly penalized for failure to perform satisfactorily in PT if they have no real problems examining patient material. We solicit comments as to whether or not these factors should be appropriately used to extend the amount of time allowed for a PT examination.

In the current CLIA regulations, we established the testing procedure using an above average ratio of abnormal

slides, but a correspondingly longer period to review each slide, as an appropriate implementation of the obligation to test "...to the extent practicable, under normal working conditions." In this context, it should be noted that we indicated in the February 28, 1992 regulations, at § 493.1257(b), the workload limit represents the maximum number, a total of 100 slides, that may be screened in a 24-hour period and "*is not to be employed as a performance target for each individual,*" [emphasis added].

Due to practical realities, we believe that cytology PT can not be conducted in a "blind" fashion. We believe that PT challenges cannot be inserted into the laboratory's routine workload because such slides would be immediately identifiable, and no oversight would be provided to ensure that consultation does not occur among individuals being tested. We invite comments on these limitations to blind PT and our view that individual PT needs to provide a reasonable time for these extraneous testing factors.

In summary, in the February 28, 1992 regulations, we determined that a 2-hour time period would be reasonable for the examination of a 10-slide test set, and the 2-hour time frame is supported by the State of Maryland's experience in administering cytology PT for over 6 years using this time frame. (In 1994, the Maryland program received approval under CLIA, and has a current enrollment of 80 laboratories.)

Consistent with the court's order discussed above, we hereby solicit comments on the proposal to change the rate for examination of PT slides to approximately 12.5 slides per hour, which equates to 45 minutes for a 10-slide test set and 90 minutes for a 20-slide test set. We also seek comments on the two options mentioned above. We also solicit comments on any other suggested procedures for complying with the court's order that PT be conducted under normal working conditions.

#### B. Current Status of Cytology PT Implementation

Prior to 1992, we anticipated that private, not-for-profit organizations and States would develop and administer cytology programs, as is the case for all other PT. However, following publication of the February 28, 1992 regulations, we received no applications for approval of a cytology PT program, but we did receive a number of comments expressing concerns about the feasibility of conducting a national cytology PT program to test individuals.

In June 1992, the Centers for Disease Control and Prevention hosted a meeting of the cytology professional organizations and States having cytology PT programs to solicit support in the development and implementation of a national cytology PT program. Participants at this meeting had reservations about the feasibility of conducting a national glass slide PT program that included on-site testing of individuals.

In March 1993, the Centers for Disease Control and Prevention issued a Request for Proposal for a contractor to undertake procurement of the glass slides for use in administering a national cytology PT program. No responses were received to the Request for Proposal. However, we did receive additional comments from cytology societies and individuals that echoed the comments previously received in response to the February 28, 1992 regulations. The commenters stated that conducting a national glass slide PT program with on-site testing of individuals was logistically and financially unworkable, due to the high cost of collecting the requisite number of glass slides representing appropriate diagnostic categories, and the time that would be needed to assemble and reference such a collection of slides. Several commenters also noted that, although a national program may be impossible to implement, implementing a cytology PT program by region or State might be feasible.

In November 1993, the Centers for Disease Control and Prevention cosponsored a cytology symposium to consider possible alternatives to a national cytology PT program using glass slides, and a number of potential approaches were discussed. The participants believed that the most promising strategy would be to develop a variety of cytology PT programs to accomplish the statutory mandate of testing the proficiency of cytology personnel. Alternative approaches suggested included State-administered glass slide programs, mailed glass slide programs, or national programs that use photographic facsimile representations (in other words, color transparencies, color plates, digitized computer images) of cytology preparations in lieu of glass slides.

In December 1993, the subcommittee on cytology of the Clinical Laboratory Improvement Advisory Committee met to review the proceedings from the symposium, and to make recommendations concerning cytology PT. Following the subcommittee meeting, the full Clinical Laboratory Improvement Advisory Committee met

and endorsed the recommendations made by the subcommittee. The Clinical Laboratory Improvement Advisory Committee recommended that research studies be conducted to define outcomes and evaluate the effectiveness of both glass slide and alternative cytology PT programs and that regulatory changes be pursued to permit approval of alternative programs. The committee also encouraged professional organizations and States to develop programs to meet the current regulations and become operational.

Currently, cytology PT is not being conducted nationally. To date, two State-operated cytology PT programs have applied for approval under CLIA. The State of Wisconsin subsequently withdrew its application when it was unable to obtain a sufficient number of referenced glass slides. The other applicant, the State of Maryland Cytology Proficiency Testing Program, met the CLIA cytology PT requirements and was granted approval for calendar year 1995. To date, we have received no other applications.

#### *C. Alternatives to Glass Slide Testing*

The major impediment in making cytology PT available on a national basis has been and continues to be the difficulty in obtaining a sufficient number of properly referenced glass slides. We believe that programs using facsimiles of glass slides (in other words, computer images) may provide the most reasonable alternative to evaluating cytology performance using traditional glass slide programs.

Computer-based programs offer the advantage of providing for the accumulation and assembly of sufficient numbers of well-documented, referenced cytology preparations that can be used for testing individuals in a consistent and uniform manner. We believe that revising the requirements to allow the use of testing media other than glass slides is the most promising approach to making cytology PT available nationwide and would reflect the intent of the Congress in enacting the CLIA legislation. In the Report of the House Energy and Commerce Committee that accompanies the Clinical Laboratory Improvement Amendments of 1988, Public Law 100-578, H.R. Rept. No. 100-899, 100th Congress, 2nd Sess., pp. 29-31, HHS was instructed to “. . . develop, or foster the development of, a proficiency test for cytology slides and to conduct, or require approved proficiency testing agencies to conduct, some on-site proficiency testing.” In addition, the Committee Report stated that the Committee expected HHS “. . . to foster

innovative approaches, including video technology, for developing proficiency testing for analytes for which such testing is not currently available.”

To promote the development of alternative PT programs in cytology, the Centers for Disease Control and Prevention awarded three 1-year cooperative agreements in 1994. These agreements included provisions for the development of computer-based PT programs to measure cytology performance, and provisions for the evaluation of such programs through pilot studies. Early in 1995, the Centers for Disease Control and Prevention awarded a 2-year contract to compare the actual work performance of cytology personnel with their performance in both a glass slide PT program and a computer-based PT program, which simulates the screening process and includes the evaluation of locator and interpretive skills.

#### *D. Request for Comments on Computer-Based Cytology PT Programs*

We are soliciting comments on expanding the CLIA regulations to permit the use of computer facsimile representations of cytology specimens as an alternative to glass slide PT examinations. We are particularly interested in receiving comments from individuals and organizations with experience in computer systems for microscopic examination of cytology preparations (glass slides) and the ability of this technology to closely simulate normal working conditions.

We are specifically soliciting comments which respond to the following questions:

1. Should computer-based cytology PT programs measure both interpretive and locator skills? Interpretive skills are those required to look at a particular cell or set of cells and determine a diagnostic condition; locator skills are those required to scan a slide and select a cell or group of cells for interpretation. As technology is now available to measure interpretive skills but development is needed to expand capabilities to include locator skills, should we consider a phase-in period during which PT programs would be required only to evaluate interpretive skills?

2. How can computer-based PT programs meet the provisions in the law requiring unannounced testing and that testing take place, to the extent practicable, under normal working conditions? At the current level of technology, computer testing events to evaluate interpretive and locator skills would probably need to be announced

and occur at testing centers, rather than in the laboratory.

3. Should the number of slides or challenges in the current regulations be changed for computer technology? Since this technology is not limited by ability to collect referenced glass slides, it is possible to provide more challenges (images or portions of slides) to evaluate proficiency.

4. Should the scoring system be modified for computer-based programs?

Finally, we recognize that this technology is relatively new and, while it affords many advantages, we are most interested in obtaining comments about the acceptance of computer-based programs for evaluating cytology skills.

Following receipt and analysis of the comments, we plan to consider these suggestions and comments and, if warranted, develop a proposed rule to expand the regulations to allow approval of cytology PT programs that include computer-based testing media as an alternative to glass slides. In any such proposed rule on computer-based testing, we would provide specific revisions to the regulations. We would respond to comments on the proposed rule when we finalize any changes to our existing rules.

### III. Proposed Revision to the Regulations

This proposed rule is in response to the court's decision that the 12.5 slide per hour rate contained in § 493.1257(b), must, in the court's opinion, also be the rate for cytology PT, which is delineated at § 493.855(b). Accordingly, the Department complies with the court decision and proposes and solicits comments on revisions to § 493.855(b) to change the time frame in which individuals must complete: a 10-slide test, from not more than 2 hours to 45 minutes; and a 20-slide test, from not more than 4 hours to 90 minutes.

### IV. Response to Comments

Because of the large number of items or correspondence we normally receive on Federal Register documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent final rule, we will respond to the comments in the preamble to that document.

### V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, agencies are required to provide 60-day notice in the Federal Register

and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden of the affected public, including automated collection techniques.

Section 493.855 contains the requirement that laboratories ensure that each individual engaged in the cytological examination of gynecologic specimens participate in an annual testing event. We estimate that 15,000 individuals would be subject to testing. Once each year they must complete required reporting forms, estimated to take 10 minutes per response. The total burden associated with this requirement is estimated to be 2,500 hours.

Section 493.855 is currently approved under OMB approval number 0938-0612, with an expiration date of February 28, 1998.

Comments should be sent to HCFA, OFHR, MPAS, C2-26-17, 7500 Security Boulevard, Baltimore, Maryland 21244-1850 and to the OMB official whose name appears in the **ADDRESSES** section of this proposed rule.

### VI. Regulatory Impact Statement

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare a regulatory flexibility analysis unless we certify that a rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all clinical laboratories are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan

Statistical Area and has fewer than 50 beds.

This proposed rule would modify the CLIA regulations published February 28, 1992 by changing the current requirements authorizing the examination of PT slides at a rate of five slides per hour, to require the examination of PT slides at the maximum workload rate of 12.5 slides per hour (for examination of patient preparations). This proposed revision is in accordance with the court order requiring us to publish a notice of proposed rulemaking that would require PT to be conducted within the time frame corresponding to the maximum workload rate for individuals examining cytology slides. There are approximately 16,600 cytotechnologists and one HCFA-approved cytology PT program that could be affected by this rule; however, the significance of the effect would vary depending on the number of individuals having to take a second or third retest and whether or not the one cytology PT program in Maryland approved by HHS under current regulations would seek approval, if the proposed revised criteria for cytology PT are finalized.

The final rule published February 28, 1992 (57 FR 7002) and subsequently revised December 6, 1994 (59 FR 62606) provided a phase-in period for enrollment in a HCFA-approved cytology PT program. Specifically, as of January 1, 1995, individuals must enroll in an approved program, if one is available in the State in which he or she is employed (currently only Maryland). Under the CLIA cytology PT requirements, each person examining cytologic preparations is tested on his or her ability to categorize each slide into one of four response categories. After an initial PT failure, the examinee must take a second 10-slide test within 45 days. In the event of a second failure, the laboratory must provide immediate remedial training to any individual who fails the second test or retest.

The second failure also triggers a mandatory rescreen of all subsequent slides by another cytologist until the individual is retested. Failure of the third test, consisting of 20 slides, results in immediate suspension of an individual's screening privileges. The individual must complete remedial training of at least 35 hours before he or she can be retested. Successful completion of a 20-slide test is required before screening of gynecological slides may resume.

As mentioned earlier in this preamble, other factors (for example, variations in staining intensity and nonroutine nomenclature on report

forms) may add to the anxiety level associated with PT participation and adversely affect PT performance. Decreasing the time frame in which individuals must complete the PT examination may increase the overall costs of cytology PT due to an increase in the failure rate of individuals who would be forced to examine PT slides at a rate greater than their normal workload rate (for individuals who examine slides at a workload rate that is less than the maximum). In the case of pathologists, who do not routinely screen slides and therefore are not subject to a workload limit, a higher failure rate might also be expected.

Costs associated with taking the second test and rescreening slides for the 20 work days between tests would increase in proportion to the increased failure rate. In addition, if a greater number of individuals must take the third retest off-site, we assume one day of work per examinee would be lost.

The costs of this proposed rule would be confined to the difference in lost wages because of an expected increase in rates of failure for both cytotechnologists and cytopathologists and an increase in costs needed because of rescreening more slides and retraining an increased number of examinees.

*Estimated Costs*

The data we are using in this proposed rule are the data we used to determine the impact of the February 1992 rule. The regulatory impact analysis in that rule projected national costs from data pertaining to 1990 that we received from the Maryland State Cytology Testing Program. We have no more recent data from which to project national figures at this time, and there is no other HCFA-approved testing program to validate or invalidate the Maryland State experience.

The base population that we are using for this impact analysis consists of 7,950 cytotechnologists and 8,690 pathologists. We are assuming a range of wages for cytotechnologists of \$14 to \$20 per hour and for pathologists a range of \$75 to \$110 per hour. We are assuming that conducting an on-site test that lasts 45 minutes will consume 2 hours per examinee, instead of the 5 hours we currently allot for each examinee to take a 2-hour test.

Based on these assumptions, we project the following: The first round of tests will cost from \$2.0 to \$2.9 million. This represents savings of \$3.0 to \$4.3 million from our estimate of what it would cost to test under current requirements.

In order to measure the possible costs of retesting, we estimated that under the new time constraints 25 percent of the examinees would fail the first test. We project that costs associated with taking the second test, assumed to be conducted off-site, will be \$3.1 to \$4.5 million.

We estimate that 25 percent of the persons taking the second test will fail that examination and that it would cost \$1.7 to \$2.4 million for the rescreening required and from \$0.4 to \$0.7 million in time lost to conduct the third test. Again, we assume one day of work per examinee will be lost due to off-site testing. If an on-site testing option is offered and selected, costs may be significantly lower.

We estimate that 25 percent of those failing the second test would fail the third test (260 persons) and that it would cost from \$0.6 to \$0.8 million in lost time to retrain cytotechnologists and from \$3.3 to \$6.5 million to retrain pathologists. The costs of retraining include the cost of 40 days of time lost; this includes 5 days for training and 35 days waiting for the next examination to be given, assuming the examinations are not offered more than once a month. We have no data or information on which to base an estimate of the cost of the training itself.

The total costs attributable to the proposed PT requirements would range from \$10.9 to \$17.8 million in the first year of testing in a nationwide cytology PT program. This represents an increase of \$0.5 to \$1.6 million over our original projected costs of \$10.4 to \$16.1 million (excluding the cytology slide test costs which would remain unchanged in this proposed rule) for our current PT requirements. This difference reflects the impact of the assumed increase in the test failure rate on the associated costs of retesting and retraining an increased number of examinees and rescreening more slides. It is possible that costs would go down somewhat in subsequent years: the Maryland State Cytology Testing Program showed a decrease in the percentage of examinees failing the testing after the first year.

PROJECTED ANNUAL COSTS OF CYTOLOGY PROFICIENCY TESTING

	Low	High
Conduct of first testing .....	\$2,025,000	\$2,895,000
Conduct of second testing .....	3,058,000	4,467,000
Cost to rescreen for 20 workdays .....	1,667,000	2,383,000
Conduct of third testing .....	384,000	733,000

PROJECTED ANNUAL COSTS OF CYTOLOGY PROFICIENCY TESTING—Continued

	Low	High
Loss of 40 days Cytotechnologist ..	561,000	802,000
Loss of 40 days Cytopathologist ....	3,246,000	6,493,000
Costs through hired testing ..	10,941,000	17,773,000

The effect of the proposed change on the only HCFA-approved cytology PT program, Maryland State Cytology Testing Program, is difficult to predict, until we are notified whether the program intends to make revisions to its requirements for examination of PT slides complying with these proposed revisions (if finalized). However, if Maryland maintains an approved program, we predict that it would have comparable increases in costs after the first test because of the greater number of persons failing.

If Maryland chooses not to make the revisions, the program would fail to meet the criteria for CLIA-approval as a cytology PT program. HCFA would notify the program of the nonapproval, and the program would then have to notify all laboratories enrolled in the program of the nonapproval and the reasons for nonapproval within 30 days of the HCFA notification. If this occurs, until other State programs are approved or a nationwide cytology PT program is available, none of the cytotechnologists and pathologists in this country who examine gynecologic cytology preparations would be participating in an approved cytology PT program.

We are not preparing an analysis for either the RFA or section 1102(b) of the Act because we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

Also, we considered the economic aspects of whether or not the proposed change would reduce or increase health care costs by leading to the correct earlier diagnosis of pap smears that would otherwise be misread as false positive or false negative under the existing regulations. Because the potential economic effects of this proposal are so speculative pertaining to any impact on health care costs, we are unable to factor such costs into this analysis. Similarly, we considered the economic impact on individuals due to

loss of employment, but again, we are unable to factor such costs into this analysis because the economic effects are so speculative.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 493

Grant programs—health, Health facilities, Laboratories, Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR part 493 would be amended as set forth below:

**PART 493—LABORATORY REQUIREMENTS**

1. The authority citation for part 493 continues to read as follows:

Authority: Sec. 353 of the Public Health Service Act, secs. 1102, 1861(e), the sentence following 1861(s)(11), 1861(s)(12), 1861(s)(13), 1861(s)(14), 1861(s)(15), and 1861(s)(16) of the Social Security Act (42 U.S.C. 263a, 1302, 1395x(e), the sentence following 1395x(s)(11), 1395x(s)(12), 1395x(s)(13), 1395x(s)(14), 1395x(s)(15), and 1395x(s)(16)).

2. Section 493.855, paragraph (b) introductory text is revised to read as follows:

**§ 493.855 Standard; Cytology: gynecologic examinations.**

\* \* \* \* \*

(b) The laboratory must ensure that each individual participates in an annual testing event that involves the examination of a 10-slide test set as described in § 493.945. Individuals who fail this testing event are retested with another 10-slide test set as described in paragraphs (b)(1) and (b)(2) of this section. Individuals who fail this second test are subsequently retested with a 20-slide test set as described in paragraphs (b)(2) and (b)(3) of this section. Individuals are given not more than 45 minutes to complete a 10-slide test and not more than 90 minutes to complete a 20-slide test. Unexcused failure to appear by an individual for a retest will result in test failure with resulting remediation and limitations on slide examination as specified in (b)(1), (b)(2), and (b)(3) of this section.

\* \* \* \* \*

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 21, 1995.  
Helen Smits,  
*Deputy Administrator, Health Care Financing Administration.*

Dated: November 21, 1995.  
Frances Lee de Peyster,  
*Director, Centers for Disease Control and Prevention, Washington Office.*

Dated: November 21, 1995.  
Donna E. Shalala,  
*Secretary.*  
[FR Doc. 95-29190 Filed 11-27-95; 11:59 am]

BILLING CODE 4120-01-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 611, 672, and 676**

[Docket No. 95111 3267-5267-01; I.D. 110295B]

**Groundfish of the Gulf of Alaska; Limited Access; Foreign Fishing; Proposed 1996 Harvest Specifications**

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

**ACTION:** Proposed 1996 initial specifications for groundfish; apportionment of reserves; request for comments.

**SUMMARY:** NMFS proposes initial harvest specifications for groundfish and associated management measures in the Gulf of Alaska (GOA) for the 1996 fishing year. This action is necessary to carry out management objectives contained in the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

**DATES:** Comments must be received by December 29, 1995.

**ADDRESSES:** Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel.

The preliminary Stock Assessment and Fishery Evaluation (SAFE) Report, dated September 1995, is available from the North Pacific Fishery Management Council, 605 W. 4th Ave Suite 306, Anchorage, AK 99501-2252.

**FOR FURTHER INFORMATION CONTACT:** Kaja Brix, 907-586-7228.

**SUPPLEMENTARY INFORMATION:**

**Background**

The domestic and foreign groundfish fisheries in the exclusive economic zone

of the GOA are managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act. The FMP is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fisheries at 50 CFR parts 672, 676, and 677. General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 620.

This action proposes for the 1996 fishing year: (1) Specifications of total allowable catch (TAC) for each groundfish target species category in the GOA and apportionments thereof among domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF), and reserves; (2) apportionments of reserves to DAP; (3) apportionments of the sablefish TAC to vessels using hook-and-line and trawl gear; (4) apportionments of pollock and Pacific cod TAC; (5) "other species" TAC; (6) halibut prohibited species catch (PSC) limits; and (7) fishery and seasonal allocations of the halibut PSC limits.

Comments on the proposed 1996 specifications and proposed apportionments of reserves are invited from the public through December 29, 1995. After again consulting with the Council, NMFS will publish final specifications for the 1996 fishing year in the Federal Register.

Regulations at § 672.20(c)(1)(ii)(A) require that one-fourth of the preliminary or proposed specifications (not including the reserves and the first quarterly allowance of pollock), one-fourth of the inshore and offshore allocations of Pacific cod in each regulatory area, and one-fourth of the halibut PSC amounts become effective at 0001 hours, Alaska local time, January 1, on an interim basis, and remain in effect until superseded by the final harvest specifications.

NMFS is publishing, in the Rules and Regulations section of this Federal Register issue, interim TAC specifications and apportionments thereof for the 1996 fishing year that will become available 0001 hours, A.l.t., January 1, 1996, and remain in effect until superseded by the final 1996 harvest specifications.

**1. Proposed Establishment of TAC Amounts and Apportionments Thereof Among DAP, JVP, TALFF, and Reserves**

Under § 672.20(c)(1)(ii), NMFS, after consultation with the Council, publishes in the Federal Register proposed specifications of annual TAC

amounts. These proposed specifications indicate apportionments of TAC amounts among DAP, JVP, TALFF, and reserves for each target species and the "other species" category. The sum of the TAC amounts for all species must fall within the combined optimum yield (OY) range, of 116,000–800,000 metric tons (mt), established for these species.

Species TAC amounts are apportioned initially among DAP, JVP, TALFF, and reserves under §§ 611.92(c)(1) and 672.20(a)(2). DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processors at sea. TALFF amounts are intended for harvest by foreign fishermen. Existing harvesting and processing capacity of the U.S. industry is capable of utilizing the entire 1996 TAC specification for GOA groundfish. Therefore, the Council recommended that DAP equal TAC for each species category, resulting in no proposed amounts of TALFF or JVP for the 1996 fishing year.

The reserves for the GOA are 20 percent of the TAC amounts for pollock, Pacific cod, flatfish target species categories, and "other species." If necessary, these reserve amounts may be set aside for possible apportionment to DAP and/or to JVP if the initial apportionments prove inadequate. Reserves that are not apportioned to DAP or JVP may be reapportioned to TALFF. The GOA groundfish TAC amounts have been utilized fully by DAP since 1987, and NMFS expects the same to occur in 1996. Therefore, NMFS proposes apportionment of all the reserves to DAP.

The Council met from September 27 through October 2, 1995, to review scientific information concerning groundfish stocks. The preliminary SAFE Report, dated September 1995, prepared and presented to the Council by the GOA Plan Team (Plan Team), summarizes the best available scientific information.

The September 1995 SAFE Report contains updated stock assessments for pollock, Pacific cod, Pacific ocean perch (POP), thornyhead, and Atka mackerel. New assessments were not available for the flatfish groups (deep-water flatfish, shallow-water flatfish, rex sole, flathead sole, and arrowtooth flounder), shortraker/rougheye rockfish, other slope rockfish, northern rockfish, and pelagic shelf rockfish. Survey information will be available for incorporation into assessments of sablefish and demersal shelf rockfish (DSR) for the final SAFE Report issued in November. Details of the assessments

can be found in the September 1995 SAFE Report.

The Council's proposed 1996 acceptable biological catch (ABC) amounts for pollock, Pacific cod, and thornyhead are reduced from the 1995 ABC levels specified for these species; whereas the 1996 ABC for POP increased from 1995. The proposed 1996 ABC amounts, as recommended by the Council, for all other species or species groups remained unchanged from 1995.

The Plan Team recommended a range of ABC amounts for pollock, 35,800–52,700 mt. These ABC amounts are lower than the 1995 ABC amounts. The lower end of the range was an ABC based on the fishing mortality rate that produced a minimal (5 percent) probability of falling below the threshold spawner biomass level in the long-term (34,000 mt for the Western and Central Regulatory Areas). The upper end of the range reflects an optimal fishing mortality rate that maximizes yield and minimizes risk of falling below the threshold spawner biomass level. The stock biomass for pollock has been in a declining trend for a number of years; however, biomass is expected to increase following recruitment of the strong 1994 year class. Considering the projected improvements in stock biomass, the Scientific and Statistical Committee (SSC) chose the upper end of the Plan Team's recommended range for ABC. The Council accepted the SSC's recommendation.

The Plan Team also presented a range of ABC values for Pacific cod, from 65,000 to 110,000 mt. The SSC chose the lower end of the range, because the stock has been declining since 1987, and because recent recruitment levels appear to be below normal. The Council concurred with the SSC's recommendation.

An updated model for POP produced a 1996 ABC of 10,165 mt, an increase of 2,935 mt over the analysts' estimated ABC for 1995. As in previous years, the ABC equals the overfishing level. The Plan Team reduced this number further (to 8,060 mt) to create a buffer between the overfishing level and the ABC. The SSC does not agree with this adjustment and recommended that ABC equal overfishing. The Council accepted the Plan Team recommendation and set the 1996 ABC at 8,060 mt. The TAC amount for POP is set by the POP rebuilding plan algorithm (Amendment 32 to the FMP). The SSC also recommended that the analysts explore the feasibility of running the stock assessment model separately for the Western/Central and

the Eastern Regulatory Area, providing two ABC amounts for POP in the Gulf.

An updated analysis was presented for thornyhead rockfish, which resulted in a 1996 ABC recommendation of 1,560 mt, somewhat lower than the 1995 ABC amount of 1,900 mt. The differences from 1995 are attributable to the inclusion of new data for 1982 and 1983, and correcting 1978 and 1979 hook-and-line data that were previously attributed to trawl gear.

The Plan Team recommended an ABC for sablefish of 18,700 mt, which is reduced from the 1995 ABC to reflect model projections of reduced 1996 biomass. However, the SSC recommended that the 1995 ABC (21,500 mt) be used for the preliminary 1996 ABC, until the 1996 longline survey data can be incorporated into the stock assessment analysis in November.

The stock assessment for Atka mackerel was also updated for 1996 to include 1994 catch data and maturity at length/age data. From the new analysis the Plan Team recommended a 1996 ABC of 6,480 mt. The SSC, however, recommended reducing the Plan Team's ABC by one-half, to 3,240 mt, which is equal to the 1995 ABC. This conservative approach is recommended because of the uncertainty in the abundance of Atka mackerel and because of concerns for marine mammals. Atka mackerel is an important prey species for sea lions and occurs in abundance near sea lion rookeries.

The Plan Team recommended that dusky rockfish (*Sebastes ciliatus*) be separated from the other species in the pelagic shelf rockfish assemblage. The SSC requested that the Plan Team provide a more extensive report on the management and stock assessment alternatives and recommends that the Council proceed with the development of a plan amendment analyzing management alternatives for pelagic shelf rockfish. However, the Council did not make a recommendation at this time.

The total ABC amount recommended by the SSC and accepted by the Council was 477,110 mt.

The total TAC amount recommended by the Advisory Panel (AP) was 267,917 mt. The AP recommended 1996 TAC amounts equal to the 1996 ABC amounts, as recommended by the SSC, for all species except the flatfish groups (deep-water flatfish, shallow-water flatfish, rex sole, flathead sole, and arrowtooth flounder) and POP. For the flatfish groups the AP recommended a 1996 TAC that was equal to the 1995 TAC amount. The TAC for POP is established by an algorithm in the POP

Rebuilding Plan and is calculated for 1996 at 6,959 mt.

The Council noted its intent to reduce the proposed TAC for other slope rockfish (7,110 mt) at the Council's December 1995 meeting. This action would be recommended to prevent a directed fishery for this species group while adequately providing for bycatch needs in other fisheries.

The Council has requested an analysis of alternatives to modify the POP Rebuilding Plan such that the stated algorithm for determining the TAC is an

upper-bound limit. Final action will be taken by the Council on this analysis at its December 1995 meeting. Should the Council choose to implement an amendment to establish the POP TAC algorithm as an upper bound limit, those changes would not occur prior to publication of the final TAC amounts. Therefore, any potential changes in the POP TAC would occur through a separate specification notice.

The Council considered information in the SAFE Report, recommendations

from its SSC and its AP, as well as public testimony. The Council then accepted the ABC amounts as recommended by the SSC, except for POP for which the Council accepted the Plan Team's recommendation. The Council accepted the TAC amounts as recommended by the AP.

The proposed 1996 ABC amounts and TAC amounts, as well as the ABC and TAC apportionments, are shown in Table 1.

TABLE 1.—PROPOSED 1996 ABC AMOUNTS, PROPOSED TAC AMOUNTS, AND DAPs OF GROUND FISH FOR THE WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYAK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA.<sup>1,2,3</sup>  
[Amounts are in metric tons]

Species	Area	ABC	TAC=DAP
Pollock: <sup>4</sup>	W (61)	24,500	24,500
	C (62)	12,500	12,500
	C (63)	13,000	13,000
	W/C	*50,000	*50,000
	E	*2,700	*2,700
Subtotal .....			
Total .....		52,700	52,700
Pacific cod: <sup>5</sup>	W		16,965
	W		1,885
	C		38,610
	C		4,290
	E		2,925
	E		325
	W	18,850	*18,850
	C	42,900	*42,900
	E	3,250	*3,250
	Subtotal .....		
Total .....		65,000	65,000
Flatfish, Deep-water: <sup>6</sup>	W	670	460
	C	8,150	7,500
	E	5,770	3,120
	Total .....		14,590
Rex sole:	W	1,350	800
	C	7,050	7,050
	E	2,810	1,840
	Total .....		11,210
Flathead sole:	W	26,280	2,000
	C	23,140	5,000
	E	2,850	2,740
	Total .....		52,270
Flatfish, Shallow-water: <sup>7</sup>	W	8,880	4,500
	C	17,170	12,950
	E	2,740	1,180
	Total .....		28,790
Arrowtooth flounder:	W	28,400	5,000

TABLE 1.—PROPOSED 1996 ABC AMOUNTS, PROPOSED TAC AMOUNTS, AND DAPs OF GROUND FISH FOR THE WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYAK), SOUTHEAST OUTSIDE (SEO), AND GULFWIDE (GW) DISTRICTS OF THE GULF OF ALASKA.<sup>1,2,3</sup>—Continued

[Amounts are in metric tons]

Species	Area	ABC	TAC=DAP
Total .....	C	141,290	25,000
	E	28,440	5,000
		198,130	35,000
Sablefish: <sup>8</sup>			
	W	2,600	2,600
	C	8,600	8,600
	WY	4,100	4,100
	SEO	6,200	6,200
Total .....		21,500	21,500
Pacific ocean perch: <sup>9</sup>			
	W	1,460	1,260
	C	3,860	3,333
	E	2,740	2,366
Total .....		8,060	6,959
Shortraker/rougheye: <sup>10</sup>			
	W	170	170
	C	1,210	1,210
	E	530	530
Total .....		1,910	1,910
Rockfish, other: <sup>11, 12</sup>			
	W	180	180
	C	1,170	1,170
	E	5,760	5,760
Total .....		7,110	7,110
Rockfish, northern: <sup>13</sup>			
	W	640	640
	C	4,610	4,610
	E	20	20
Total .....		5,270	5,270
Rockfish, pelagic shelf: <sup>14</sup>			
	W	910	910
	C	3,200	3,200
	E	1,080	1,080
Total .....		5,190	5,190
Demersal shelf rockfish: <sup>15</sup>	SEO	580	580
Thornyhead rockfish:	GW	1,560	1,560
Atka mackerel:	W	2,310	2,310
	C	925	925
	E	5	5
Total .....		3,240	3,240
Other species <sup>16</sup> .....		<sup>17</sup> NA	12,758
GOA Total .....		<sup>18</sup> 477,110	267,917

\*Amounts that are subtotals and are not additive.

<sup>1</sup> See § 672.2 for definitions of regulatory area, regulatory district, and statistical area.

<sup>2</sup> Amounts specified as joint venture processing (JVP) and total allowable level of foreign fishing (TALFF) are proposed to be zero and are not shown in this table.

<sup>3</sup> Reserves are proposed to be apportioned to DAP and are reflected in the proposed TAC amounts.

<sup>4</sup> Pollock is apportioned to three statistical areas in the combined Western/Central Regulatory Area (Table 3), each of which is further divided into equal quarterly allowances. In the Eastern Regulatory Area, pollock is not divided into quarterly allowances.

<sup>5</sup> Pacific cod is allocated 90 percent to the inshore, and 10 percent to the offshore component. Component allowances are shown in Table 4.

<sup>6</sup> "Deep-water flatfish" means Dover sole and Greenland turbot.

<sup>7</sup> "Shallow water flatfish" means flatfish not including "deep-water flatfish," flathead sole, rexsole, or arrowtooth flounder.

<sup>8</sup> Sablefish is allocated to trawl and hook-and-line gears (Table 2).

<sup>9</sup> "Pacific ocean perch" means *Sebastes alutus*.

<sup>10</sup> "Shortraker/rougheye rockfish" means *Sebastes borealis* (shortraker) and *S. aleutianus* (rougheye).

<sup>11</sup> "Other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat District means slope rockfish and demersal shelf rockfish. The category "other rockfish" in the Southeast Outside District means slope rockfish.

<sup>12</sup> "Slope rockfish" means *Sebastes aurora* (aurora), *S. melanostomus* (blackgill), *S. paucispinis* (bocaccio), *S. goodei* (chilipepper), *S. crameri* (darkblotch), *S. elongatus* (greenstriped), *S. variegatus* (harlequin), *S. wilsoni* (pygmy), *S. proriger* (redstripe), *S. zacentrus* (sharpchin), *S. jordani* (shortbelly), *S. brevispinis* (silvergrey), *S. diploproa* (splitnose), *S. saxicola* (stripetail), *S. miniatus* (vermilion), *S. babcocki* (redbanded), and *S. reedi* (yellowmouth).

<sup>13</sup> "Northern rockfish" means *Sebastes polyspinis*.

<sup>14</sup> "Pelagic shelf rockfish" includes *Sebastes melanops* (black), *S. mystinus* (blue), *S. ciliatus* (dusky), *S. entomelas* (widow), and *S. flavidus* (yellowtail).

<sup>15</sup> "Demersal shelf rockfish" means *Sebastes pinniger* (canary), *S. nebulosus* (china), *S. caurinus* (copper), *S. maliger* (quillback), *S. helvomaculatus* (rosethorn), *S. nigrocinctus* (tiger), and *S. ruberrimus* (yelloweye).

<sup>16</sup> "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, squid, and octopus. The TAC for "other species" equals 5 percent of the TAC amounts of target species.

<sup>17</sup> NA=not applicable

<sup>18</sup> The total ABC reflects the sum of the ABC amounts for target species.

**2. Proposed Apportionment of Reserves to DAP**

Regulations implementing the FMP that require 20 percent of each TAC for pollock, Pacific cod, flatfish species, and the "other species" category be set aside in reserves for possible apportionment at a later date (§ 672.20(a)(2)(ii)). Consistent with § 672.20(a)(2)(iii), NMFS is proposing to apportion the 1996 reserves for each of the four species categories to DAP, because domestic harvesters and processors have established markets for

these species and should be provided the opportunity to realize revenues from the harvest of the full DAP amounts so specified. Specifications of DAP shown in Table 1 reflect apportioned reserves.

**3. Proposed Apportionment of the Sablefish TAC Amounts to Users of Hook-and-Line and Trawl Gear**

Under § 672.24(c), sablefish TAC amounts for each of the regulatory areas and districts are assigned to hook-and-line and trawl gear. In the Central and Western Regulatory Areas, 80 percent of the TAC amounts is allocated to hook-

and-line gear and 20 percent is allocated to trawl gear. In the Eastern Regulatory Area, 95 percent of the TAC is assigned to hook-and-line gear and 5 percent is assigned to trawl gear. The trawl gear allocation in the Eastern Regulatory Area may only be used as bycatch to support directed fisheries for other target species. Sablefish caught in the GOA with gear other than hook-and-line or trawl must be treated as prohibited species and may not be retained. Table 2 shows the assignments of the proposed 1996 sablefish TAC amounts between hook-and-line and trawl gears.

TABLE 2.—PROPOSED 1996 SABLEFISH TAC SPECIFICATIONS IN THE GULF OF ALASKA AND ASSIGNMENTS THEREOF TO HOOK-AND-LINE AND TRAWL GEAR. VALUES ARE IN METRIC TONS

Area/District	TAC	Hook-and-line share	Trawl share
Western .....	2,600	2,080	520
Central .....	8,600	6,880	1,720
Eastern:			
West Yakutat .....	4,100	3,895	205
Southeast Outside .....	6,200	5,890	310
<b>Total .....</b>	<b>21,500</b>	<b>18,745</b>	<b>2,755</b>

**4. Proposed Apportionments of Pollock and Pacific Cod TAC Amounts**

In the GOA, pollock is apportioned by area and season. Regulations at § 672.20(a)(2)(iv) require that the TAC for pollock in the combined Western/Central (W/C) Regulatory Areas be apportioned among statistical areas Shumagin (61), Chirikof (62), and Kodiak (63) in proportion to known distribution of the pollock biomass. This measure was intended to provide spatial distribution of the pollock harvest as a sea lion protection measure. Each statistical area apportionment is further divided equally into the 4 calendar quarters. Within any fishing year, any

unharvested amount of any quarterly allowance of pollock TAC is added in equal proportions to the quarterly allowances of the following quarters, resulting in a sum for each quarter not to exceed 150 percent of the initial quarterly allowance.

Similarly, harvests in excess of a quarterly allowance of TAC are deducted in equal proportions from the remaining quarterly allowances of that fishing year. The Eastern Regulatory Area proposed TAC of 2,700 mt is not allocated among smaller areas, or quarterly.

Regulations at § 672.20(a)(2)(v)(A) require that the DAP apportionment for pollock in all regulatory areas and all

quarterly allowances thereof be divided into inshore and offshore components. Similarly regulations at § 672.20(a)(2)(v)(B) require that the DAP apportionment of Pacific cod in all regulatory areas be divided into inshore and offshore components, although these regulations are scheduled to expire at the end of 1995. Amendment 40 to the FMP, if approved, would authorize continued apportionment of the pollock and Pacific cod TAC amounts between the inshore and offshore components. NMFS has published a notice of proposed rulemaking in the Federal Register (60 FR 48087; September 18, 1995) to continue the existing regulations. For

purposes of this notice of proposed specifications, the percentage of the TAC apportioned to the inshore and offshore sectors is as set out in that notice of proposed rulemaking. If Amendment 40 is not approved, the 1996 final specifications will be revised accordingly. For purposes of this action, the inshore component would be apportioned 100 percent of the pollock TAC in each regulatory area after

subtraction of amounts that are determined by the Director, Alaska Region, NMFS (Regional Director) to be necessary to support the bycatch needs of the offshore component in directed fisheries for other groundfish species. At this time, these bycatch amounts are unknown and will be determined during the fishing year. The proposed distribution of pollock within the combined W/C Regulatory Areas is

shown in Table 3, except that inshore and offshore component apportionments of pollock are not shown.

The inshore component for Pacific cod would be apportioned equal to 90 percent of the TAC in each regulatory area. Inshore and offshore component allocations of the proposed 65,000 mt TAC for each regulatory area are shown in Table 4.

TABLE 3.—PROPOSED DISTRIBUTION OF POLLOCK IN THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GULF OF ALASKA (W/C GOA); BIOMASS DISTRIBUTION, AREA APPORTIONMENTS, AND QUARTERLY ALLOWANCES. ABC FOR THE W/C GOA IS PROPOSED TO BE 50,000 METRIC TONS (MT). BIOMASS DISTRIBUTION IS BASED ON 1993 SURVEY DATA. TAC AMOUNTS ARE EQUAL TO ABC. INSHORE AND OFFSHORE ALLOCATIONS OF POLLOCK ARE NOT SHOWN. ABC AMOUNTS AND TAC AMOUNTS ARE ROUNDED TO THE NEAREST 10 MT

Statistical area	Biomass per cent	1996 ABC=TAC	Quarterly allowance
Shumagin (61) .....	49	24,500	6,125
Chirikof (62) .....	24.7	12,500	3,125
Kodiak (63) .....	26.3	13,000	3,250
Total .....	100	50,000	12,500

TABLE 4.—PROPOSED 1996 ALLOCATION (METRIC TONS) OF PACIFIC COD IN THE GULF OF ALASKA; ALLOCATIONS TO INSHORE AND OFFSHORE COMPONENTS.

Regulatory area	TAC	Component allocation	
		Inshore (90%)	Offshore (10%)
Western .....	18,850	16,965	1,885
Central .....	42,900	38,610	4,290
Eastern .....	3,250	2,925	325
Total .....	65,000	58,500	6,500

5. "Other Species" TAC

The FMP specifies that amounts for the "other species" category are calculated as 5 percent of the combined TAC amounts for target species. The GOA-wide "other species" TAC is calculated as 12,758 mt, which is 5 percent of the sum of combined TAC amounts for the target species.

6. Proposed Halibut PSC Mortality Limits

Under § 672.20(f), annual Pacific halibut PSC mortality limits are established for trawl and hook-and-line gear and may be established for pot gear. At its September meeting, the Council recommended that NMFS re-establish the PSC limits of 2,000 mt for the trawl fisheries and 300 mt for the hook-and-line fisheries, with 10 mt of the hook-

and-line limit allocated to the DSR fishery in the Southeast Outside District and remainder to the other hook-and-line fisheries.

Regulations at § 672.20(f)(1)(ii) authorize exemption of specified non-trawl fisheries from the halibut PSC limit. As in 1995, the Council proposes to exempt pot gear and the hook-and-line sablefish fishery from the non-trawl halibut limit for 1996. The Council proposed these exemptions because of the low halibut bycatch mortality experienced in the pot gear fisheries (16 mt in 1995) and because of the 1995 implementation of the sablefish and halibut Individual Fishing Quota (IFQ) program, which would allow legal-sized halibut to be retained in the sablefish fishery. The trawl fishery apportionment of the 1996 halibut

bycatch mortality limit (2,000 mt) remains unchanged from 1995. Under § 672.20(f)(1)(i)(B) the trawl halibut bycatch mortality limit is apportioned between trawl fisheries for deep-water and shallow-water species. These apportionments are divided seasonally to avoid seasonally high halibut bycatch rates.

NMFS preliminarily concurs in the Council's 1996 recommendations for halibut bycatch limits and apportionments (Table 5). Some changes may be made in the seasonal, gear type and fishing-complex apportionments of halibut PSC limits for the final 1996 specifications. NMFS considers the following types of information as presented by, and summarized from, the preliminary 1995 SAFE Report, or from public comment and testimony.

TABLE 5.—PROPOSED 1996 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS. THE PACIFIC HALIBUT PSC LIMIT FOR HOOK-AND-LINE GEAR IS ALLOCATED TO THE DEMERSAL SHELF ROCKFISH (DSR) FISHERY AND FISHERIES OTHER THAN DSR. VALUES ARE IN METRIC TONS

Trawl gear		Hook-and-line gear			
Dates	Amount	Other than DSR		DSR	
		Dates	Amount	Dates	Amount
Jan 1–Mar 31 .....	600 (30%)	Jan 1–May 14 .....	242 (83%)	Jan 1–Dec 31 .....	10 (100%)
Apr 1–Jun 30 .....	400 (20%)	May 15–Aug 31 .....	29 (10%)	.....	.....
Jul 1–Sep 30 .....	600 (30%)	Sep 1–Dec 31 .....	19 (6.5%)	.....	.....
Oct 1–Dec 31 .....	400 (20%)	.....	.....	.....	.....
Total .....	2,000 (100%)	.....	290 (100%)	.....	10 (100%)

(A) Estimated Halibut Bycatch in Prior Years

The best available information on estimated halibut bycatch is available from data collected in 1995 by NMFS-certified observers. The calculated halibut bycatch mortality by trawl, hook-and-line, and pot gear through October 7, 1995, is 1,561 mt, 354 mt, and 16 mt, respectively, for a total of 1,931 mt. Halibut bycatch restrictions seasonally constrained trawl gear fisheries during the first, second, and third quarters of the fishing year and are anticipated to constrain trawl gear fisheries during the fourth quarter. Trawling for the deep-water fishery complex was closed during the first quarter on March 27 (60 FR 16587; March 31, 1995), for the second quarter on April 22 (60 FR 20658; April 27, 1995) and for the third quarter on July 21 (60 FR 37601, July 21, 1995). The shallow-water fishery complex was closed in the second quarter on May 8 (60 FR 25623, May 12, 1995) and in the third quarter on July 17 (60 FR 37600, July 21, 1995). The amount of groundfish that might have been harvested if halibut had not been seasonally limiting in 1995 is unknown. However, lacking market incentives, some amounts of groundfish will not be harvested, regardless of halibut PSC bycatch availability.

(B) Expected Changes in Groundfish Stocks

At its September 1995 meeting, the Council recommended lower 1996 ABC amounts than 1995 ABC amounts for pollock, Pacific cod and thornyhead rockfish. A higher 1996 ABC than the 1995 ABC was recommended for POP.

The 1996 ABC amounts for the remaining species or species groups remain unchanged from 1995 levels. More information on these proposed changes is included in the preliminary SAFE Report, dated September 1995, and in the AP, SSC, and Council

minutes from the September 1995 meeting.

(C) Expected Changes in Groundfish Catch

The total of the proposed 1996 TAC amounts for the GOA is 267,917 mt, which represents 96 percent of the sum of TAC amounts for 1995 (279,463 mt). Significant changes in TAC amounts for pollock, Pacific cod, and POP are proposed. POP is the only species for which a TAC was specified that is higher in 1996 than in 1995. This increase should not directly affect halibut bycatch.

(D) Current Estimates of Halibut Biomass and Stock Condition

The stock assessment for 1995 conducted by the International Pacific Halibut Commission (IPHC) indicates that the total exploitable biomass of Pacific halibut in the GOA is approximately 166.9 million lbs. This represents a decline in biomass of approximately 16 percent from the previous stock assessment, a rate that is higher than the 5–15 percent annual decline observed in previous years. The low recruitment of recent years indicates that the stock will continue its decline at a rate of about 10–15 percent per year over the next several years.

(E) Potential Impacts of Expected Fishing for Groundfish on Halibut Stocks and U.S. Halibut Fisheries

Halibut fisheries will be adjusted to account for the overall halibut PSC mortality limit established for groundfish fisheries. The 1996 groundfish fisheries are expected to use the entire proposed halibut PSC limit of 2,300 mt. The allowable directed commercial catch is determined by accounting for the recreational catch, waste, and bycatch mortality, and then providing the remainder to the directed fishery. Groundfish fishing is, therefore, not expected to affect the halibut stocks.

(F) Methods Available for, and Costs of, Reducing Halibut Bycatches in Groundfish Fisheries

Methods available for reducing halibut bycatch include (1) reducing halibut bycatch rates through a Vessel Incentive Program; (2) modifications to gear; (3) changes in groundfish fishing seasons; (4) individual transferable quota programs, designed to reduce the derby-style fishing; and (5) time/area closures.

Reductions in groundfish TAC amounts provide no incentives for fishermen to reduce bycatch rates. Costs that would be imposed on fishermen as a result of reducing TAC amounts depend on species and amounts of groundfish foregone.

Trawl vessels carrying observers for purposes of complying with the observer coverage requirements (50 CFR 677.10) are subject to the Vessel Incentive Program. The program encourages trawl fishermen to avoid high halibut bycatch rates while conducting groundfish fisheries by specifying bycatch rate standards for various target fisheries.

Current regulations require groundfish pots to have halibut exclusion devices to reduce halibut bycatches. Resulting low bycatch and mortality rates of halibut in pot fisheries have justified exempting pot gear from PSC limits.

The regulations also define pelagic trawl gear in a manner intended to reduce bycatch of halibut by displacing fishing effort off the bottom of the sea floor when certain halibut bycatch levels are reached during the fishing year. The definition provides standards for physical conformation (§ 672.2) and also for performance of the trawl gear in terms of crab bycatch (§ 672.7(m)). Furthermore, all hook-and-line vessel operators are required to employ careful release measures when handling halibut bycatch. This measure is intended to reduce handling mortality, increase the amount of groundfish harvested under

the available halibut mortality bycatch limits, and possibly lower overall halibut bycatch mortality in groundfish fisheries.

The sablefish/halibut IFQ program (implemented in 1995) was intended, in part, to reduce the halibut discard mortality in the sablefish fishery.

Methods available for reducing halibut bycatch listed above will be reviewed by NMFS and the Council to determine their effectiveness. Changes will be initiated, as necessary, in response to this review or to public testimony and comment.

Consistent with the goals and objectives of the FMP to reduce halibut bycatches while providing an opportunity to harvest the groundfish OY, NMFS proposes the assignments of 2,000 mt and 300 mt of halibut PSC mortality limits to trawl and hook-and-line gear, respectively. While these limits would reduce the harvest quota for commercial halibut fishermen, NMFS has determined that they would not result in unfair allocation to any particular user group. NMFS recognizes that some halibut bycatch will occur in the groundfish fishery, but the Vessel Incentive Program, required modifications to gear, and implementation of the IFQ program are

intended to reduce adverse impacts on halibut fishermen while promoting the opportunity to achieve the OY from the groundfish fishery.

**7. Proposed Seasonal Allocations of the Halibut PSC Limits**

Under § 672.20(f)(1)(iii), NMFS proposes to allocate seasonally the halibut PSC limits after receiving recommendations from the Council. The FMP requires that the following information be considered by the Council in recommending seasonal allocations of halibut: (1) Seasonal distribution of halibut, (2) seasonal distribution of target groundfish species relative to halibut distribution, (3) expected halibut bycatch needs on a seasonal basis relevant to changes in halibut biomass and expected catches of target groundfish species, (4) expected bycatch rates on a seasonal basis, (5) expected changes in directed groundfish fishing seasons, (6) expected actual start of fishing effort, and, (7) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

The Council recommended the same seasonal allocation of PSC limits for the 1996 fishing year as those in effect during the 1995 fishing year. The

publication of the final 1995 initial groundfish and PSC specifications (60 FR 8470, February 14, 1995) summarizes Council findings with respect to each of the FMP considerations set forth above. At this time, the Council's findings are unchanged from those set forth for 1995.

Pacific halibut PSC catch limits, and apportionments thereof, are presented in Table 5. The regulations specify that any overages or shortfalls in PSC catches will be accounted for within the 1996 season. The Council did not recommend changes in the seasonal apportionments for the hook-and-line gear fisheries from those specified in 1995.

Regulations at § 672.20(f)(1) authorize apportionments of the trawl halibut PSC limit allowance as bycatch allowances to a deep-water species fishery, comprised of sablefish, rockfish, deep-water flatfish, rex sole and arrowtooth flounder, and a shallow-water species fishery, comprising pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species." The proposed apportionment for these two fishery complexes is presented in Table 6 and is unchanged from 1995.

TABLE 6.—PROPOSED 1996 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE DEEP-WATER SPECIES FISHERY AND THE SHALLOW-WATER SPECIES FISHERY. VALUES ARE IN METRIC TONS.

Season	Shallow-water	Deep-water	Total
Jan. 20–Mar. 31 .....	500	100	600
Apr. 1–Jun. 30 .....	100	300	400
Jul. 1–Sep. 30 .....	200	400	600
Oct. 1–Dec. 31 .....	No apportionment between shallow and deep for the 4th quarter.		

Assumed halibut mortality rates for halibut PSC bycatch in 1996 are based on an average of mortality rates determined from NMFS-observer data collected during 1993 and 1994. Because the rates for 1993 were lacking for hook-and-line rockfish the average of 1991 and 1994 was used. Except as noted below, the Council proposed that halibut discard mortality rates recommended by the IPHC be adopted for purposes of monitoring halibut bycatch mortality limits established for the 1996 groundfish fisheries. In 1995, the Council established separate mortality rates for the GOA at-sea and shoreside bottom trawl pollock fisheries. However, NMFS notes that directed fishing for GOA pollock by the offshore component is prohibited under § 672.20(a)(2)(v). The IPHC did not propose a rate for the GOA bottom trawl pollock fishery for 1996. Until further

information is available, NMFS is proposing to use the actual observed 1994 rate for the bottom trawl fishery (with no separation for at-sea and shoreside), which is the most current information available for this fishery.

The IPHC determined that the careful release measures implemented for vessels using hook-and-line gear did not show appreciable improvements in mortality rates and has recommended one rate for both observed and unobserved vessels in the hook-and-line fisheries. This action was approved by the Council in 1995. NMFS is proposing this for 1996 as well. The halibut mortality rates are listed in Table 7.

TABLE 7.—1996 ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR VESSELS FISHING IN THE GULF OF ALASKA. TABLE VALUES ARE PERCENT OF HALIBUT BYCATCH ASSUMED TO BE DEAD.

Gear and Target	
Hook-and-Line:	
Sablefish .....	24
Pacific cod .....	13
Rockfish .....	19
Trawl:	
Midwater pollock .....	68
Rockfish .....	58
Shallow-water flatfish .....	64
Pacific cod .....	57
Deep-water flatfish .....	56
Bottom pollock .....	57
Pot:	
Pacific cod .....	18

The analysis by the IPHC on the halibut discard mortality rates was

conducted on a preliminary data set provided by the NMFS Observer Program Office. A final data set is expected to be available in late September, which will allow refinement of this analysis, as well as additional analyses.

After the December 1995 Council meeting, NMFS will consider all available data and will announce preseason assumed halibut mortality rates in the Federal Register with the final 1996 initial specifications for groundfish TAC amounts.

#### Classification

This action is authorized under 50 CFR 611.92 and 672.20 and is exempt from review under E.O. 12866. This action is also covered by the regulatory flexibility analysis prepared for the implementing regulations.

A draft environmental assessment (EA) on the allowable harvest levels set forth in the final 1995 SAFE Report will be available for public review from the NMFS, Alaska Region (see **ADDRESSES**), and at the December 1995 Council meeting. After the December meeting, a

final EA will be prepared on the final 1996 TAC amounts after consultation by the Council.

Consultation pursuant to section 7 of the Endangered Species Act has been initiated for the 1996 GOA initial specifications.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 24, 1995.

Nancy Foster,

*Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

[FR Doc. 95-29263 Filed 11-29-95; 8:45 am]

**BILLING CODE 3510-22-W**

# Notices

Federal Register

Vol. 60, No. 230

Thursday, November 30, 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.

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Boundary Extension, Ouachita National Forest

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of boundary extension.

**SUMMARY:** The Secretary of Agriculture has extended the Ouachita National Forest boundary to include 1,214.78 acres, more or less, which were recently acquired through exchange, in Le Flore County, Oklahoma. A copy of the Secretary's establishment document, which includes the legal description of the land within the extension, appears at the end of this notice.

**EFFECTIVE DATE:** The boundary extension was effective November 3, 1995.

**ADDRESSES:** A copy of the map showing the boundary extension is on file and available for public inspection in the Office of the Director of Lands, Forest Service, Auditor's Building, 201 14th Street, SW, Washington, D.C. 20090-6090.

**FOR FURTHER INFORMATION CONTACT:** Ralph Bauman, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090-6090 (202) 205-1248.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority under Section 20(d), Winding Stair Mountain National Recreation and Wilderness Act of October 18, 1988, P.L. 100-499 (102 Stat. 2491), the Secretary of Agriculture has extended the Ouachita National Forest boundary. The Act provided authority to the Secretary of Agriculture to acquire by purchase, exchange, donation or otherwise any right, title, and interest in lands to Le Flore County, Oklahoma, which are outside the boundaries of the Ouachita National Forest. This Act also provided that the Secretary would extend the boundaries of the Ouachita National Forest to include such lands

Dated: November 8, 1995.

Sterling J. Wilcox,  
*Acting Associate Deputy Chief*

#### Ouachita National Forest Boundary Extension

Pursuant to the Secretary of Agriculture's authority under Section 20(d), P.L. 100-499 (102 Stat. 2491) the Ouachita National Forest boundary is hereby extended to include the following lands.

Le Flore County, Oklahoma, Indian Meridian

T2N,R26E Section 32: The E1/2SE1/4, containing 80.00 acres

Section 33: All containing 640 acres  
T1NR26E Section 4: the N1/2, containing 317.44 acres

Section 5: The NE1/4, containing 157.34 acres

Section 5: The SW1/4se1/4, containing 40.00 acres

The areas described aggregate 1,234.78 acres more or less

As provided by P.L. 100-499, the lands described shall be administered by the Secretary of Agriculture in accordance with the Act of March 1, 1911 (36 Stat. 961) and in accordance with the laws, rules, and regulations generally applicable to units of the National Forest System.

Dated: November 5, 1995.

Mark Gaede,  
*Acting Deputy Under Secretary, Natural Resources and Environment.*

[FR Doc. 95-29046 Filed 11-29-95; 8:45 am]

**BILLING CODE 3410-11-M**

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#### Southwest Oregon Provincial Interagency Executive Committee (PIEC), Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Meeting.

**SUMMARY:** The Southwest Oregon PIEC Advisory Committee will meet on December 5, 1995 at the Coos Bay Bureau of Land Management Office, 1300 Airport Lane, North Bend, Oregon. The meeting will begin at 9:30 a.m. and continue until 4:30 p.m. Agenda items to be covered include: (1) Recommendations for revising standards and guides for large woody material; (2) Local area issues presentation; (3) Public forum. All Province Advisory committee meetings are open to the public, interested

citizens are encouraged to attend; (4) Province ecosystem overview; (5) Monitoring subcommittee report; (6) Province Assessment considerations of the Province Interagency Executive Committee.

#### FOR FURTHER INFORMATION CONTACT:

Direct questions regarding this meeting to Chuck Anderson, Province Advisory Committee staff, USDA, Rogue River National Forest, P.O. Box 520, Medford, Oregon 97501, 503-858-2322.

Dated: November 14, 1995.

Charles J. Anderson,

*Acting Forest Supervisor.*

[FR Doc. 95-28512 Filed 11-29-95; 8:45 am]

**BILLING CODE 3410-11-M**

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## DEPARTMENT OF COMMERCE

### Natural Resources Conservation Service

#### Lake Carlinsville Watershed, Macoupin County, Illinois; Notice of a Finding of No Significant Impact

**AGENCY:** Natural Resources Conservation Service, USDA.

**ACTION:** Notice of a Finding of No Significant Impact.

**SUMMARY:** Pursuant to section 102(2) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lake Carlinsville Watershed, Macoupin County, Illinois.

#### FOR FURTHER INFORMATION CONTACT:

Thomas Christensen, State Conservationist, Natural Resources Conservation Service, 1902 Fox Drive, Champaign, IL 61820, 217/398-5267.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Thomas Christensen, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is to improve water quality by trapping sediment and nonorganic materials. The element included in this plan is one sediment retention structure.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Thomas W. Christensen.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention and is subject to the provisions of Executive Order 12372 which requires

intergovernmental consultation with state and local officials.)

Thomas W. Christensen,  
*State Conservationist.*

Finding of No Significant Impact (FONSI) for Lake Carlinville Watershed, Macoupin County, Illinois

*Introduction*

The Lake Carlinville Watershed is a federally assisted action authorized for planning under Public Law 83-566, the Watershed Protection and Flood Prevention Act. An environmental assessment was undertaken in conjunction with the development of a watershed plan. This assessment was conducted in consultation with local, state, and federal agencies as well as interested organizations and individuals. Data developed during the assessment are available for public review at the following location: U.S. Department of Agriculture, Natural Resources Conservation Service, 1902 Fox Drive, Champaign, Illinois 61820, 217-398-5267.

*Recommended Action*

Proposed is the installation of one sediment retention structure that controls 95 percent of the land draining into Lake Carlinville. This structure will have a significant impact on reducing sediment entering the lake. It will also reduce non-organic pollutants that enter the lake, such as nutrients being carried by the sediment. A straight gabion weir will be installed across the upper end of the lake. The structure will be built approximately seven feet higher than the existing Lake Carlinville water surface.

High storm flows will flow over the weir three or more times per year. Lower storm flows and base flows will be directed through a low flow pipe on the north end of the structure. A stop log depth control device will be installed on the front of the pipe to allow the city to control the water elevation above the weir.

Costs: Total project costs are \$554,600. Average annual costs are \$56,300, which includes \$12,200 for operation and maintenance.

PROJECT COST

[Dollars in 1995]

Project investment	PL 566 funds	Other funds	Total funds
Construction .....	\$203,000	\$203,000	\$406,000
Engineering Service .....	64,000	0	64,000
Project Administration .....	29,000	9,600	38,600
Land Rights .....	0	46,000	46,000
<b>Total .....</b>	<b>296,000</b>	<b>258,600</b>	<b>554,600</b>

Benefits: The estimated benefits for this alternative are \$75,300 annually. These benefits are derived from maintaining the value of recreation activities associated with Lake Carlinville, extending the life of dredging activities, and reducing water treatment costs. The lake's fishery will improve, while the loss of habitat and fishing access due to sedimentation will be reduced. The decrease in turbidity will cause an increase in growth and numbers of fish. Fish populations will be easier to manage (less problems with reproduction). The improvement in the lake's fishery will increase the recreational use and value of the lake.

Effects: The retention structure will control a drainage area of 23.7 square miles or 95 percent of the watershed drainage area. Sedimentation deposited in the lake will be reduced from 15,300 tons to 3,000 tons annually, or 80 percent. This alternative significantly reduces the sediment and nutrients that

would be delivered to the lake. The Trophic State index will be reduced from 70 to 59. This gives the lake a good chance to improve its transparency.

This alternative addresses resource concerns by improving recreational values, improving water quality, improving sports fishery populations, significantly reducing loss of fish habitat, and improving visual quality. This alternative would preserve fish habitat which would otherwise be lost throughout the 50 year life of the project.

Where tributaries empty into the lake, wetlands have formed on sediment. The mud flats are vegetated with reed canary grass, cattails, and willows. Slightly higher areas are vegetated with trees, which are mostly green ash and silver maple. Less than one acre of shallow lake will be displaced by the sediment basin structure.

An estimated 32 acres of shallow lake and marsh will fill with sediment over the life of the basin (50 years), and

become vegetated with emergent wetland plants and willows or silver maple and green ash trees. Wetland hydrology will remain after the basin is full of sediment.

Approximately 51 acres of wet meadow and woody vegetation (willow, silver maple, and box elder) growing on mud flats will continue to grow upon sediment as the basin fills. The extent of this vegetation type will expand into areas that are now open water and marsh as the basin fills with sediment.

Approximately 53 acres of cropland, hayland, and mixed hardwoods (early successional), will make a transition into wooded wetland. The temporary inundation of these areas, due to the basin structure, is expected to average 6 to 10 days in duration 2 to 3 times during the growing season. This type of inundation will cause the slow transition of this area to species that can tolerate wetter conditions.

As the sediment retention structure fills, the base water level (water table)

can be raised to maintain wetland hydrology in the basin. When the basin has filled with sediment, larger trees will become established on most of the 136 acres that are now in grass, trees, crops or open water.

The long term effect on wetlands is not significant. During construction and during the period of time that the basin is filling, there will not be a significant adverse impact on wetlands. Some areas will gradually shift from one wetland vegetation type to another. Also over time some areas that are now upland mixed hardwoods will change to wooded wetlands. This will have the positive effect of adding diversity to the area. The ability to control the draw down, duration, and timing, offered by the water control feature in the structure will enable some management of water levels for optimum use by waterfowl and other wetland species. It will also facilitate management of problem plant species.

No threatened and endangered species habitat will be affected.

Mitigation Features: Contractors will be required to comply with local, state, and federal environmental protection standards, and to take measures to control sediment and erosion related to construction.

Negative environmental impacts have been avoided or minimized to the point that they are not significant. Two acres of upland woods will be cleared to build this project. One acre will be needed for the construction site and the second acre will be cleared during the building of the access road to the site. This loss will be mitigated by the replanting of the construction site to trees after construction is complete. The second acre will be mitigated by planting one acre of pasture or cropland that is within the basin to hardwoods.

#### *Alternatives*

The planned action is the most practical means of reducing the sedimentation to Lake Carlinsville. Since no significant adverse environmental impacts will result from the installation of the measures, the no-project alternative was the only other alternative considered.

#### *Consultation and Public Participation*

On January 1990, the Macoupin County Soil and Water Conservation District received a request from the City of Carlinsville for assistance in developing a resource plan for Lake Carlinsville and its watershed. To initiate such a plan, the Soil and Water Conservation District appointed a committee of concerned citizens to help provide guidance during the planning

process. The planning committee met on April 24, 1990 and developed a list of resource concerns for the watershed. These included:

1. Future water supply
2. Soil erosion
3. Water quality of the lake
4. Impact of above on lake use and recreation facilities

The planning committee appointed a technical advisory committee to inventory and evaluate the identified resource concerns in the watershed. Agencies represented on the technical advisory committee include:

- Illinois Department of Natural Resources
- Macoupin Soil and Water Conservation District
- Natural Resources Conservation Service
- U.S. Fish and Wildlife Service
- Illinois Department of Agriculture, Bureau of Soil Conservation

The technical advisory committee provided their reports to the planning committee and a resource plan was developed and presented to the planning committee in May of 1990. At this time, the planning committee selected the sediment retention structure to be included in the plan of work.

A resource plan was completed in August, 1990 and reviewed with the planning committee.

In July, 1990, a pre-authorization planning meeting was held with key individuals from NRCS. At this time, various activities were identified with a timetable for completion. In July, 1990, a standard form application was completed for federal assistance.

The plan of work was completed in October, 1993. This plan of work was prepared to show time, cost and schedules to complete the watershed work plan through to authorization for installation.

It is the opinion of the planning committee that there is evidence of ample need and overall interest in this project.

On June 22, 1994 an inter-agency meeting was held to discuss environmental concerns with IDNR, USFWS, IEPA, USDA/FS, Macoupin County SWCD, and the field area, and state office staff of the NRCS.

The committee sponsored an informational public meeting on June 22, 1994 to review project plans for a sediment basin in the upper end of the lake.

The planning committee continues to meet monthly.

#### *Conclusion*

The Environmental Assessment summarized above indicates that this Federal action will not cause significant local, regional, or national impacts on the environment. Therefore, based on the above findings, I have determined that an environmental impact statement for the Lake Carlinsville Watershed Plan is not required.

Thomas W. Christensen,  
*State Conservationist.*

Dated: November 21, 1995.

[FR Doc. 95-29242 Filed 11-29-95; 8:45 am]

BILLING CODE 3410-16-M

#### **Bureau of the Census; Survey of Building and Zoning Permit Systems; Proposed Agency Information Collection Activity; Comment Request**

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before January 29, 1996.

**ADDRESSES:** Direct all written comments to Gerald Taché, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Linda Hoyle, Manufacturing and Construction Division, Bureau of the Census, Room 2105-FOB 4, Washington, DC 20233-6900, phone number (301) 457-1321.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Abstract**

The Bureau of the Census uses this form to collect information from state and local building permit officials. We need this information to update the universe of permit-issuing places, the sampling frame for the Building Permits Survey (BPS). The BPS provides widely used measures of construction activity, including the economic indicator *Housing Units Authorized by Building Permits*.

##### **II. Method of Collection**

We collect this information by mail.

### III. Data

*OMB Number:* 0607-0350.

*Form Number:* C-411.

*Type of Review:* Regular submission.

*Affected Public:* State and Local

Governments.

*Estimated Number of Respondents:* 2,000 per year.

*Estimated Time Per Response:* 15 minutes.

*Estimated Total Annual Burden Hours:* 500 hours.

*Estimated Total Annual Cost:* The total cost in fiscal year 1996 of the Building Permits Survey is \$2,067,000 all borne by the Bureau of the Census. The cost to the respondents is estimated to be \$7,335 based on an average hourly salary of \$14.67<sup>1</sup> for state and local government employees.

### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 22, 1995.

Gerald Taché,

*Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 95-29123 Filed 11-29-95; 8:45 am]

BILLING CODE 3510-07-P

### **Bureau of the Census; Survey of Environmental Products and Services; Proposed Agency Information Collection Activity; Comment Request**

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the

Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before January 29, 1996.

**ADDRESSES:** Direct all written comments to Gerald Taché, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instruments and instructions should be directed to Elinor Champion, Bureau of the Census, Room 2135 FB-4, Washington, DC 20233, Telephone (301) 457-4683.

#### **SUPPLEMENTARY INFORMATION:**

##### I. Abstract

The Census Bureau plans to conduct a survey of environmental products and services. This data collection will provide a benchmark for measuring shipments of goods and the revenues for services that define an environmental industry. The survey forms will collect data on the value of products and services provided in 1995 for measuring, preventing, limiting or correcting environmental damage. The survey will also collect value of shipments and services which were exported. The survey results will be used to determine potential product and service classifications in the 1997 Economic Censuses. The survey results will also be used for monitoring and promoting the growth of the environmental industry.

##### II. Method of Collection

The Census Bureau will use mail out/mail back survey forms to collect the data. Companies will be asked to respond to the survey within 30 days of the initial mailing. Letters encouraging participation will be mailed to companies that have not responded by the designated time.

### III. Data

*OMB Number:* Not assigned

*Form Number:* EPS-1, EPS-2.

*Type of Review:* Regular.

*Affected Public:* Businesses or other non-profit organizations that produce goods or provide services.

*Estimated Number of Respondents:* 10,000.

*Estimated Time Per Response:* 2 hours.

*Estimated Total Annual Burden Hours:* 20,000 hours.

*Estimated Total Annual Cost:* \$625,000.

### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and the cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 22, 1995.

Gerald Taché,

*Departmental Forms Clearance Officer, Office of Management and Organization.*

[FR Doc. 95-29124 Filed 11-29-95; 8:45 am]

BILLING CODE 3510-07-P

### **Bureau of the Census**

#### **The Census Advisory Committee (CAC) on the African American Population; et al.; Notice of Public Meetings**

Pursuant to the Federal Advisory Committee Act (P.L. 92-463 as amended by P.L. 94-409, P.L. 96-523, and P.L. 97-375), we are giving notice of a joint meeting followed by separate and jointly held (described below) meetings of the CAC on the African American Population, the CAC on the American Indian and Alaska Native Populations, the CAC on the Asian and Pacific Islander Populations, and the CAC on the Hispanic Population. The joint meeting will convene on December 11-13, 1995 at the Doubletree Hotel, 1515 Rhode Island Avenue, N.W., Washington, D.C. 20005.

Each of these Committees is composed of nine members appointed by the Secretary of Commerce. They provide an organized and continuing channel of communication between the communities they represent and the Bureau of the Census on its efforts to reduce the differential in the count for the 2000 census and on ways the census data can be disseminated to maximum usefulness to their communities and other users.

The Committees will draw on past experience with the 1990 census

<sup>1</sup> Taken from the Census Bureau's Annual Survey of State and Local Government Employment.

process and procedures, results of evaluations and research studies, and the expertise and insight of its members to provide advice and recommendations during the research and development phase on various topics, and provide advice and recommendations during the design planning and implementation phases of the 2000 census.

The agenda for the December 11 combined meeting that will begin at 8:15 a.m. and end at 5:00 p.m. is: (1) Introductory remarks and update by the Director, Bureau of the Census; (2) 1995 Census Test observations; (3) How will reengineering the 2000 census affect your community?; and (4) Topical concurrent sessions: Topic I—How will sampling and estimation affect the data for your community?; Topic II—How can paid promotion and partnerships produce an effective outreach and promotion program in your community?; Topic III—How should we meet data needs in your communities beyond redistricting?

The agendas for the four committees in their separate and jointly held meetings are as follows:

*The CAC on the African American Population:* (1) issues from the last meeting; (2) review of responses to committee recommendations; (3) review of background papers; (4) assignments to topical concurrent sessions; and (5) other discussions as determined by the chair and the committee.

*The CAC on the American Indian and Alaska Native Populations:* (1) issues from the last meeting; (2) review of responses to committee recommendations; (3) review of background papers; (4) assignments to topical concurrent sessions; and (6) other discussions as determined by the chair and the committee.

*The CAC on the Asian and Pacific Islander Populations:* (1) issues from the last meeting; (2) review of responses to committee recommendations; (3) review of background papers; (4) assignments to topical concurrent sessions; and (5) other discussions as determined by the chair and the committee.

*The CAC on the Hispanic Population:* (1) issues from the last meeting; (2) review of responses to committee recommendations; (3) review of background papers; (4) assignments to topical concurrent sessions; and (5) other discussions as determined by the chair and the committee.

The agenda for the December 12 combined meeting that will begin at 8:15 a.m. and end at 5:00 p.m. is: (1) Open session (discussion period); (2) Summary of the race and ethnicity research and testing plan; (3) What are

the benefits and risks for your communities from the Census Bureau's expanded use of administrative records in the 2000 census?; and (4) Topical concurrent sessions: Topic IA—From the perspective of your communities how can we use the results from the 1995 focus groups?; Topic IB—How will your respective communities react to the new approach in forms design?; Topic II—What are your ideas and concerns about future directions of data access and dissemination?; and Topic III—What partnerships will work for your communities?

The agenda for the four committees in their separate and jointly held meetings are as follows:

*The CAC on the African American Population:* (1) discussion of topical concurrent sessions; (2) presentation on critical census issues and their impact on rural Black America; and (3) other discussions as determined by the chair and the committee.

*The CAC on the American Indian and Alaska Native Populations:* (1) discussion of the American Indian Reservation Special Test 1996; (2) Are the 2000 census geographic area programs criteria appropriate for the American Indian and Alaska Native Populations?; (3) review of topical concurrent sessions; and (4) other discussions as determined by the chair and the committee.

*The CAC on the Asian and Pacific Islander Populations:* (1) discussion of topical concurrent sessions; and (2) other discussions as determined by the chair and the committee.

*The CAC on the Hispanic Population:* (1) discussion of topical concurrent sessions; (2) Can we develop a multiple purpose Spanish surname list, and what uses can be made of those surnames?; and (3) other discussions as determined by the chair and the committee.

The agenda for the December 13 combined meeting that will begin at 8:45 a.m. and end at 12:30 p.m. is: (1) American Indian and Alaska Native historical and cultural presentation; and (2) Committee recommendations and agenda items for the next meeting.

The agendas for the four committees in their separate and jointly held meetings are:

*The CAC on the African American Population:* (1) discussion of committee recommendations; (2) agenda items for the next meeting; and (3) review of the topical concurrent sessions.

*The CAC on the American Indian and Alaska Native Populations:* (1) discussion of committee recommendations; (2) agenda items for the next meeting; and (3) review of the topical concurrent sessions.

*The CAC on the Asian and Pacific Islander Populations:* (1) discussion of committee recommendations; (2) agenda items for the next meeting; and (3) review of the topical concurrent sessions.

*The CAC on the Hispanic Population:* (1) discussion of committee recommendations; (2) agenda items for the next meeting; and (3) review of the topical concurrent sessions.

All meetings are open to the public and a brief period is set aside on December 13, for public comment and questions. Individuals with extensive questions or statements must submit them in writing to the Census Bureau official named below at least three days before the meeting.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Census Bureau official named below.

Anyone wishing additional information regarding these meetings or who wishes to submit written statements may contact Ms. Diana Harley, Decennial Management Division, Bureau of the Census, Room 3587, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, DC 20233-7100). Telephone: (301) 457-4047—TDD (301) 457-2540.

Dated: November 24, 1995.

Bryant Benton,

Acting Director, Bureau of the Census.

[FR Doc. 95-29197 Filed 11-29-95; 8:45 am]

BILLING CODE 3510-07-M

## Foreign-Trade Zones Board

[Docket 78-95]

### Foreign-Trade Zone 82—Mobile, Alabama; Application for Subzone Status; Sony Magnetic Products Inc. of America; Dothan, AL

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Mobile, Alabama, grantee of FTZ 82, requesting special-purpose subzone status for the magnetic media and battery systems manufacturing plant of Sony Magnetic Products Inc. of America (Sony) (subsidiary of Sony Corp., Japan) located in Dothan, Alabama. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on November 21, 1995.

The Sony plant (1.2 mil. sq. ft. on 80 acres) consists of three sites in Dothan, Alabama: Site 1 (77 acres)—4275 Main Street; Site 2 (3.3 acres)—135 Woodburn Drive; and, Site 3 (1.6 acres)—921 Tate Drive. The facilities (1,100 employees) currently are used to produce magnetic media products for the recording of audio and video signals and digital information, including audio tape cassettes, video tape cassettes, 3.5-inch computer floppy disks and computer data tape. The plant may also be used to produce a lithium ion battery and recharger system. Some 50 percent of the products are exported.

Foreign-sourced materials and components for the media products (accounting for some 15% of final product value) include carbon, corundum, chromium and iron compounds, acyclic monocarboxylic acids, amine-function compounds, nitrogen compounds, coloring matter, paints, styrene, acrylic polymers, polyacetals, resins, silicones, cellulose, plastics, packing materials, fasteners, steel springs, articles of iron or steel, and prepared unrecorded media.

Foreign-sourced materials related to the proposed battery/recharger production would include transformers, batteries, capacitors, resistors, printed circuits, diodes, semiconductors, consoles, electrical apparatus, wire and battery parts.

Zone procedures would exempt Sony from Customs duty payments on foreign materials used in export production. On its domestic sales, the company would be able to choose the duty rates that apply to the finished products (zero to 8.7%), rather than the duty rates that would otherwise apply to the foreign material and components (zero to 18.6%). The application indicates that the savings from zone procedures would help improve the Sony plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 29, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 13, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Customs Service Port Director's Office,  
150 N. Royal Street, Suite 3004,  
Mobile, Alabama 36602  
Office of the Executive Secretary,  
Foreign-Trade Zones Board, U.S.  
Department of Commerce, Room  
3716, 14th & Pennsylvania Avenue,  
NW., Washington, DC 20230

Dated: November 21, 1995.

John J. Da Ponte, Jr.,  
*Executive Secretary.*

[FR Doc. 95-29268 Filed 11-29-95; 8:45 am]

BILLING CODE 3510-DS-P

**[Docket 77-95]**

**Foreign-Trade Zone 168—Fort Worth, TX; Application for Expansion**

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Dallas/Fort Worth Maquila Trade Development Corporation, grantee of FTZ 168, requesting authority to expand its zone in the Fort Worth, Texas, area, within the Dallas/Fort Worth Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 21, 1995.

FTZ 168 was approved on November 1, 1990 (Board Order 491, 55 FR 46974, 11/8/90) and reorganized in 1992 and 1994. The zone currently consists of three sites in the Fort Worth, Texas, area:

*Site 1* (24 acres)—an industrial area at Alta Mesa and Will Rogers Boulevards, Fort Worth;

*Site 2* (263 acres)—within the Centreport Industrial Development, south of DFW International Airport, Fort Worth;

*Site 3* (195 acres) within the Fossil Creek Business Park, I-35W and I-820, Fort Worth.

The applicant is now requesting authority to expand the zone to include an additional site (91 acres) at the Regency Business Park (currently under development), located along Post & Paddock Road, Grand Prairie, Texas. The park is owned by Champion Partners, Ltd., and zone services will be provided by the FTZ Operating Company of Texas.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 29, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 13, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 1205 Royal Lane, Irving, Texas 75261

Office of the Executive Secretary,  
Foreign-Trade Zones Board, U.S.  
Department of Commerce, Room  
3716, 14th & Pennsylvania Avenue,  
NW., Washington, DC 20230

Dated: November 21, 1995.

John J. Da Ponte, Jr.,  
*Executive Secretary.*

[FR Doc. 95-29267 Filed 11-30-95; 8:45 am]

BILLING CODE 3510-DS-P

**[Docket 76-95]**

**Foreign-Trade Zone 41—Milwaukee, WI; Application To Remove Time Limit Western Publishing Company, Inc. (Children's Books); Milwaukee, Wisconsin Area**

A request has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign Trade Zone of Wisconsin, Ltd., grantee of FTZ 41, requesting removal of the time limit contained in Board Order 639 which authorized Western Publishing Company, Inc., to conduct processing activity within FTZ 41, Milwaukee, Wisconsin area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on November 20, 1995.

The FTZ Board authorized Western Publishing Company, Inc., to assemble children's books under zone procedures within FTZ 41 in 1993 subject to a 3-year time limit (Board Order 639, 58 FR 30144, 5/26/93). The activity involves attaching foreign-sourced sound pads to domestically printed children's books.

Zone procedures exempt Western Publishing from the payment of Customs duties on foreign merchandise used in books assembled for export. On its domestic sales, zone procedures allow the company to choose the duty-free rate that applies to books instead of

the duty rate that would otherwise apply to sound pads (3.9%). The company states that the removal of the time limit would allow Western Publishing to continue to use zone procedures to maintain the U.S. plant's international competitiveness. In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 29, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to February 13, 1996).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, Room 596, 517 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202  
Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, N.W., Washington, DC 20230

Dated: November 21, 1995.

John J. Da Ponte, Jr.,  
Executive Secretary.

[FR Doc. 95-29266 Filed 1130-95; 8:45 am]

BILLING CODE 3510-DS-P

## International Trade Administration

[A-485-804]

### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Circular Welded Non-Alloy Steel Pipe From Romania

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

**EFFECTIVE DATE:** November 30, 1995.

**FOR FURTHER INFORMATION CONTACT:** John Beck or Magd Zalok, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482-3464 or (202) 482-4162, respectively.

**THE APPLICABLE STATUTE:** Unless otherwise indicated, all citations to the Tariff Act of 1930 (the Act) are references to the provisions effective

January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act.

**PRELIMINARY DETERMINATION:** Because of the Federal Government shutdown, the deadline for this preliminary determination has been extended by the number of days of the shutdown, six days, to Tuesday, November 21, 1995.

We preliminarily determine that circular welded non-alloy steel pipe (pipe) from Romania is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

Since the initiation of this investigation on May 16, 1995 (60 FR 27078, May 22, 1995), the following events have occurred:

On May 30, 1995, a letter of appearance was filed on behalf of Tepro S.A. (Tepro), a producer of the subject merchandise, as well as Metagrimes S.A. (Metagrimes), Metalexportimport S.A. (Metalexportimport), and Metanef S.A. (Metanef), exporters of the subject merchandise. On June 7, 1995, a cable was sent to the U.S. Embassy in Romania requesting the identification of Romanian producers and exporters of pipe exported to the United States. We received a response on June 13, 1995, identifying the same companies named in the May 30, 1995, letter of appearance.

On June 12, 1995, the United States International Trade Commission (ITC) notified the Department of Commerce (the Department) of its affirmative preliminary determination.

On June 30, 1995, we presented questionnaires to the Romanian Embassy and counsel for Tepro, Metagrimes, Metalexportimport and Metanef. Supplemental questionnaires were issued in August and September 1995. Responses to the original and supplemental questionnaires were received in August, September, and October 1995.

On September 14, 1995, the Department, at the request of the petitioner, postponed the preliminary determination to November 15, 1995 (60 FR 48690, September 20, 1995).

#### Postponement of Final Determination

Pursuant to section 735(a)(2)(A) of the Act, on November 20, 1995, the respondents requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the date of publication of an affirmative

preliminary determination in the Federal Register. Pursuant to 19 CFR 353.20(b), because our preliminary determination is affirmative, the respondents account for a significant proportion of exports of the subject merchandise, and no compelling reasons for denial exist, we are granting respondents' request and postponing the final determination.

#### Scope of Investigation

The following scope language reflects certain modifications from the notice of initiation. In the initiation notice, we indicated that our scope language may change based on any final scope determination regarding the antidumping duty orders on certain circular welded non-alloy steel pipe from Brazil, the Republic of Korea, Mexico, and Venezuela. See *Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Circular Welded Non-Alloy Steel Pipe From Brazil, the Republic of Korea, Mexico, and Venezuela* (59 FR 1929, January 13, 1994). However, the final determination has not yet been made. Consequently, we have modified our scope language in an effort to eliminate the need for use certification at this time.

For purpose of this investigation, circular welded non-alloy steel pipes (standard pipes) are all pipes and tubes, of circular cross-section, not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), end finish (plain end, bevelled end, threaded, or threaded and coupled), or industry specification (ASTM, proprietary, or other) used in standard or structural pipe applications.

The scope specifically includes, but is not limited to, all pipe produced to the ASTM A-53, ASTM A-135, ASTM A-795, and BS-1387 specifications. It also includes any pipe multiple-stencilled or multiple-certified to one of the above-listed specifications and to any other specification. Pipe which meets the above physical parameters and which is produced to proprietary specifications, the API-5L, the API-5L X-42, or to any other non-listed specification is included within the scope of this investigation if used in a standard or structural pipe application, regardless of the *Harmonized Tariff Schedule of the United States (HTSUS)* category into which it was classified. If the pipe does not meet any of the above identified specifications, although it is within the identified physical parameters described in the second paragraph of this section, our presumption is that it

is not used in a standard pipe application.

Standard pipe uses include the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may carry liquids at elevated temperatures but may not be subject to the application of external heat. Standard pipe uses also include load-bearing applications in construction and residential and industrial fence systems. Standard pipe uses also include shells for the production of finished conduit and pipe used for the production of scaffolding.

Specifically excluded from this investigation are mechanical tubing, tube and pipe hollows for redrawing, and finished electrical conduit if such products are not certified to ASTM A-53, ASTM A-120, ASTM A-135, ASTM A-795, and BS-1387 specifications and are not used in standard pipe applications. Additionally, pipe meeting the specifications for oil country tubular goods is not covered by the scope of this investigation, unless also certified to a listed standard pipe specification or used in a standard pipe application.

The merchandise under investigation is currently classifiable under items 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90 of the *HTSUS*. Although the *HTSUS* subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Regarding implementation of the use provision of the scope of this investigation, and any order which may be issued in this investigation, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require use certification until such time as petitioner or other interested parties provide the Department with a reasonable basis to believe or suspect that substitution is occurring. Second, we will require use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by

petitioner, the Department finds a reasonable basis to believe or suspect that pipe produced to the API-5L specification is being used as standard pipe, we will require use certifications for imports of API-5L specification pipe. Third, normally we will require only the importer of record to certify to the use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

#### Period of Investigation

The period of investigation is October 1, 1994, through March 31, 1995.

#### Nonmarket Economy Country Status

The Department has treated Romania as a nonmarket economy country (NME) in all past antidumping investigations (see, e.g., *Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Romania* (57 FR 42957, September 17, 1992)). Since neither respondents nor petitioners have challenged such treatment, we will continue to treat Romania as a NME in this investigation, in accordance with section 771(18)(C) of the Act.

When the Department is investigating imports from a NME, section 773(c)(1) of the Act directs us to base normal value (NV) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the NV section, below.

#### Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) are at a level of economic development comparable to that of the NME country; and (2) are significant producers of comparable merchandise. The Department has determined that Algeria, Colombia, the Dominican Republic, Ecuador, Morocco and Peru are the countries most comparable to Romania in terms of overall economic development (see the July 25, 1995, memorandum from David Mueller, Director, Office of Policy, to David L. Binder, Director, Antidumping Investigations Division II). On July 28, 1995, the Department issued a letter allowing all interested parties an opportunity to comment on those countries and to provide the Department with information to value Tepro's

factors of production. Responses to that letter were received in September, October and November, 1995.

According to the information on the record, we have determined that Colombia is also a significant producer of pipe among these six potential surrogate countries. Accordingly, where possible, we have calculated NV using Colombian prices to value the Romanian producer's factors of production. Where we did not have Colombian values, we used values for inputs from: (1)

Thailand, which was the surrogate country in the first investigation of this product from Romania (see the *Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from Romania (Steel Pipe I)* (57 FR 42957, September 17, 1992)), when no information was available from any other surrogate countries listed in the July 25, 1995, memorandum referenced above; or (2) U.S. import prices, when no current information was available from: (a) any other surrogate countries listed in the July 25, 1995, memorandum referenced above; or (b) Thailand. For a complete analysis of the selection of the surrogate country, see the November 21, 1995, memorandum from the team to Barbara R. Stafford, Deputy Assistant Secretary for Investigations.

#### Separate Rates

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test articulated in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) and amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, 22586, May 2, 1994) (*Silicon Carbide*). Under the separate rates criteria, the Department assigns separate cash deposit rates in nonmarket economy cases only if a respondent demonstrates the absence of both *de jure* and *de facto* governmental control over export activities.

The Department typically considers three factors which support, though do not require, a finding of *de jure* absence of central control. These factors include: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; or (3) any other formal measures by the government decentralizing control of companies. The Department typically considers four factors in evaluating whether each

respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (*see Silicon Carbide*).

Regarding the absence of *de jure* control, the three exporters of the subject merchandise, Metagrimex, Metanef and Metalexportimport, have provided their business licenses issued by the Romanian Chamber of Commerce and Industry. According to each of the three exporters, this license does not require renewal, does not impose any limitations on or create any entitlements for the operations of these exporters, and can only be revoked by the issuing authorities if the requirements of the license are not fulfilled. The three exporters have also provided copies of several laws which they claim provide for the elimination of the state monopoly in the economy and foreign trade. We have reviewed these laws and have found no evidence to contradict that claim.

The three exporters have also asserted absence of governmental control based on all the *de facto* criteria. All three respondents have stated that: (1) they establish their own export prices; (2) they negotiate contracts, without guidance from any governmental entities or organizations; and (3) there are no restrictions on the use of their export revenues and they make independent decisions regarding disposition of profits or financing of losses. Concerning autonomy from the government in making decisions regarding the selection of management, both Metagrimex and Metanef have each asserted that their Council of Administration, which selects the management of the company and is similar to a board of directors, is free from government control and the companies are therefore able to make their own management personnel decisions. Metalexportimport has asserted that its five member Council of Administration includes one member appointed by the state ownership fund<sup>1</sup>

<sup>1</sup> This fund holds the state—s shares in this company and all other companies in which the state owns shares. The state is required to privatize a certain number of the shares it holds every year until it no longer holds any shares in any company.

(SOF) and one member appointed by the private ownership fund<sup>2</sup> (POF). The SOF and POF were created by the Romanian government to help privatize Romanian companies. Therefore, although Metalexportimport's Council of Administration includes one member appointed by the SOF and one member appointed by the POF, the council is made up of five members and, thus, the SOF and POF have a minority representation. There is, therefore, no evidence that the central government controls the selection of management for Metalexportimport. All of these statements will be subject to verification.

Consequently, we preliminarily determine that the information provided by these three companies supports a preliminary finding that there is *de jure* and *de facto* absence of governmental control of export functions. Therefore, these three companies have preliminarily met the criteria for the application of separate rates. For a further discussion of the Department's preliminary determination that these three companies are entitled to separate rates, see the November 13, 1995, memorandum from the team to Gary Taverman, Acting Director, Office of Antidumping Investigations.

#### Fair Value Comparisons

To determine whether sales of pipe from Romania to the United States by Metagrimex, Metalexportimport and Metanef were made at less than fair value, we compared the Export Price (EP) to the NV, as specified in the "Export Price" and "Normal Value" sections of this notice.

#### Export Price

For all three exporters, we calculated EP in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation. The constructed export price under section 772(b) is not otherwise warranted on the basis of the facts of this investigation.

We calculated EP based on packed, FOB Romanian port or C&F U.S. port prices to unaffiliated purchasers in the United States, as appropriate. We made deductions from the starting price, where appropriate, for foreign brokerage and handling, foreign inland freight and ocean freight. Given that foreign brokerage and handling and foreign inland freight were services provided by Romanian companies, we valued these

<sup>2</sup> This fund possesses the —Certificates of Ownership— which were distributed to all qualified Romanian citizens and will become actual shares of Romanian companies after five years.

expenses in Thailand (*see the Surrogate Country section above*).

#### Normal Value

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by Tepro, which produced the pipe for Metagrimex, Metalexportimport and Metanef. To calculate NV, the reported unit factor quantities were multiplied by publicly available Colombian values, where possible. As stated above, we used values from other countries for certain other factors where Colombian values were not available. The selection of the surrogate values applied in this determination was based on the quality and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous with the period of investigation (POI), we adjusted for inflation using wholesale price indices or, in the case of labor rates, consumer price indices, published in the International Monetary Fund's *International Financial Statistics*.

In presenting their suggestions to the Department on the appropriate values to use in this investigation, Tepro and the petitioners have raised two issues. The first issue involves the quality of steel to be valued. Tepro has stated that it uses secondary, not prime, steel, in producing the subject merchandise. Furthermore, Tepro claimed that the grade of steel it uses is different than that contained in the steel valuation suggestions presented by the petitioners. Thus, Tepro argued that the Department should discount any value it uses to account for the difference between primary and secondary steel. The petitioners refuted Tepro's arguments, claiming that Tepro did not provide sufficient support for its claim that it uses secondary steel in the production of the subject merchandise. The Department agrees with the petitioners and has preliminarily denied Tepro's claim for a discount on the value we have used for steel. This decision was based on: (1) the fact that Tepro's reported scrap rates do not appear to be indicative of a producer who's chief material input is second quality; and (2) the results of a test submitted by the petitioners which showed that the grade of steel used by Tepro is identical to the grade of steel used by U.S. and other world producers of the subject merchandise.

The second issue involves the different sources of information presented to value the steel factor. Both Tepro and the petitioners claimed that the information provided by the other was not appropriate. We have

determined that the information provided by the petitioners was the most appropriate source since it included prices for a greater range of the steel thicknesses used by Tepro. For a complete analysis of these issues, see the November 21, 1995, memorandum from the team to Barbara R. Stafford, Deputy Assistant Secretary for Investigations.

Valuation of Factors

To value hot rolled steel coil, the major material input, we used a steel price list for sheet and coil sold to industrial users in Colombia published by Acerias Paz del Rio. S.A., a Colombian producer of steel sheet and coil. We were unable to locate Colombian publicly available published information (PAPI) for the other material inputs. Thus, to value saleable steel scrap, we used the same percentage difference between steel coil and steel scrap used in *Steel Pipe I*. For lacquer and marking paint, we used the basket category data for both of these values that were used in *Steel Pipe I*. For zinc, saleable zinc scrap, hydrochloric acid, zinc chloride and ammonium chloride, we used values based on U.S. import statistics (IM 145) from market economy countries for the last quarter of 1994 and the first quarter of 1995. We used U.S. import statistics for these five inputs because values for these factors were not available from the other surrogate countries and these factors were not used in *Steel Pipe I*.

To value unskilled, indirect and packing labor, we used the 1994 wage rate for the manufacturing sector published in the *Economic Guide for Investors* by the Colombian government. Since we cannot determine if the labor values in this case were for skilled or unskilled workers, we are following the method established in the *Preliminary Determination of Sales at Less than Fair Value: Polyvinyl Alcohol from the PRC* (60 FR 52647, October 10, 1995). In that investigation, we found no basis to assume the skill level of the surrogate value, nor did we have agreement among the parties regarding the skill level. Thus, we applied a single wage rate to all reported labor factors. Since we have the same situation here, we also applied a single wage rate to all reported labor factors. Further, because this value was exclusive of benefits, we increased the amount reported to include benefits.

To value electricity, we used electricity rates for Colombian industrial users published quarterly by the Latin America Energy Organization (Organizacion Latinoamericana de Energia, or OLADE). For methane,

because we were unable to find a Colombian value, we used the value of natural gas because, according to the petitioners, it has substantially the same end use as methane. Tepro also submitted values for natural gas as well. We based the surrogate value for natural gas on 1992 Colombian prices shown in a 1993 OLADE publication.

For the packing materials of cold rolled strip, PVC foil and thread protectors, because we could find no Colombian PAPI, we used the values in *Steel Pipe I*.

We were unable to locate Colombian PAPI for overhead and selling, general and administrative (SG&A) expenses. Thus, for factory overhead and SG&A expenses, we used the rates used in *Steel Pipe I*. These rates showed overhead as a percentage of materials, exclusive of energy, and SG&A as a percentage of the sum of materials, labor and overhead. For both overhead and SG&A, we are using the percentages for black plain end pipe as the percentages for galvanized plain end pipe and are using the percentages for black threaded and coupled pipe as the percentages for galvanized threaded and coupled pipe.

We were unable to locate Colombian PAPI for profit. In *Steel Pipe I*, we used eight percent because it was the statutory minimum profit percentage. The statutory minimum profit figure is no longer applicable. We were able to obtain profit information for the pipe industry in Thailand from the *Preliminary Results of the 1992-93 Administrative Review of Pipe and Tube from Thailand (Pipe and Tube from Thailand)*. That review contained public information indicating that the profit for the pipe and tube industry in Thailand is greater than eight percent (see the November 28, 1994, memorandum from the case analyst to the file). Thus, we used eight percent as the profit margin in this preliminary determination not because it was formerly the statutory minimum profit figure, but because publicly available information indicates that the profit figure is not less than eight percent. If additional public information becomes available either as a result of the final determination in *Pipe and Tube from Thailand* or otherwise, we will consider that information in our final determination.

We were also unable to locate Colombian PAPI for rail freight and foreign brokerage and handling. Thus, for rail freight, we used the rate contained in *Steel Pipe I*. This information was obtained from *The Investment Environment in Thailand* for 1991. For foreign brokerage and handling, we used the rate contained in the public version of a questionnaire

response submitted in the 1994 antidumping duty investigation of *Carbon Steel Butt Weld Pipe Fittings from Thailand*. We used the rate contained in the 1994 investigation because this figure was more recent than the foreign brokerage and handling rate contained in *Steel Pipe I*, which was based on an earlier Carbon Steel Butt Weld Pipe Fittings from Thailand investigation. For a complete analysis of surrogate values used in the calculation of NV, see the November 21, 1995, memorandum from the team to Barbara R. Stafford, Deputy Assistant Secretary for Investigations.

Romania-Wide Rate

The U.S. Embassy in Romania identified what we believe to be the only three Romanian exporters of the subject merchandise to the United States during the POI. This information was confirmed by the Romanian embassy in Washington. All three exporters have responded in this investigation. We compared the respondents' sales data with U.S. import statistics for time periods including the POI and found no indication of unreported sales. Accordingly, we have based the Romania-wide rate on the weighted-average of the margins calculated in this proceeding.

Verification

As provided in section 782(i) of the Act, we will verify all information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of pipe from Romania, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the Federal Register. The Customs Service will require a cash deposit or posting of a bond equal to the estimated dumping margins by which the normal value exceeds the export price, as shown below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Metagrimex, S.A. ....	46.12
Metalexportimport, S.A. ....	41.96

Manufacturer/producer/exporter	Weighted-average margin percentage
Metanef, S.A. ....	46.34
Romania-Wide Rate .....	44.69

The Romania-wide rate applies to all entries of subject merchandise except for entries from exporters that are identified individually above.

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

#### Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than February 27, 1996, and rebuttal briefs, no later than March 5, 1996. A list of authorities used and a summary of arguments made in the briefs should accompany these briefs. Such summary should be limited to five pages total, including footnotes. We will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. At this time, the hearing is scheduled for March 8, 1996, the time and place to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, within ten days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b) oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by 135 days after the publication of this notice in the Federal Register.

This determination is published pursuant to section 733(f) of the Act.

Dated: November 21, 1995.

Susan G. Esserman,  
Assistant Secretary for Import  
Administration.

[FR Doc. 95-29270 Filed 11-29-95; 8:45 am]

BILLING CODE 3510-DS-P

#### Determination Not To Revoke Antidumping Duty Orders and Findings Nor To Terminate Suspended Investigations

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

**ACTION:** Determination Not to Revoke Antidumping Duty Orders and Findings Nor to Terminate Suspended Investigations.

**SUMMARY:** The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty orders and findings nor to terminate the suspended investigations listed below.

**EFFECTIVE DATE:** November 30, 1995.

**FOR FURTHER INFORMATION CONTACT:** Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482-4737.

**SUPPLEMENTARY INFORMATION:** The Department of Commerce (the Department) may revoke an antidumping duty order or finding or terminate a suspended investigation, pursuant to 19 CFR 353.25(d)(4)(iii), if no interested party has requested an administrative review for four consecutive annual anniversary months and no domestic interested party objects to the revocation or requests an administrative review.

We had not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months. Therefore, pursuant to § 353.25(d)(4)(i) of the Department's regulations, on September 29, 1995, we published in the Federal Register a notice of intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations and served written notice of the intent to each domestic interested party on the Department's service list in each case. Within the specified time frame, we received objections from domestic interested parties to our intent to revoke these antidumping duty orders

and findings and to terminate the suspended investigations. Therefore, because domestic interested parties objected to our intent to revoke or terminate, we no longer intend to revoke these antidumping duty orders and findings or to terminate the suspended investigations.

#### Antidumping Proceeding

A-588-045

Japan, Steel Wire Rope

**Objection Date:** October 17, 1995  
**Objector:** Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers

**Contact:** Davina Hashmi at (202) 482-3813

A-479-801

Yugoslavia, Industrial Nitrocellulose

**Objection Date:** October 13, 1995

**Objector:** Hercules Incorporated, Aqualon Division

**Contact:** Rebecca Trainor at (202) 482-0666

Dated: November 20, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95-29265 Filed 11-30-95; 8:45 am]

BILLING CODE 3510-DS-P

#### [A-791-803]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Circular Welded Non-Alloy Steel Pipe From South Africa

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

**EFFECTIVE DATE:** November 30, 1995.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Stagner or John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-1673 or (202) 482-3464, respectively.

**THE APPLICABLE STATUTE:** Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act.

**PRELIMINARY DETERMINATION:** Because of the federal government shutdown, the deadline for this preliminary determination has been extended by the number of days of the shutdown, six days, to Tuesday, November 21, 1995.

We preliminarily determine that circular welded non-alloy steel pipe (pipe) from South Africa is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

Since the initiation of this investigation on May 16, 1995 (60 FR 27078 (May 22, 1995)), the following events have occurred:

On June 12, 1995, the United States International Trade Commission (ITC) notified the Department of Commerce (the Department) of its affirmative preliminary determination.

On June 30, 1995, we presented questionnaires to the South African embassy, counsel for RIH, and Steel Pipe Industries. On July 5, 1995, Steel Pipe Industries informed the Department that it does not export pipe to the United States. Supplemental questionnaires were issued to RIH in August, September, and October 1995. Responses to the original and supplemental questionnaires were received in July through October 1995.

On September 14, 1995, the Department postponed the preliminary determination to November 15, 1995. See *Notice of Postponement of Preliminary Determinations: Antidumping Duty Investigations of Circular Welded Non-Alloy Steel Pipe From Romania and South Africa* (60 FR 48690, September 20, 1995).

#### Respondent Selection

The producers named in the petition were Brollo Africa, Robor Industrial Holding (Pty) Ltd., Trident Steel, and Tosa; the trading companies named in the petition were Dorbyl, Circle Freight, Extram, Firestone, Hall Longmore Equipment Service, MacSteel, Protea International, and TISCO International.

On June 8, 1995, a cable was sent to the U.S. embassy in South Africa requesting the identification of South African producers and exporters of pipe which was exported to the United States. We received a response to our cable on July 17, 1995, identifying the following additional companies as producers and sellers of the subject merchandise to the United States during the period of the investigation: (1) Bartons Precision (Pty) Ltd.; (2) Bosal Marketing (Pty) Ltd.; (3) Steel Pipe Industries (Pty) Ltd.; and (4) Trident Sterling Tube.

Based on the petition and information contained in *Iron and Steel Works of the World* (1994), we determined to send questionnaires to Brollo Africa, Robor

Industrial Holdings, Steel Pipe Industries, and Tosa. At the time of that determination, we had not received a response from the U.S. Embassy in South Africa, but indicated that we were running a data inquiry with the U.S. Customs database. See Memorandum to the file regarding the appropriate questionnaire recipients, dated June 30, 1995. Based on the U.S. Customs database and pursuant to section 777A(c)(2)(B) of the Act, we found that we had sent questionnaires to the exporters and producers accounting for the largest volume of exports of the subject merchandise from South Africa that could be reasonably examined. Thus, we did not send any additional questionnaires.

#### Postponement of Final Determination

Pursuant to section 735(a)(2)(A) of the Act, on October 24, 1995, the respondents requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 60 days after the date of the scheduled final determination, which is equivalent to 135 days after the publication of an affirmative preliminary determination in the Federal Register. In accordance with 19 CFR 353.20(b), because our preliminary determination is affirmative, the respondents account for a significant proportion of exports of the subject merchandise, and no compelling reasons for denial exist, we are granting respondents' request and postponing the final determination.

#### Scope of Investigation

The following scope language reflects certain modifications from the notice of initiation. In the initiation notice, we indicated that our scope language may change based on any final scope determination regarding the antidumping duty orders on certain circular welded non-alloy steel pipe from Brazil, the Republic of Korea, Mexico and Venezuela. See *Preliminary Affirmative Determination of Scope Inquiry on Antidumping Duty Orders on Certain Circular Welded Non-Alloy Steel Pipe From Brazil, the Republic of Korea, Mexico, and Venezuela* (59 FR 1929, January 13, 1994). However, the final determination has not yet been made. Consequently, we have modified our scope language in an effort to eliminate the need for use certification at this time.

For purpose of this investigation, circular welded non-alloy steel pipes (standard pipes) are all pipes and tubes, of circular cross-section, not more than 406.4 mm (16 inches) in outside

diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), end finish (plain end, bevelled end, threaded, or threaded and coupled), or industry specification (ASTM, proprietary, or other) used in standard or structural pipe applications.

The scope specifically includes, but is not limited to, all pipe produced to the ASTM A-53, ASTM A-135, ASTM A-795, and BS-1387 specifications. It also includes any pipe multiple-stencilled or multiple-certified to one of the above-listed specifications and to any other specification. Pipe which meets the above physical parameters and which is produced to proprietary specifications, the API-5L, the API-5L X-42, or to any other non-listed specification is included within the scope of this investigation if used in a standard or structural pipe application, regardless of the *Harmonized Tariff Schedule of the United States (HTSUS)* category into which it was classified. If the pipe does not meet any of the above identified specifications, although it is within the identified physical parameters described in the second paragraph of this section, our presumption is that it is not used in a standard pipe application.

Standard pipe uses include the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may carry liquids at elevated temperatures but may not be subject to the application of external heat. Standard pipe uses also include load-bearing applications in construction and residential and industrial fence systems. Standard pipe uses also include shells for the production of finished conduit and pipe used for the production of scaffolding.

Specifically excluded from this investigation are mechanical tubing, tube and pipe hollows for redrawing, and finished electrical conduit if such products are not certified to ASTM A-53, ASTM A-120, ASTM A-135, ASTM A-795, and BS-1387 specifications and are not used in standard pipe applications. Additionally, pipe meeting the specifications for oil country tubular goods is not covered by the scope of this investigation, unless also certified to a listed standard pipe specification or used in a standard pipe application.

The merchandise under investigation is currently classifiable under items 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90 of the *HTSUS*. Although the *HTSUS* subheadings are provided

for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Regarding implementation of the use provision of the scope of this investigation, and any order which may be issued in this investigation, we are well aware of the difficulty and burden associated with such certifications. Therefore, in order to maintain the effectiveness of any order that may be issued in light of actual substitution in the future (which the use criterion is meant to achieve), yet administer certification procedures in the least problematic manner, we have developed an approach which simplifies these procedures to the greatest extent possible.

First, we will not require use certification until such time as petitioner or other interested parties provide the Department with a reasonable basis to believe or suspect that substitution is occurring. Second, we will require use certification only for the product(s) (or specification(s)) for which evidence is provided that substitution is occurring. For example, if, based on evidence provided by petitioner, the Department finds a reasonable basis to believe or suspect that pipe produced to the API-5L specification is being used as standard pipe, we will require use certifications for imports of API-5L specification pipe. Third, normally we will require only the importer of record to certify to the use of the imported merchandise. If it later proves necessary for adequate implementation, we may also require producers who export such products to the United States to provide such certification on invoices accompanying shipments to the United States.

#### Period of Investigation

The period of investigation (POI) is April 1, 1994, through March 31, 1995.

#### Product Comparisons

In accordance with section 771(16) of the Act, we considered all products sold in the home market, fitting the description specified in the "Scope of Investigation" section above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire.

RIH claimed that it sells to customers at two levels of trade in the home market: distributors and end-users/

fabricators. However, RIH reported that there are no differences in the selling functions it performed for the different customers. Thus, based on the absence of distinct levels of trade, we did not make any distinctions between levels of trade in our comparisons.

#### Fair Value Comparisons

To determine whether RIH's sales of pipe to the United States were made at less than fair value, we compared Export Price (EP) to the Normal Value (NV), as specified below.

#### Export Price

We calculated EP, in accordance with section 772(a) of the Act, because the subject merchandise was sold to the first unaffiliated purchaser in the United States prior to importation, and Constructed Export Price (CEP) under section 772(b) is not otherwise warranted based on the facts of this investigation.

We based EP on packed, FOB Port (U.S. or Durban, South Africa) prices to unaffiliated customers in the United States. We made deductions from the starting price (gross unit price), where appropriate, for the following charges: inland freight in South Africa; international freight; marine insurance; and brokerage and handling.

#### Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of RIH's home market sales of the subject merchandise to the volume of RIH's U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Since RIH's aggregate volume of home market sales of the subject merchandise was greater than five percent of its aggregate volume of U.S. sales for the foreign like product, we determined that the home market was viable. Therefore, we have based NV on home market sales.

We based NV on FOB factory, delivered, or collected prices to unaffiliated customers, or prices to affiliated customers which were determined to be at arm's length (see discussion below regarding these sales). We made deductions from the starting price for freight, discounts, and rebates, and post-sale billing corrections. For certain sales, we added freight revenue to the gross unit price. In accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs.

In addition, we adjusted for differences in the circumstances of sale, in accordance with section

773(a)(6)(C)(iii). These circumstances included differences in imputed credit expenses and commissions. We instructed RIH to report a sample of actual payment dates for purposes of calculating credit expenses. Based on this sample, we have calculated a weighted-average credit period to be used for those sales without actual payment days. We then calculated credit expenses for all home market sales using a POI-average interest rate.

RIH requested that we make a circumstance-of-sale adjustment for rebates it receives from its steel suppliers for exported pipe. As stated in *Final Results of Antidumping Duty Administrative Review; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan* (56 FR 26382, June 7, 1991) (*Tubing from Taiwan*), we will not make circumstance of sale adjustments to account for differences in production costs. In *Tubing from Taiwan*, the Department denied a circumstance of sale adjustment for the same type of rebate involved here. Although the rebate was paid on export, we found it to be a delayed price adjustment on raw materials used in the production of the exported merchandise. Thus, the rebate involved a difference in production costs, not a difference in circumstances of sales, between the exported and domestically consumed product. Similarly, as the rebate received by RIH does not reflect a difference in the circumstances of sales, we have made no adjustment for these rebates.

RIH paid commissions on some U.S. sales, but paid no commissions on any home market sales. Thus, we deducted the lesser of either (1) the amount of the weighted-average commission paid on the U.S. sales of a product; or (2) the sum of the weighted average indirect selling expenses paid on the home market sales, and then added the weighted-averaged amount of the commission paid on the U.S. sales to NV in accordance with 19 CFR 353.56(b)(1).

RIH reported that its sales to its affiliated resellers are made at arm's length. In our October 13, 1995, supplemental questionnaire, we instructed RIH to report all sales to the final customer, rather than to its affiliated resellers. In its questionnaire response, RIH stated that it was too burdensome to report this information due to the difficulties involved in tracing these sales to the first unaffiliated customer.

For purposes of the preliminary determination, we have accepted RIH's argument regarding this burden. RIH has not, however, adequately demonstrated

that the sales to the first unaffiliated customer would not provide appropriate matches to U.S. sales for reasons of differences in product characteristics, differences in level of trade, or other criteria relevant to our analysis. Therefore, for purposes of our final determination, we believe it is appropriate to require further reporting of the sales to the first unaffiliated customer unless RIH can provide additional reasoning to show that these sales are not appropriate to use in our analysis. Thus, we will send an additional questionnaire regarding these sales to RIH.

Accordingly, for purposes of the preliminary determination, we have included only those sales to affiliated parties that passed the arm's length test. See 19 CFR 353.45(a). To test whether these sales were made at arm's length, we compared the gross unit prices of sales to affiliated and unaffiliated customers net of all movement charges, direct and indirect selling expenses, and packing. See *Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products from Argentina* (58 FR 37062, 37077, July 9, 1993).

**Comparison Methodology**

In accordance with section 777A(d)(1)(A)(i), we calculated weighted-average EPs for comparisons to weighted average NVs. The weighted-averages were calculated and compared by product characteristics.

**Currency Conversion**

For the purpose of the preliminary determination, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. We were unable to obtain the official daily exchange rates as certified by the Federal Reserve Bank of Chicago, according to section 773A(a) of the Act, in time to use for the preliminary determination. However, we are expecting to receive these rates in time to use for the final determination.

**Verification**

As provided in section 782(i) of the Act, we will verify all information used in making our final determination.

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of circular welded non-alloy steel pipe from South Africa, that are entered, or withdrawn from warehouse for consumption, on or after the date of

publication of this notice in the Federal Register. The Customs Service will require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the export price as shown below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
RIH Group, including Brollo Africa and Tosa .....	135.36
All Others .....	135.36

The all others rate applies to all entries of subject merchandise except for entries of merchandise produced by RIH Group and its divisions: Brollo Africa and Tosa.

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

**Public Comment**

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than February 27, 1996, and rebuttal briefs, no later than March 5, 1996. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with 19 CFR 353.38, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on March 8, 1996, time and place to be determined, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department

of Commerce, Room B-099, within ten days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by 135 days after the publication of this notice in the Federal Register.

This determination is published pursuant to section 733(f) of the Act.

Dated: November 21, 1995.

Susan G. Esserman,  
Assistant Secretary for Import Administration.

[FR Doc. 95-29269 Filed 11-29-95; 8:45 am]

BILLING CODE 3510-DS-P

**[A-122-823]**

**Certain Cut-to-Length Carbon Steel Plate From Canada: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order in Part**

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

**ACTION:** Notice of initiation and preliminary results of changed circumstances antidumping duty administrative review, and intent to revoke order in part.

**SUMMARY:** In response to a request from Sidbec-Dosco Inc., (Sidbec-Dosco) and Canberra Industries, Inc., (Canberra), the Department of Commerce (the Department) is initiating a changed circumstances antidumping duty administrative review and issuing a preliminary intent to revoke in part the antidumping duty order on certain cut-to-length carbon steel plate from Canada, the scope of which currently includes Cobalt 60 free cut-to-length carbon steel plate. See *Antidumping Duty Orders: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada*, 58 FR 44162 (August 19, 1993). Sidbec-Dosco and Canberra requested that the Department revoke the order in part as to imports of cut-to-length carbon steel plate free of Cobalt-60 and other radioactive nuclides (Cobalt-60 free carbon steel plate) from Canada. Based on the fact that Bethlehem Steel Corporation, Inland Steel Industries, Inc., and U.S. Steel Group, a unit of USX Corporation, (the petitioners) have expressed no interest

in the importation or sale of Cobalt-60 free cut-to-length carbon steel plate produced in Canada, we intend to partially revoke this order.

**EFFECTIVE DATE:** November 30, 1995.

**FOR FURTHER INFORMATION CONTACT:** Ron Trentham or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-5253.

**SUPPLEMENTARY INFORMATION:**

**Background**

On November 3, 1995, Sidbec-Dosco and Canberra requested that the Department conduct a changed circumstances administrative review to determine whether to partially revoke the order with regard to Cobalt 60 free cut-to-length carbon steel plate. The order with regard to imports of other cut-to-length carbon steel plate is not affected by this request. In addition, on November 13, 1995, the petitioners informed the Department in writing that they do not object to the changed circumstances review and have no interest in the importation or sale of Cobalt 60 free cut-to-length carbon steel plate produced in Canada.

**Scope of Review**

The antidumping duty order on certain cut-to-length carbon steel plate from Canada covers hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000,

7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in these investigations are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been bevelled or rounded at the edges. Excluded from these investigations is grade X-70 plates. HTS item numbers are provided for convenience and for Customs purposes. The written description remains dispositive. The preceding description of the steel plate products covered by this order is included in *Appendix I to the Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062 (July 9, 1993).

The merchandise covered by this changed circumstances review includes cut-to-length carbon steel plate meeting the following criteria: (1) 100% dry steel plates, virgin steel, no scrap content (free of Cobalt-60 and other radioactive nuclides); (2) .290 inches maximum thickness, plus 0.0, minus .030 inches; (3) 48.00 inch wide, plus .05, minus 0.0 inches; (4) 10 foot lengths, plus 0.5, minus 0.0 inches; (5) flatness, plus/minus 0.5 inch over 10 feet; (6) AISI 1006; (7) tension leveled; (8) pickled and oiled; and (9) carbon content, .03 to .08 (max).

This changed circumstance administrative review covers all manufacturers/exporters of Cobalt 60 free cut-to-length carbon steel plate from Canada.

**Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order in Part**

Pursuant to section 751(d) of the Tariff Act of 1930, as amended (the Act), the Department may partially revoke an antidumping duty order based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances administrative review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances.

The Department's regulations at 19 CFR 353.25(d)(2) permit the Department to conduct a changed circumstances administrative review under section 353.22(f) based upon an affirmative statement of no interest from the petitioner in the proceeding. Section 782(h) of the Act and Section 353.25(d)(1)(i) of the Department's regulations further provide that the Department may revoke an order or

revoke an order in part if it determines that the order under review is no longer of interest to interested parties. In addition, in the event that the Department concludes that expedited action is warranted, section 353.22(f)(4) of the regulations permits the Department to combine the notices of initiation and preliminary results.

Therefore, in accordance with sections 751(d) and 782(h) of the Act and 19 CFR 353.25(d) and 353.22(f), based on an affirmative statement of no interest in the proceeding by petitioners, we are initiating this changed circumstances administrative review. Further, based on the representation made by the petitioners that other U.S. producers and potential producers of this merchandise have no interest in the order regarding Cobalt 60 free cut-to-length carbon steel plate from Canada, we have determined that expedited action is warranted, and we have preliminarily determined that there are changed circumstances sufficient to warrant revocation of the order regarding Cobalt 60 free cut-to-length carbon steel plate from Canada. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke in part the antidumping duty order as to imports of Cobalt 60 free cut-to-length carbon steel plate from Canada.

If final revocation in part occurs, we intend to instruct the U.S. Customs Service (Customs) to liquidate without regard to antidumping duties and to refund any estimated antidumping duties collected for all unliquidated entries of Cobalt-60 free cut-to-length carbon steel plate from Canada made on or after the effective date of partial revocation, in accordance with 19 CFR 353.25(d)(5). We will also instruct Customs to refund interest for entries made on or after August 1, 1995, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed circumstances review.

**Public Comment**

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held no later than 28 days after the date of publication of this notice, or the first workday thereafter. Case briefs and/or written comments from interested

parties may be submitted not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 353.31(e) and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 353.31(g). Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments.

This notice is in accordance with sections 751 (b)(1) and (c) of the Act and section 353.22(a)(5), 353.22(f), and 353.25(d) of the Department's regulations.

Dated: November 20, 1995.

Susan G. Esserman,

*Assistant Secretary for Import Administration.*

[FR Doc. 95-29271 Filed 11-29-95; 8:45 am]

BILLING CODE 3510-DS-P

[A-122-804; C-122-805]

**New Steel Rail, Except Light Rail, From Canada: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty and Countervailing Duty Administrative Reviews, and Intent To Revoke Orders in Part**

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

**ACTION:** Notice of initiation and preliminary results of changed circumstances antidumping duty and countervailing duty administrative reviews, and intent to revoke orders in part.

**SUMMARY:** In response to a request from Cleveland Track Materials, Inc., an interested party in these proceedings in accordance with §§ 353.2(k) and 355.2(i) of our regulations, and a railway trackwork fabricator which imports 100 ARA (Association of American Railroads)—A steel rail, the Department of Commerce (the Department) is initiating changed circumstances antidumping duty and countervailing duty administrative reviews and issuing an intent to revoke in part the antidumping duty and countervailing duty orders on new steel rail, except light rail, from Canada, the scope of which currently include new steel rail

at least 60 pounds per yard or heavier. Cleveland Track Material, Inc. requested that the Department revoke the orders in part as to imports of new steel rail of 100 pounds per yard (100ARA-A). Cleveland Track Material, Inc. also requested that this partial revocation of 100 ARA-A steel rail be retroactive to August 1, 1994. Bethlehem Steel Corp., petitioners in this case, have submitted a letter indicating they have no objection to the initiation of these changed circumstances reviews and no interest in maintaining the antidumping duty and countervailing duty orders on 100ARA-A steel rail from Canada. Based on the fact that this portion of these orders is no longer of interest to domestic parties, we intend to partially revoke these orders.

**EFFECTIVE DATE:** November 30, 1995.

**FOR FURTHER INFORMATION CONTACT:** Roy F. Unger, Jr., Office of Antidumping Compliance or Robert Copyak, 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) 482-0651 and (202) 482-2209, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 3, 1989, the Department published the final determination in the less-than-fair-value (LTFV) investigation (54 FR 31984), which covered new steel rail 60 pounds per yard and heavier. The Department published an antidumping duty order on new steel rail, except light rail, on September 15, 1989 (54 FR 38263). The Department published a countervailing duty order on new steel rail, except light rail, on September 22, 1989 (54 FR 39032).

On October 20, 1995, Cleveland Track Material, Inc. requested that the Department conduct changed circumstances administrative reviews to determine whether to partially revoke the orders with regard to 100ARA-A new steel rail. The orders with regard to imports of new steel rail other than 100ARA-A are not affected by this request. In addition, the petitioners informed the Department that they have canvassed interested parties known to them to be actively involved in the production of 100ARA-A steel rail in the United States, and did not find any opposition to the revocation of the orders with regard to 100ARA-A steel rail. Furthermore, Cleveland Track Material, Inc. requested that the partial revocation on 100ARA-A steel rail be effective retroactive to August 1, 1994.

**Scope of Review**

The merchandise covered by these changed circumstances reviews are imports of 100ARA-A new steel rail, except light rail, whether of carbon, high carbon, alloy or other quality steel, and includes standard rails, all main line sections, heat-treated or head-hardened (premium) rails, transit rails, contact rail (or "third rail") and crane rails. This merchandise is currently classified under subheadings 7302.10.1020, 7302.10.1040, 7302.10.5000, and 8548.00.0000 of the Harmonized Tariff Schedule (HTS). The HTS numbers are provided for convenience and Customs purposes. The written description of the scope of these reviews remains dispositive.

These changed circumstances administrative reviews cover all manufacturers/exporters of 100 ARA-A steel rail, except light rail, from Canada.

**The Applicable Statute**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act.

**Initiation and Preliminary Results of Changed Circumstances Antidumping Duty and Countervailing Duty Administrative Reviews, and Intent to Revoke Orders in Part**

Pursuant to section 751(d)(1) and 782(h)(2) of the Act, the Department may partially revoke an antidumping or countervailing duty order based on a review under section 751(b) of the Act (i.e., a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances administrative review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances.

The Department's regulations at 19 CFR 353.25(d)(2) and 355.25(d)(2) permit the Department to conduct changed circumstances administrative reviews under section 353.22(f) and 355.22(h), respectively, based upon an affirmative statement of no interest from the petitioner in the proceeding. Sections 353.25(d)(1)(i) and 355.25(d)(1)(i) further provide that the Department may revoke an order or revoke an order in part if it determines that the order under review is no longer of interest to interested parties. In addition, in the event that the Department concludes that expedited action is warranted, sections 353.22(f)(4) and 355.22(h)(4) of the regulations permit the Department to combine the

notices of initiation and preliminary results.

Therefore, in accordance with sections 751(d)(1) and 782(h)(2) of the Act and 19 CFR 353.25(d), 353.22(f), 355.25(d), and 355.22(h) based on affirmative statements of no interest in the proceedings by Bethlehem Steel, we are initiating these changed circumstances administrative reviews. Further, based on the representation made by the petitioners that other U.S. producers and potential producers of this merchandise have no interest in the orders regarding 100ARA-A steel rail, we have determined that expedited action is warranted, and we have preliminarily determined that the orders regarding 100ARA-A steel rail no longer are of interest to domestic interested parties. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke in part the antidumping and countervailing duty orders as to imports of 100ARA-A new steel rail from Canada.

In the event that these revocations in part become final, the effective date of the revocations will be August 1, 1994.

If final revocation in part occurs, we intend to instruct the U.S. Customs Service (Customs) to liquidate without regard to antidumping or countervailing duties and to refund any estimated antidumping and countervailing duties collected for all unliquidated entries of subject merchandise made on or after the effective date of partial revocation, in accordance with 19 CFR 353.25(d)(5) and 355.25(d)(5). We will also instruct Customs to refund interest for entries made on or after August 1, 1994, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping and countervailing duties will continue until publication of the final results of these changed circumstances reviews.

**Public Comment**

Parties to the proceedings may request disclosure within 5 days of the date of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held no later than 28 days after the date of publication of this notice, or the first workday thereafter. Case briefs and/or

written comments from interested parties may be submitted not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 353.31(e) and 355.31(e) and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 353.31(g) and 355.31(g). Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of these changed circumstances reviews, including the results of its analysis of issues raised in any written comments.

This notice is in accordance with sections 751(b)(1) of the Act and sections 353.22(f), 353.25(d), 355.22(h), and 355.25(d) of the Department's regulations.

Dated: November 20, 1995.  
 Susan G. Esserman,  
*Assistant Secretary for Import Administration.*  
 [FR Doc. 95-29264 Filed 11-29-95; 8:45 am]  
**BILLING CODE 3510-DS-P**

**National Institute of Standards and Technology**

**[Notice 2]**

**National Fire Codes: Request for Proposals for Revision of Standards**

**AGENCY:** National Institute of Standards and Technology, DOC.

**ACTION:** Notice of request for proposals.

**SUMMARY:** The National Fire Protection Association (NFPA) proposes to revise some of its fire safety standards and requests proposals from the public to amend existing NFPA fire safety standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its standards. The publication of this notice of request for proposals by the National Institute of Standards and Technology (NIST) on behalf of NFPA is undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

**DATES:** Interested persons may submit proposals on or before the dates listed with the standards.

**ADDRESS:** Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101.

**FOR FURTHER INFORMATION CONTACT:** Arthur E. Cote, P.E., Secretary, Standards Council, at above address, (617) 770-3000.

**SUPPLEMENTARY INFORMATION:**

**Background**

The National Fire Protection Association (NFPA) develops fire safety standards which are known collectively as the National Fire Codes. Federal agencies frequently use these standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

**Request for Proposals**

Interested persons may submit amendments, supported by written data, views, or arguments to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101. Proposals should be submitted on forms available from the NFPA Standards Administration Office.

Each person must include his or her name and address, identify the document and give reasons for the proposal. Proposals received before or by 5 pm local time on the closing date indicated will be acted on by the Committee. The NFPA will consider any proposal that it receives on or before the date listed with the standard.

At a later date, each NFPA Technical Committee will issue a Report on Proposals which will include a copy of written proposals that have been received and an account of their disposition by the Technical Committee. Each person who has submitted a written proposal will receive a copy of the report.

Authority: 15 U.S.C. 272.  
 Dated: November 22, 1995.  
 Samuel Kramer,  
*Associate Director.*

NFPA No., date	Title	Proposal closing
NFPA 10R-1992 .....	Portable Fire Extinguishing Equipment in Family Dwellings and Living Units .....	1/19/96
NFPA 11-1994 .....	Low-Expansion Foam .....	1/16/96
NFPA 12-1993 .....	Carbon Dioxide Extinguishing Systems .....	1/19/96

NFPA No., date	Title	Proposal closing
NFPA 12A-1992	Halon 1301 Fire Extinguishing Systems	1/19/96
NFPA 17-1994	Dry Chemical Extinguishing Systems	7/19/96
NFPA 17A-1994	Wet Chemical Extinguishing Systems	7/19/96
NFPA 25-1995	Water-Based Fire Protection Systems	7/19/96
NFPA 30B-1994	Aerosol Products	8/1/96
NFPA 33-1995	Spray Application Using Flammable and Combustible Materials	8/1/97
NFPA 34-1995	Dipping and Coating Processes Using Flammable or Combustible Liquids	8/1/97
NFPA 35-1995	Manufacture of Organic Coatings	12/31/96
NFPA 40-1994	Cellulose Nitrate Motion Picture Film	1/19/96
NFPA 40E-1993	Pyroxylin Plastic	1/19/96
NFPA 43B-1993	Organic Peroxide Formulations	1/19/96
NFPA 43D-1994	Pesticides	1/17/97
NFPA 65-1993	Processing and Finishing of Aluminum	1/17/97
NFPA 68-1994	Venting of Deflagrations	7/19/96
NFPA 77-1993	Static Electricity	8/1/96
NFPA 79-1994	Electrical Standard for Industrial Machinery	1/19/96
NFPA 88B-1991	Repair Garages	1/19/96
NFPA 91-1995	Exhaust Systems for Air Conveying of Materials	7/19/96
NFPA 101A-1995	Alternative Approaches to Life Safety	4/12/96
NFPA 102-1995	Grandstands, Folding and Telescopic Seating, Tents, and Membrane Structures	3/29/96
NFPA 105-1993	Smoke-Control Door Assemblies	1/17/97
NFPA 130-1995	Fixed Guideway Transit Systems	1/19/96
NFPA 220-1995	Types of Building Construction	1/19/96
NFPA 221-1994	Fire Walls and Fire Barrier Walls	1/19/96
NFPA 258-1994	Determining Smoke Generation of Solid Materials	1/19/96
NFPA 270-P*	Determination of Specific Optical Density of Smoke	1/19/96
NFPA 273-P*	Determining Degrees of Combustibility of Building Materials	2/29/96
NFPA 299-1991	Protection of Life and Property From Wildfire	2/29/96
NFPA 301-P*	Safety to Life From Fire on Merchant Vessels	1/19/96
NFPA 302-1994	Pleasure and Commercial Motor Craft	1/17/97
NFPA 306-1993	Control of Gas Hazards on Vessels	1/19/96
NFPA 328-1992	Flammable and Combustible Liquids and Gases in Manholes, Sewers, and Similar Underground Structures.	1/19/96
NFPA 329-1992	Underground Releases of Flammable and Combustible Liquids	1/19/96
NFPA 430-1995	Liquid and Solid Oxidizers	1/17/97
NFPA 480-1993	Magnesium Solids and Powders	1/17/97
NFPA 490-1993	Ammonium Nitrate	1/19/96
NFPA 491M-1991	Hazardous Chemical Reactions	1/19/96
NFPA 497A-1992	Classification of Class I Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas.	1/19/96
NFPA 497B-1991	Classification of Class II Hazardous (Classified) Locations for Electrical Installations in Chemical Process Areas.	1/19/96
NFPA 497M-1991	Classification of Gases, Vapors, and Dusts for Electrical Equipment in Hazardous (Classified) Locations	1/19/96
NFPA 501-P*	Manufactured Dwelling Code	2/29/96
NFPA 501A-1992	Manufactured Home Installations, Sites, and Communities	2/29/96
NFPA 651-1993	Aluminum Powder	1/17/97
NFPA 655-1993	Sulfur Fires and Explosions	1/17/97
NFPA 705-1993	Field Flame Test for Textiles and Films	1/19/96
NFPA 720-P*	Household Carbon Monoxide (CO) Warning Equipment	1/19/96
NFPA 721-P*	Fuel Gas Warning Equipment	1/19/96
NFPA 780-1995	Lightning Protection Systems	1/19/96
NFPA 802-1993	Nuclear Research and Production Reactors	7/19/96
NFPA 803-1993	Fire Protection for Light Water Nuclear Power Plants	7/19/96
NFPA 910-1991	Protection of Libraries and Library Collections	3/15/96
NFPA 911-1991	Protection of Museums and Museum Collections	3/15/96
NFPA 912-1993	Fire Protection in Places of Worship	3/15/96
NFPA 914-1994	Historic Structures	3/15/96
NFPA 921-1995	Fire and Explosion Investigations	7/19/96
NFPA 1021-1992	Fire Officer Professional Qualifications	1/19/96
NFPA 1122-1994	Code for Model Rocketry	1/19/96
NFPA 1500-1992	Fire Department Occupational Safety and Health Program	1/19/96
NFPA 1521-1992	Fire Department Safety Officer	1/19/96
NFPA 1977-1993	Protective Clothing and Equipment for Wildland Fire Fighting	8/30/96
NFPA 1982-1993	Personal Alert Safety Systems (PASS) for Fire Fighters	7/5/96
NFPA 8501-1992	Single Burner Boiler Operation	1/17/96
NFPA 8503-1992	Pulverized Fuel Systems	1/17/96
NFPA 8505-1992	Stoker Operation	1/17/96
NFPA 8506-1995	Heat Recovery Steam Generators	1/17/97

\* Proposed NEW drafts are available from the NFPA Standards Administration Department, 1 Batterymarch Park, Quincy, MA 02269.

[FR Doc. 95-29214 Filed 11-29-95; 8:45 am]  
BILLING CODE 3510-13-M

**[Notice 1]**

**National Fire Codes: Request for Comments on NFPA Technical Committee Reports**

**AGENCY:** National Institute of Standards and Technology, DOC.

**ACTION:** Notice of request comments.

**SUMMARY:** The National Fire Protection Association (NFPA) revises existing standards and adopts new standards twice a year. At its Fall Meeting in November or its Annual Meeting in May, the NFPA acts on recommendations made by its technical committees.

The purpose of this notice is to request comments on the technical reports which will be presented at NFPA's 1996 Fall Meeting. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of NFPA is undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

**DATES:** Nineteen reports are published in the 1996 Fall Meeting Report on Proposals and will be available on February 2, 1996. Comments received on or before April 12, 1996 will be considered by the respective NFPA Committees before final action is taken on the proposals.

**ADDRESSES:** The 1996 Fall Meeting Report on Proposals is available from NFPA, Publications Department, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269-9101. Comments on the reports should be submitted to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269-9101.

**FOR FURTHER INFORMATION CONTACT:** Arthur E. Cote, P.E., Secretary, Standards Council, at above address, (617) 770-3000.

**SUPPLEMENTARY INFORMATION:**

**Background**

Standards developed by the technical committees of the National Fire Protection Association (NFPA) have been used by various Federal Agencies as the basis for Federal regulations concerning fire safety. The NFPA standards are known collectively as the National Fire Codes. Often, the Office of the Federal Register approves the incorporation by reference of these

standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Revisions of existing standards and adoption of new standards are reported by the technical committees at the NFPA's Fall Meeting in November or at the Annual Meeting in May each year. The NFPA invites public comment on its Report on Proposals.

**Request for Comments**

Interested persons may participate in revision of NFPA Standards by submitting written data, views, or arguments to Arthur E. Cote, P.E., Secretary, Standards Council, NFPA, 1 Batterymarch Park, PO Box 9101, Quincy, Massachusetts 02269-9101. Commenters may use the forms provided for comments in the 1990 Fall Meeting Reports on Proposals. Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before 1996 will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the 1996 Fall Meeting Report on Comments by September 27, 1996, prior to the Fall Meeting.

A copy of the Report on Comments will be sent automatically to each commenter. Action on the reports of the Technical Committees (adoption or rejection) will be taken at the Fall Meeting, November 18-20, 1996 in Nashville, Tennessee, by NFPA members.

Authority: 15 U.S.C. 272.

Dated: November 20, 1995.

Samuel Kramer,  
*Associate Director.*

**1996 FALL MEETING REPORT ON PROPOSALS**

[P = Partial revision; W = Withdrawal; R = Reconfirmation; N = New; C = Complete Revision]

Doc. No.	Title	Action
NFPA 1 .....	Fire Prevention Code.	C
NFPA 31 .....	Oil-Burning Equipment.	P
NFPA 36 .....	Solvent Extraction Plants.	P
NFPA 51 .....	Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes.	P
NFPA 69 .....	Explosion Prevention Systems.	C

**1996 FALL MEETING REPORT ON PROPOSALS—Continued**

[P = Partial revision; W = Withdrawal; R = Reconfirmation; N = New; C = Complete Revision]

Doc. No.	Title	Action
NFPA 96 .....	Ventilation Control and Fire Protection of Commercial Cooking Operations.	P
NFPA 101 .....	Safety to Life from Fire in Buildings and Structures.	P
NFPA 415 .....	Standard on Airport Terminal Buildings, Fueling Ramp Drainage, and Loading Walkways (Incorporating NFPA 416 and NFPA 417).	C
NFPA 471 .....	Responding to Hazardous Materials Incidents.	P
NFPA 472 .....	Professional Competence of Responders to Hazardous Materials Incidents.	C
NFPA 473 .....	EMS Personnel Responding to Hazardous Materials Incidents.	P
NFPA 902M .....	Fire Reporting Field Incident Manual.	C
NFPA 1402 .....	Building Fire Service Training Centers.	P
NFPA 1403 .....	Live Fire Training Evolutions (Incorporating NFPA 1406).	C
NFPA 1451 .....	Fire Service Vehicle Risk Management Program.	N
NFPA 1961 .....	Fire Hose .....	R

[FR Doc. 95-28853 Filed 11-29-95; 8:45 am]  
BILLING CODE 3510-13-M

**DEPARTMENT OF DEFENSE**

**Department of the Army**

**Army Science Board; Notice of Closed Meeting**

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Committee Meeting:

*Name of Committee:* Army Science Board (ASB).

*Date of Meeting:* 28 November 1995.

*Time of Meeting:* 1000–1600.

*Place:* Pentagon—Washington, DC.

*Agenda:* The Army Science Board's Ad Hoc Study on "Reengineering the Acquisition and Modernization Processes of the Institutional Army" will meet to discuss the current status of Army Modernization and to discuss plans to reengineer the Acquisition and Modernization process. Discussion will include the current shortfalls in modernization and the attendant vulnerabilities to the U.S. Army. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of this meeting. For further information, please contact Michelle Diaz at (703) 695-0781.

Michelle P. Diaz,

*Acting Administrative Officer, Army Science Board.*

[FR Doc. 95-29209 Filed 11-29-95; 8:45 am]

BILLING CODE 3710-08-M

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## DEPARTMENT OF ENERGY

### Providing Environmental Oversight and Monitoring at the INEL

**AGENCY:** Department of Energy, Idaho Operations Office.

**ACTION:** Notice of intent.

**SUMMARY:** The U.S. Department of Energy (DOE) intends to negotiate and award on a noncompetitive basis Grant No. DE-FG07-96ID13373 to the State of Idaho, Department of Health and Welfare (Recipient). The award has an estimated overall total value of \$15,000,000, of which DOE's share will be 100%. The award will allow the Recipient to ensure the DOE operations are fully accountable in the areas of environmental protection, public health, and safety. The State and DOE entered into an agreement in principle to assure the citizens of Idaho that health, safety, and the environment are being protected through DOE and State actions. This grant will provide funding to the State by DOE to carry out various environmental oversight and monitoring activities. A similar past agreement was very successful; therefore, DOE and Idaho determined to enter into a similar agreement for another five years.

**FOR FURTHER INFORMATION CONTACT:** Marshall C. Garr, Contract Specialist, (208) 526-1536, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, Mail Stop 1221, Idaho Falls, Idaho 83401-1563.

**SUPPLEMENTARY INFORMATION:** It is anticipated that the award will provide the benefit of building public

confidence in DOE programs through the State's independent evaluation of DOE's environmental and waste management programs. The work anticipated under this new award is expected to have a continued impact towards meeting this benefit. The non-competitive award justification is Criteria (C) of 10 CFR 600.7(b)(2)(i), as follows:

(C) The applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity.

The statutory authorities for the proposed award are Sections 102(11) and 102(13) of the Department of Energy Organization Act (42 U.S.C. 7112(11) and 7112(13)).

Procurement Request Number: 07-96ID13373.000.

Dated: November 21, 1995.

R. Jeffrey Hoyles,

*Director, Procurement Services Division.*

[FR Doc. 95-29254 Filed 11-29-95; 8:45 am]

BILLING CODE 6450-01-P

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### Chicago Operations Office; Award Based on Acceptance of an Unsolicited Application

**AGENCY:** U.S. Department of Energy.

**ACTION:** Notice of financial assistance award in response to an unsolicited financial assistance application.

**SUMMARY:** The U.S. Department of Energy announces that pursuant to 10 CFR 600.14(e), it plans to negotiate and award Grant Number DE-FG02-96CH10851 to the Institute of Regulatory Science

**SUPPLEMENTARY INFORMATION:** The anticipated objective of the award is to provide for the application of "Best Available Science" (BAS) to the reevaluation of assessment methods based on scientific knowledge rather than opinions or value judgements. This proposal provides for a unique approach to choose the best available scientific information in that it suggests a clear separation of science from societal goals to enhance the accuracy of estimating environmental risks in an attempt to limit costly adverse effects. These goals will provide scientifically based data for others to utilize in pursuing environmental issues in the educational arena and provide the general public as well as the professional societies, knowledge of how risk factors were determined by making consensus reports more accessible. This proposal

provides a public service by providing the public with the best and most accurate scientific information with respect to utilizing the Best Available Science. DOE's Office of Environmental Management believes that there is a high probability of achieving the objectives.

The public is greatly served if environmental decisions would be based on BAS. It is the belief of the grantee that objectively computed risks will be somewhat lower than those based upon societal objectives. The lower the risk, the smaller the costs for adverse effects caused within the human health and environmental areas. It is likely that if this approach is successful the cost of environmental protection would be significantly reduced. Consequently, a higher level of environmental protection could be achieved by the current level of funding.

Additional benefits of this project are enhancement of public and university education and expand the availability of relevant published scientific information. The public will have easier access to data presented in relevant papers and consensus reports regarding BAS through their publication in the journal "Technology:Journal of the Franklin Institute" and a new "Encyclopedia of Environment." Education will be enhanced by the utilization of high school or community college minority students in researching environmental issues while applying BAS, participating with professional organizations in providing environmental courses, participation in technical conferences to discuss BAS for environmental issues, as well as participating in technical panels and making presentations to various groups regarding BAS in human health and environmental concerns.

The grantee plans to obtain this objective by educating students and professional organizations about the benefits and needs of BAS in relation to existing practices; and the dissemination of scientific information through the Technology publication and the new Encyclopedia of Environment. To assure reliance upon BAS the grantee proposes the utilization of not-for-profit professional organizations which include the following: (1) the American Society of Mechanical Engineers (ASME); (2) the American Association for the Advancement of Technology (AAAT); (3) the American Association of Engineering Societies (AAES); and (4) the National Council and Radiation Protection and Measurements (NCRPM). These organizations can provide peer-review of scientific aspects of the societal decisions, can reach a

consensus on scientific subjects related to protection of human health and the environment, and can support the publication of relevant BAS. In addition, and in accordance with the North American Free Trade Agreement (NAFTA), an organization was formed and is known by its Spanish acronym "CEPA" which is composed of Universities in Mexico and the U.S. which pursue environmental protection in Mexico. The proposed approach permits the development of relevant information based on scientific consensus, education of the professionals and high school students, and publication of relevant materials for the benefit of the scientific community, regulators, legislators, and above all, the general public.

The technical team is led by a uniquely qualified individual, Dr. A. Alan Moghissi, Ph.D., President of the Institute for Regulatory Science. He has broad regulatory experience and has served as a Senior Environmental Protection Agency (EPA) policy official. His interaction with industry over the years has fulfilled a critical need in obtaining an industry perspective. He has gained credibility with the intervenor community and Congress as a credible spokesman in the area of technical assessment of societal decisions. For the past 11 years under grants for this effort, Dr. Moghissi has gained unique experience and specialized knowledge in the reevaluation of risk assessments for human health and the environment. An example of the kind of accomplishments he has made is evident in the regulatory change that was made for tritium standards in drinking water. Dr. Moghissi, because of his unique past experience as stated above, is uniquely qualified to perform the proposed research.

This award meets the criteria for selection of an unsolicited application as specified under 10 CFR 600.14(e)(i) & (ii). Under subparagraph (i) the application is meritorious based on the foregoing general evaluation which is required by 10 CFR 600.14(d). Under subparagraph (ii) the proposed project represents a unique, innovative idea, method and approach which would not otherwise be eligible for funding under any other known recent, current, or planned solicitation and a competitive solicitation would be inappropriate. This award would be for approximately 5 years at an estimated total cost of three million dollars.

**FOR FURTHER INFORMATION CONTACT:**  
David Ramirez, Contract Specialist,  
(708) 252-2133; U.S. Department of

Energy, 9800 South Cass Avenue,  
Argonne, Illinois 60439.

Issued in Chicago, Illinois on November 21, 1995.

F.T. Sienko,

*Acquisition & Assistance Group Acting  
Manager.*

[FR Doc. 95-29255 Filed 11-29-95; 8:45 am]

BILLING CODE 6450-01-P

### Federal Energy Regulatory Commission

[Docket No. EG96-15-000, et al.]

#### Indeck Pepperell Power Associates, Inc. et al.; Electric Rate and Corporate Regulation Filings

November 22, 1995.

Take notice that the following filings have been made with the Commission:

1. Indeck Pepperell Power Associates, Inc.

[Docket No. EG96-15-000]

On November 13, 1995, Indeck Pepperell Power Associates, Inc., a corporation organized and existing under the laws of the State of Delaware, with its address at 1130 Lake Cook Road, Suite 300, Buffalo Grove, Illinois 60089 (the "Applicant"), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator ("EWG") status pursuant to Part 365 of the Commission's Regulations.

The Applicant will be engaged directly in owning an eligible facility located in Pepperell, Massachusetts (the "Pepperell Plant"). The Pepperell Plant consists of a nominal 38 MW combined-cycle cogeneration facility utilizing natural gas as its primary fuel and No. 2 fuel oil as a backup fuel.

*Comment date:* December 13, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. IES Utilities Inc.

[Docket No. ER95-1444-001]

Take notice that on October 30, 1995, IES Utilities Inc. tendered for filing the following documents pursuant to the Commission's order dated September 28, 1995 in Docket No. ER95-1444-000:

- Revised Firm Point-To-Point Transmission Service Tariff.
- Revised Network Integration Service Tariff.
- Selections of Form Point-To-Point Transmission Service Tariff to be Revised.
- Selections of Network Integration Service Tariff to be revised.

*Comment date:* December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Kentucky Utilities Company

[Docket No. ER95-1808-001]

Take notice that on November 13, 1995, Kentucky Utilities Company (KU) tendered for filing the rates and terms for transactions made pursuant to KU's Power Services Tariff and Service Agreements executed pursuant thereto Wabash Valley Power Association and Stand Energy Corporation filed with the Commission in docket No. ER95-1808-000.

*Comment date:* December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Commonwealth Edison Company

[Docket No. ER96-282-000]

Take notice that on November 3, 1995, Commonwealth Edison Company (ComEd) submitted three Service Agreements, establishing Baltimore Gas and Electric Company (BG&E), Cleveland Electric Illuminating Company (Cleveland) and Toledo Edison Company (Toledo) as customers under the terms of ComEd's Power Sales Tariff PS-1 (PS-1 Tariff). The Commission has previously designated the PS-1 Tariff as FERC Electric Tariff, Original Volume No. 2.

Copies of this filing were served upon BG&E, Cleveland, Toledo and the Illinois Commerce Commission.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Gas and Electric Company

[Docket No. ER96-283-000]

Take notice that on November 6, 1995, Pacific Gas and Electric Company (PG&E), tendered for filing, as a change in rate schedule, new supplements to the Interconnection Agreement between Northern California Power Agency and Pacific Gas and Electric Company (PG&E-NCPA IA). These supplements reflect NCPA's reservation of transmission services for 1996 and 1997. The IA and its appendices were accepted for filing by the Commission on May 12, 1992 and designated as Rate Schedule FERC No. 142.

Copies of this filing were served upon NCPA and the California Public Utilities Commission.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. Puget Sound Power & Light Company

[Docket No. ER96-284-000]

Take notice that on November 6, 1995, Puget Sound Power & Light

Company (Puget), tendered for filing as a change in rate schedule a letter agreement (the Letter Agreement) between Puget and the United States of America Department of Energy acting by and through the Bonneville Power Administration (Bonneville). A copy of the filing was served upon Bonneville.

Puget states that the Letter Agreement provides for Puget's installation of a temporary electrical connection during repair of a circuit used to serve a Bonneville customer.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Louisville Gas and Electric Company  
[Docket No. ER96-285-000]

Take notice that on November 6, 1995, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Kansas City Power & Light Company  
[Docket No. ER96-286-000]

Take notice that on November 6, 1995, Kansas City Power & Light Company (KCPL), tendered for filing an Interchange Agreement dated October 2, 1995, between Kansas City Power & Light Company (KCPL) and the City of Columbia, Missouri (Columbia). KCPL proposes an effective date of October 2, 1995 and requests waiver of the Commission's notice requirement. This Agreement provides for the initial rates and charges for certain Interchange Services between KCPL and Columbia.

In its filing, KCPL states that the rates included in the above-mentioned Interchange Agreement are KCPL's rates and charges for similar service under schedules previously filed by KCPL with the Federal Energy Regulatory Commission.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. The Montana Power Company  
[Docket No. ER96-287-000]

Take notice that on November 6, 1995, The Montana Power Company (Montana), tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Montana and the Bonneville Power Administration (BPA).

The Agreement was entered into pursuant to the Pacific Northwest

Electric Power Planning and Conservation Act, Public Law 96-501. The Agreement provides for the exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

A copy of the filing has been served upon BPA.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Company  
[Docket No. ER96-288-000]

Take notice that on November 6, 1995, New England Power Company (NEP), tendered for filing a service agreement with and certificate of concurrence from Princeton (Mass.) Municipal Light Department under NEP's Tariff 5.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. New England Power Company  
[Docket No. ER96-289-000]

Take notice that on November 6, 1995, New England Power Company (NEP), tendered for filing a service agreement with and certificate of concurrence from Peabody (Mass.) Municipal Light Plant under NEP's Tariff 5.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. PECO Energy Company  
[Docket No. ER96-290-000]

Take notice that on November 6, 1995, PECO Energy Company (PECO) filed a Service Agreement dated October 18, 1995, with Virginia Electric & Power Company (Virginia Power) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Virginia Power as a customer under the Tariff.

PECO requests an effective date of October 18, 1995 for the Service Agreement.

PECO states that copies of this filing have been supplied to Virginia Power and to the Pennsylvania Public Utility Commission.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Louisville Gas and Electric Company  
[Docket No. ER96-291-000]

Take notice that on November 6, 1995, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville

Gas and Electric Company and Louis Dreyfus Electric Power Inc. under Rate GSS.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.  
[Docket No. ER96-292-000]

Take notice that on November 6, 1995, Cinergy Services, Inc. (CIN), tendered for filing on behalf of its operating company, PSI Energy, Inc. (PSI), a First Supplemental Agreement, dated October 1, 1995, to the Interconnection Agreement, dated August 1, 1994 between LG&E Power Marketing, Inc. and PSI.

The First Supplemental Agreement revises the definitions for Emission Allowances and provides for Cinergy Services to act as agent for PSI. The following Exhibit has also been revised:

B Power Sales by Cinergy

Cinergy and LPM have requested an effective date of December 1, 1995.

Copies of the filing were served on LG&E Power Marketing, Inc., the Kentucky Public Service Commission, Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Houston Lighting & Power Company  
[Docket No. ER96-293-000]

Take notice that on November 6, 1995, Houston Lighting & Power Company (HL&P) tendered for filing four executed transmission service agreements (TSAs) with Destec Power Services, Inc. (Destec) for Economy Energy Transmission Service under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of November 6, 1995 for the TSAs.

Copies of the filing were served on Destec and the Public Utility Commission of Texas.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Central Power and Light Company and West Texas Utilities Company  
[Docket No. ER96-294-000]

Take notice that on November 7, 1995, Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) (jointly, the Companies) submitted a Transmission Service Agreement, dated October 19,

1995, establishing Western Gas Resources Power Marketing, Inc. (WGR) as a customer under the terms of the ERCOT Coordination Transmission Service Tariff.

The Companies request an effective date of November 8, 1995, for the service agreement. Accordingly, the Companies request waiver of the Commission's notice requirements. Copies of this filing have been served upon WGR and the Public Utility Commission of Texas.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 17. Kentucky Utilities Company

[Docket No. ER96-304-000]

Take notice that on November 3, 1995, Kentucky Utilities Company (KU) tendered for filing service agreements between KU and Louis Dreyfus Electric Power, Inc., AES Power, Inc., Rainbow Energy Marketing Corporation and Wabash Valley Power Association Inc. under its TS Tariff. KU requests an effective date of July 25, 1995.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 18. American Electric Power Service Corporation

[Docket No. ER96-305-000]

Take notice that on November 3, 1995, the American Electric Power Service Corporation (AEPSC) supplemented its filing in the above referenced Dockets to clarify its policy regarding return-in-kind of emission allowances.

A copy of the amendment was served upon the affected parties and State regulatory commissions.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 19. Alabama Power Company

[Docket No. ER96-306-000]

Take notice that on November 8, 1995, Southern Companies Services, Inc. acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (Southern Companies) tendered for filing Service Agreements for Non-firm Service under Southern Companies' Point-to-Point Transmission Service Tariff and Notice of Cancellation of Service Agreements under Southern Companies' Short-Term Non-Firm Tariff.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 20. Alabama Power Company

[Docket No. ER96-307-000]

Take notice that on November 8, 1995, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (Southern Companies) tendered for filing an Interchange Service Contract between Southern Companies and Sonat Power Marketing, Inc. The Interchange Service Contract establishes the terms and conditions of power supply, including provisions relating to service conditions, control of system disturbances, metering and other matters related to the administration of the agreement.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 21. Commonwealth Electric Company Cambridge Electric Light Company

[Docket No. ER96-308-000]

Take notice that on November 8, 1995, Commonwealth Electric Company (Commonwealth) on behalf of itself and Cambridge Electric Light Company (Cambridge) collectively referred to as the "Companies", tendered for filing with the Federal Energy Regulatory Commission executed Service Agreements between the Companies and the following Customers: Boston Edison Company, CMEX Energy, Inc., CNG Power Service Corporation, Vermont Public Power Supply Authority.

These Service Agreements specify that the Customers have signed on to and have agreed to the terms and conditions of the Companies' Power Sales and Exchanges Tariff (FERC Electric Tariff Original Volume No. 3) and Cambridge's Power Sales and Exchanges Tariff (FERC Electric Tariff Original Volume No. 5). These Tariffs, approved by FERC on April 13, 1995, and which have an effective date of March 20, 1995, will allow the Companies and the Customers to enter into separately scheduled transactions under which the Companies will sell to the Customers capacity and/or energy as the parties may mutually agree.

The Companies request an effective date as specified on each Service Agreement.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 22. Mid-Continent Area Power Pool

[Docket No. ER96-309-000]

Take notice that on November 6, 1995, Mid-Continent Area Power Pool

tendered for filing an amendment to the Agreement with Mid-American Energy Company approving transfer of membership effective September 26, 1995.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 23. Wisconsin Power and Light Company

[Docket No. ER96-310-000]

Take notice that on November 8, 1995, Wisconsin Power and Light Company (WP&L) tendered for filing an Agreement dated October 30, 1995, establishing Western Gas Resources Power Marketing, Inc. as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of October 30, 1995 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 24. Dayton Power and Light Company

[Docket No. ER96-311-000]

Take notice that on November 8, 1995, Dayton Power and Light Company (Dayton) tendered for filing an executed Service Sales Agreement between Dayton and Wabash Valley Power Association (Wabash).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to Wabash power and/or energy for resale.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 25. Dayton Power and Light Company

[Docket No. ER96-312-000]

Take notice that on November 8, 1995, Dayton Power and Light Company (Dayton) tendered for filing an executed Master Power Sales Agreement between Dayton and Louisville Gas and Electric Company (Louisville).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to Louisville power and/or energy for resale.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 26. Dayton Power and Light Company

[Docket No. ER96-313-000]

Take notice that on November 8, 1995, Dayton Power and Light Company (Dayton) tendered for filing an executed Master Electric Interchange Agreement

between Dayton and LG&E Power Marketing Inc. (LG&E).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to LG&E power and/or energy for resale.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 27. PECO Energy Company

[Docket No. ER96-314-000]

Take notice that on November 8, 1995, PECO Energy Company (PECO) filed a Service Agreement dated November 1, 1995, with Consolidated Edison Company of New York, Inc. (Con Edison) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Con Edison as a customer under the Tariff.

PECO requests an effective date of November 1, 1995 for the Service Agreement.

PECO states that copies of this filing have been supplied to Con Edison and to the Pennsylvania Public Utility Commission.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 28. PECO Energy Company

[Docket No. ER96-315-000]

Take notice that on November 8, 1995, PECO Energy Company (PECO) filed a Service Agreement dated November 3, 1995, with American Municipal Power—Ohio Inc. (Amp-O) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Amp-O as a customer under the Tariff.

PECO requests an effective date of November 3, 1995 for the Service Agreement.

PECO states that copies of this filing have been supplied to Amp-O and to the Pennsylvania Public Utility Commission.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 29. PECO Energy Company

[Docket No. ER96-316-000]

Take notice that on November 8, 1995, PECO Energy Company (PECO) filed a Service Agreement dated October 23, 1995, with Cleveland Electric Illuminating Company (CEI) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds CEI as a customer under the Tariff.

PECO requests an effective date of October 23, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to CEI and to the Pennsylvania Public Utility Commission.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 30. PECO Energy Company

[Docket No. ER96-317-000]

Take notice that on November 8, 1995, PECO Energy Company (PECO) filed a Service Agreement dated October 23, 1995, with Toledo Edison Company (TE) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds TE as a customer under the Tariff.

PECO requests an effective date of October 23, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to TE and to the Pennsylvania Public Utility Commission.

*Comment date:* December 6, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 31. PECO Energy Company

[Docket No. ER96-318-000]

Take notice that on November 8, 1995, PECO Energy Company (PECO) filed a Service Agreement dated October 19, 1995, with City of Tallahassee (City of Tallahassee) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds City of Tallahassee as a customer under the Tariff.

PECO requests an effective date of October 19, 1995, for the Service Agreement.

PECO states that copies of this filing have been supplied to City of Tallahassee and to the Pennsylvania Public Utility Commission.

*Comment date:* December 6, 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. 95-29200 Filed 11-29-95; 8:45 am]

BILLING CODE 6717-01-P

#### [Docket No. EG96-17-000, et al.]

#### **Kraftwerk Schkopau GbR, et al.; Electric Rate and Corporate Regulation Filings**

November 24, 1995.

Take notice that the following filings have been made with the Commission:

#### 1. Kraftwerk Schkopau GbR

[Docket No. EG96-17-000]

On November 17, 1995, Kraftwerk Schkopau GbR ("Schkopau"), with its principal office at An der Bober 100 06258 Korbetha, Federal Republic of Germany, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Schkopau states that it is a general partnership organized under the laws of the Federal Republic of Germany. Schkopau will be engaged directly and exclusively in owning a 900 MW lignite-fired electric generating facility that is located in the Federal Republic of Germany (the "Facility"). Electric energy produced by the Facility will be sold at wholesale to a German "grid company." Electricity produced by the Facility will also be sold at retail. In addition, steam cogenerated by the Facility will be sold to an adjacent chemical company. In no event will any electric energy be sold to consumers in the United States.

*Comment date:* December 8, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

#### 2. Kraftwerk Schkopau Betriebsgesellschaft mbH

[Docket No. EG96-18-000]

On November 17, 1995, Kraftwerk Schkopau Betriebsgesellschaft mbH ("KSB"), with its principal office at An der Bober 100 06258 Korbetha, Federal Republic of Germany, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

KSB states that it is a limited liability company organized under the laws of the Federal Republic of Germany. KSB will be engaged directly and exclusively in operating a 900 MW lignite-fired electric generating facility that is located in the Federal Republic of Germany (the "Facility"). Electric energy produced by the Facility will be sold at wholesale to a German "grid company." Electricity produced by the Facility will also be sold at retail. In addition, steam cogenerated by the Facility will be sold to an adjacent chemical company. In no event will any electric energy be sold to consumers in the United States.

*Comment date:* December 8, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

### 3. Kingston Cogen Limited Partnership

[Docket No. EG96-19-000]

Kingston Cogen Limited Partnership (Kingston) (c/o Michael J. Zimmer, Esq., Reid & Priest LLP, 701 Pennsylvania Avenue, N.W. Washington, DC 20004) filed with the Federal Energy Regulatory Commission an application on November 17, 1995, for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

According to its application, Kingston is a Ontario, Canada limited partnership formed to own an electric generating facility located on in Ernestown Township, Ontario, Canada.

*Comment date:* December 11, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

### 4. Virginia Electric & Power Company

[Docket No. ER96-225-000]

Take notice that on November 16, 1995, Virginia Electric and Power Company tendered for filing an amendment in the above-referenced docket.

*Comment date:* December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

### 5. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER96-295-000]

Take notice that on November 7, 1995, GPU Service Corporation (GPU), on behalf of Jersey Central Power & Light Company, Metropolitan Edison

Company and Pennsylvania Electric Company (jointly referred to as the GPU Operating Companies), filed an executed Service Agreement between GPU and Coastal Electric Services Company (CESC), dated November 3, 1995. This Service Agreement specifies that CESC has agreed to the rates, terms and conditions of the GPU Operating Companies' Operating Capacity and/or Energy Sales Tariff (Sales Tariff) designated as FERC Electric Tariff, Original Volume No. 1. The Sales Tariff was accepted by the Commission by letter order issued on February 10, 1995 in *Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company*, Docket No. ER95-276-000 and allows GPU and CESC to enter into separately scheduled transactions under which the GPU Operating Companies will make available for sale, surplus operating capacity and/or energy at negotiated rates that are no higher than the GPU Operating Companies' cost of service.

GPU requests a waiver of the Commission's notice requirements for good cause shown and an effective date of November 3, 1995 for the Service Agreement.

GPU has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania.

*Comment date:* December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

### 6. Rochester Gas and Electric Corporation

[Docket No. ER96-296-000]

Take notice that on November 7, 1995, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and Commonwealth Electric Company. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94-1279. RG&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:* December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

### 7. New York State Electric & Gas Corporation

[Docket No. ER96-297-000]

Take notice that on November 7, 1995, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Gateway Power Corporation (Gateway). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to Gateway and Gateway will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on November 8, 1995, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and Gateway.

*Comment date:* December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

### 8. New England Power Company

[Docket No. ER96-298-000]

Take notice that on November 7, 1995, New England Power Company (NEP), tendered for filing a proposed amendment to its FERC Electric Tariff original Volume No. 1, Schedule III-B, Terms and Conditions Governing All Requirements Service—Integrated Facilities. The proposed amendment would allow for a rate decrease to The Narragansett Electric Company.

NEP requests that the proposed amendment be permitted to become effective on January 1, 1996.

A copy of the filing has been served upon Narragansett, the Rhode Island Public Utilities Commission and the Attorney General of the State of Rhode Island.

*Comment date:* December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

### 9. Pacific Gas and Electric Company

[Docket No. ER96-299-000]

Take notice that on November 7, 1995, Pacific Gas and Electric Company (PG&E), tendered for filing the National Electric Associates, L.P. (NEA) and PG&E Power Enabling Agreement. The Enabling Agreement documents terms and conditions for the purchase, sale or

exchange of economy energy and surplus capacity which the Parties agree to make available to one another at defined control area border interconnection points.

Copies of this filing have been served upon NEA and the California Public Utilities Commission.

*Comment date:* December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 10. Rochester Gas and Electric Corporation

[Docket No. ER96-300-000]

Take notice that on November 7, 1995, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and Cambridge Electric Light Company. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94-1279. RG&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:* December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 11. UtiliCorp United Inc.

[Docket No. ER96-301-000]

Take notice that on November 7, 1995, UtiliCorp United Inc. tendered for filing on behalf of its operating division, Missouri Public Service, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with *Commonwealth Edison Company*. The Service Agreement provides for the sale of capacity and energy by Missouri Public Service to *Commonwealth Edison Company* pursuant to the tariff, and for the sale of capacity and energy by *Commonwealth Edison Company* to Missouri Public Service.

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

*Comment date:* December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 12. Southern Company Services, Inc.

[Docket No. ER96-302-000]

Take notice that on November 8, 1995, Southern Company Services, Inc., as agent for Alabama Power Company,

Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (the Operating Companies), tendered for filing a settlement of a billing dispute and amendments to Unit Power Sales Agreements between the Operating Companies and Florida Power & Light Company and Jacksonville Electric Authority, respectively, respecting changes to the methods and procedures for calculating the capital for use in developing capacity charges.

*Comment date:* December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 13. New York State Electric & Gas Corporation

[Docket No. ER96-303-000]

Take notice that on November 8, 1995, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Coastal Electric Services Company (Coastal). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to Coastal and Coastal will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on November 9, 1995, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and Coastal.

*Comment date:* December 8, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 14. UtiliCorp United Inc.

[Docket No. ER96-360-000]

Take notice that UtiliCorp United Inc. (UCU) on November 15, 1995, tendered for filing proposed changes in its Rate Schedules FERC Nos. 52, 54, 55, 56, 57, 58, 59, and 109 (its rate schedules for wholesale firm power service to municipal customers in the State of Missouri). The proposed changes would increase revenues from jurisdictional sales and service by \$599,896 based on the 12 month period ending December 31, 1994. The proposed changes are intended to more accurately reflect

UCU's current cost of service. The proposed changes also provide for separate, unbundled rates for the transmission, energy, and capacity components of such service.

UCU has provided copies of the rate change filing to the affected customers and to the Missouri Public Service Commission.

*Comment date:* December 8, 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. 95-29199 Filed 11-29-95; 8:45 am]

BILLING CODE 6717-01-P

#### [Docket No. RP96-46-000]

#### **Algonquin Transmission Company; Panhandle Eastern Corporation; Texas Eastern Transmission Corporation; Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariffs**

November 24, 1995.

Take notice that on November 16, 1995, the above-captioned pipeline companies (Panhandle Eastern Corporation Pipeline Group or PEC Pipeline Group) tendered for filing as part of their FERC Gas Tariffs, the pro-forma tariff sheets as listed on Appendices A, B, C and D, to the filing, with a proposed effective date of April 1, 1996. The proposed changes would increase the level of standardization among the PEC Pipeline Group of certain provisions of each of the pipeline member's FERC Gas Tariff.

The PEC Pipeline group proposes to increase the level of standardization and uniformity of their FERC Gas Tariffs in six (6) areas: (1) Capacity release, (2)

nominations, scheduling, and curtailment, (3) the uniform definition of "Gas Day", (4) operational flow orders ("OFSs"), (5) imbalance resolution and operational balancing agreements ("OBAs"), and (6) invoicing and payment.

While the PEC Pipeline Group believes further standardization is possible, the instant effort reflects those provisions that can be standardized in the near future without significant ramifications on the nature and type of services currently being rendered to the customers of the interstate pipeline members of the PEC Pipeline Group.

The PEC Pipeline Group also intends to participate actively in the industry standardization efforts outlined to the Commission by the Interstate Natural Gas Association of America ("INGAA") in their letter of October 18, 1995 and in the ongoing efforts sponsored by the Gas Industry Standards Board ("GISB").

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426, in accordance with 18 CFR 385.214 and 18 CFR 385.211 if the Commission's Rules and Regulations, on or before December 6, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 95-29203 Filed 11-29-95; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. SA96-1-000]**

**Montana Power Company; Notice of Petition for Adjustment**

November 24, 1995.

Take notice that on October 31, 1995, Montana Power Company (MPC) filed a petition for adjustment pursuant to section 284.123(b)(1)(ii) of the Commission's regulations. MPC seeks to: (1) eliminate the rate petition filing requirement contained in Ordering Paragraph (d) of the Commission's August 3, 1995, order in Docket No. PR93-3-000, 72 FERC ¶ 61,164, and (2) waive the city-gate requirement contained in Section 284.123 (b)(1)(ii) of the Commission's regulations. Ordering Paragraph (d) requires MPC to file a rate

petition under section 284.123(b)(2) on or before November 1, 1995. MPC requests that its transportation rates be subject to regulation by the Montana Public Service Commission (Montana Commission) which MPC alleges has been approved by the FERC as an agency that regulates retail rates on a cost basis consistent with the comparable service requirement of section 284.123(b)(1).

MPC states that it has a general revenue requirement increase request pending before the Montana Commission filed on September 21, 1995. MPC's filing requests a Gas Utility overall revenue requirement increase of \$12 million and an interim revenue requirement increase of \$4.4 million. MPC provided a table comparing its existing interstate rates with the proposed state-approved rates. MPC indicates that the proposed interim increase would be effective January 1, 1996, and would result in a 4.9% increase to its existing interstate transportation rate.

MPC listed several reasons why it should be permitted to charge rates approved by the Montana Commission for all of its interstate services. MPC asserts that having its rates regulated solely by the Montana Commission would avoid costly and lengthy duplicative proceedings under section 284.123(b)(2) of the Commission's regulations. MPC contends that it would be able to address rate design and other changes uniformly for all shippers, without the duplication and/or potential disparate treatment that would exist if MPC continues to operate under both state and FERC cost of service procedures. MPC also alleges that section 284.123(b) of the Commission's regulations leaves to the pipeline the choice of whether to make an election under section 284.123(b)(2) or to seek a FERC-approved rate under section 284.123(b)(1) of the Commission's regulations. MPC asserts that the streamlining of the regulatory filing process and avoidance of duplicative rate review is expected to reduce MPC's costs and allow it to become more competitive in the marketplace.

The regulations applicable to this proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All Motions must be filed with the Secretary of the Commission within 15 days after publication of this notice in the Federal Register. The petition for adjustment is on file with

the Commission and is available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 95-29201 Filed 11-29-95; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP96-47-000]**

**Northwest Alaskan Pipeline Company; Notice of Tariff Changes**

November 24, 1995.

Take notice that on November 16, 1995, Northwest Alaskan Pipeline Company ("Northwest Alaskan") tendered for filing Thirty-Seventh Revised Sheet No. 5 to its FERC Gas Tariff Original Volume No. 2.

Northwest Alaskan states that this filing reflects a decrease in total demand charges for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. ("Pan-Alberta") and resold to Northwest Alaskan's two U.S. purchasers, Pan-Alberta Gas (U.S.), Inc. ("PAG-US") under Rate Schedules X-1, X-2 and X-3, and Pacific Interstate Transmission Company ("PIT") under Rate Schedule X-4.

Northwest Alaskan requests that Thirty-Seventh Revised Sheet No. 5 become effective January 1, 1996.

Northwest Alaskan states that a copy of this filing has been served on Northwest Alaskan's customers.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such motions or protests should be filed on or before November 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 95-29202 Filed 11-29-95; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP95-449-000]****Trunkline Gas Company; Notice of Technical Conference**

November 24, 1995.

In the Commission's order issued on October 25, 1995 in the above-captioned proceeding, the Commission ordered that a technical conference be convened to resolve issues raised by the filing. The conference to address the issues has been scheduled for December 11, 1995, at 2:00 p.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

*Secretary.*

[FR Doc. 95-29204 Filed 11-29-95; 8:45 am]

BILLING CODE 6717-01-M

is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Wicor's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is December 11, 1995.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

*Secretary.*

[FR Doc. 95-29205 Filed 11-29-95; 8:45 am]

BILLING CODE 6717-0-M

listing are significantly lower than previously estimated. As a result, the Agency believes that no source in the category emits asbestos in quantities that pose an individual risk greater than one in one million and that the previous determination that asbestos emissions from these plants pose a threat of adverse health effects is no longer supportable. The asbestos processing source category should therefore be removed from the source category list.

*Docket.* Docket No. A-94-69, containing supporting information used in developing this notice, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at the Agency's Air Docket, 401 M Street SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** For information concerning specific aspects of this notice, contact Susan Fairchild-Zapata, Minerals and Inorganic Chemicals Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541-5167.

**SUPPLEMENTARY INFORMATION:****I. Background**

The Clean Air Act requires under section 112 that the Agency list and promulgate regulations requiring control of emissions of HAPs from categories of major and area sources. Section 112(c)(1) requires the Administrator to publish, and from time to time revise, if appropriate, in response to comments or new information, a list of all categories and subcategories of major and area sources of HAPs. Section 112(c)(3) requires that the Administrator list any area source category (one which emits less than 10 tons per year of any one HAP and less than 25 tons per year of all HAPs) that the Administrator finds poses a threat of adverse effects to human health or the environment. Pursuant to the specific listing requirements in section 112(c), the Agency published on July 16, 1992 (57FR31590) a finding of adverse effects (specifically carcinogenic effects from exposure to asbestos) for the source category of asbestos processing. The asbestos processing source category was then listed as a source category that would be subject to emission standards. Following this listing, pursuant to requirements in section 112(e), the Agency on December 3, 1993 (58FR63941) published a schedule for the promulgation of emission standards for each of the 174 listed source categories. The reader is directed to

**[Docket No. ER96-34-000]****Wicor Energy Services, Inc.; Notice of Issuance of Order**

November 24, 1995.

On October 5, 1995, Wicor Energy Services, Inc., (Wicor) submitted for filing a rate schedule under which Wicor will engage in wholesale electric power and energy transactions as a marketer. Wicor also requested waiver of various Commission regulations. In particular, Wicor requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Wicor.

On November 9, 1995, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Wicor should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Wicor is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and

**ENVIRONMENTAL PROTECTION AGENCY****[FRL-5335-8]****Delisting of Source Category and Revision of Initial List of Categories of Sources and Schedule for Standards Under Section 112(c) of the Clean Air Act**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Removal of the asbestos processing area source category from the initial list of categories of sources and schedule for standards for major and area sources of hazardous air pollutants.

**SUMMARY:** This notice removes the asbestos processing source category from the initial list of categories of sources of hazardous air pollutants (HAP), published on July 16, 1992 (57FR31576), and the schedule for promulgation of emission standards, published on December 3, 1993 (58FR63941).

This action finalizes the notice published in the Federal Register (*FR*) on January 24, 1995 by removing an area source category (asbestos processing) that was listed on July 16, 1992 (57FR31576). As presented in 60FR4624, this decision is based on data obtained during the initial stage of standards development for this source category. Under this listing, asbestos emissions from asbestos processing sources were studied to determine whether they could be further reduced beyond the levels achieved under the existing National Emission Standards for HAP (NESHAP) that apply to these sources. These data conclusively show that asbestos emissions from specific plants that were the basis for the initial

these two notices for information related to development of the initial list and schedule.

EPA published a notice on January 24, 1995 (60FR4624) that, when finalized, would remove the asbestos processing source category from the section 112 source category list and schedule. In this notice, EPA is finalizing that proposal. The reader is directed to that notice for information related to the proposal.

#### *Summary of Comments Received*

During the comment period between January 24, 1995 and February 23, 1995, Docket No. A-94-69 received a total of three comments in response to the 60FR4624 notice. No comments were received within 30 days after the close of the comment period and there was no request for a public hearing on issues related to the proposed deletion. All comments received were in support of the Agency's preliminary decision to revise the source category list by removing the asbestos processing area source category from the list.

Comments addressed the completeness of EPA's study, the adequacy of the extent of new information collected, the appropriateness of the (proposed) revision to the list, and the adequacy of existing regulations for controlling asbestos emissions from asbestos processing facilities. The commenters expressed the opinion that EPA's decision to revise the list as proposed is both accurate and reasonable.

• Mr. Russell K. Snyder, Executive Vice President of the Roof Coating Manufacturers Association (RCMA) commented, " \* \* \* RCMA feels that the extensive information obtained by the Agency from over 250 companies, indicating that many companies no longer process asbestos and those remaining use appropriate control equipment, lends additional support and credence to the decision on the part of the Agency to de-list the asbestos processing industry. RCMA endorses the notice as consistent with the Clinton Administration's Common Sense Initiative regarding legislation and regulation based on thorough scientific and technical justification. Furthermore, RCMA feels that this notice is an excellent example of EPA working with industry and environmentalists to develop necessary, intelligent and effective regulation."

• Mr. B.J. Pigg, President of the Asbestos Information Association (AIA/NA) commented that "AIA/NA previously filed comments with the Agency on its plans to assess asbestos processing emissions on October 26,

1992. As (AIA) noted there, U.S. processors currently employ very effective baghouse collection methods to minimize fiber release. These control methods will continue to be employed even after the area source category is delisted."

• Mr. Frank P. Collis, environmental specialist with the Occidental Chemical Corporation commented, " \* \* \* most facilities that would have been subject to the asbestos processing area source MACT standard are already subject to the existing asbestos NESHAP standard (i.e., 40 CFR 61 Subpart M). The development of an additional MACT standard would be duplicative, confusing to the regulated community and not the best use of the Agency's limited resources."

No comments took exception to the technical basis for the delisting, the new information received, the analyses conducted by the U.S. EPA to determine the validity of that information, or the rationale for the technical decision being made. The EPA analysis showed less than 10<sup>-6</sup> maximum individual risk (MIR) and emission estimates 150 times less than the estimate originally used to list the asbestos processing source category as an area source category. Additionally, no comments were received regarding the specific legal basis for deletion.

#### II. Description of Revision

In today's notice, the Agency is removing the asbestos processing area source category on the Administrator's own motion, pursuant to section 112(c). As described in the proposed notice 60 FR 4624, the Agency has new information showing that no source or group of sources in the category emits asbestos in quantities which may cause a lifetime risk of cancer greater than one in one million. This refutes EPA's initial finding of a threat of adverse health effects on which the initial listing for this area source was based under section 112(c)(3).

EPA has, therefore, determined that no source or group of sources in the category emits asbestos in quantities which may cause a lifetime risk of cancer greater than one in one million to the individual most exposed to asbestos emissions and that the previous determination under section 112(c)(3) is no longer supportable. EPA based its initial listing of this area source category solely on the risk to human health caused by the carcinogenic properties of asbestos emissions. New information contained in the docket thoroughly refutes the original data upon which EPA based its initial listing. EPA received no comment rebutting the

statement that the Agency has met the legal requirements of section 112(c). Hence removal of this source category from the list of area source categories is appropriate in this instance.

Most friction product manufacturing facilities have discontinued their use of asbestos, but have significant emissions of other HAP. EPA notes that the information collected in connection with this decision also shows that a subcategory of asbestos processing sources, the friction product manufacturing subcategory, has individual facilities which emit more than 10 tons/year of a single non-asbestos HAP or more than 25 tons per year of a collection of non-asbestos HAPs (methyl chloroform, methyl ethyl ketone, formaldehyde, phenol, and toluene). Therefore, EPA intends to add a new friction products manufacturing category, including friction product manufacturing facilities that do not use asbestos, to the source category list as a major source category in a general revision to the source category list that is currently being developed.

#### III. Administrative Requirements

##### *A. Docket*

The docket (Docket no. A-94-69) is an organized and complete file of all the information submitted to or otherwise considered by the Agency in the development of this proposed revision to the initial list of categories of sources. The principal purpose of this docket is to allow interested parties to identify and locate documents that serve as a record of the process engaged in by the Agency to publish today's proposed revision to the initial list and schedule.

##### *B. Executive Order 12866*

Under Executive Order 12866 (58FR51735, October 4, 1993), the Agency must determine whether a regulation is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The criteria set forth in section 1 of the Order for determining whether a regulation is a significant rule are as follows:

- (1) Is likely to have an annual effect on the economy of \$100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government communities;
- (2) Is likely to create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Is likely to materially alter the budgetary impact of entitlements,

grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Is likely to raise novel or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This action raises the issue of delisting an area source category from the section 112 list of categories and sources and is therefore subject to OMB review.

#### *C. Paperwork Reduction Act*

This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act, 55 U.S.C. 3501 et seq.

#### *D. Regulatory Flexibility Act Compliance*

Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it imposes no new requirements.

#### *E. Unfunded Mandates Reform Act Compliance*

As shown in the Information Collection Request Document (ICR), this action imposes no costs on State, local and tribal governments. Accordingly, the EPA estimates that there is no direct cost to the private sector in any one year, and no total marginal costs to industry under this action in any one year. Therefore, the Agency concludes that it is not required by Section 202 of the Unfunded Mandates Reform Act of 1995 to provide a written statement to accompany this action because promulgation of the action would not result in any expenditure by State, local, and tribal governments, in the aggregate or by the private sector, in any one year.

Dated: November 14, 1995.

Carol M. Browner,  
Administrator.

[FR Doc. 95-29113 Filed 11-29-95; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5336-9]

#### **Workshop on Draft Ecological Risk Assessment Guidelines**

**AGENCY:** U.S. Environmental Protection Agency (EPA).

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a workshop sponsored by the U.S. Environmental Protection Agency (EPA) Risk Assessment Forum to peer review draft proposed Agency-wide guidelines

for ecological risk assessment. EPA will use comments and recommendations from the workshop to assist in guideline revisions.

**DATES:** The workshop will begin on Wednesday, December 6, 1995 at 8:30 a.m. and end on Thursday, December 7, 1995 at 5:45 p.m. Members of the public may attend as observers.

**ADDRESSES:** The workshop will be held at the Holiday Inn—Georgetown, 2101 Wisconsin Avenue NW., Washington, DC. Eastern Research Group, Inc. (ERG), an EPA contractor, is providing logistical support for the workshop. To attend the workshop as an observer, register by calling ERG at (617) 674-7374. Space is limited.

To obtain a single copy of the draft guidelines document, interested parties should contact the Center for Environmental Research Information, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, Tel: (513) 569-7562, FACS: (513) 569-7566. Please provide your name and mailing address, and request the document by the EPA number (EPA/630/R-95/002) and title ("Draft Proposed Guidelines for Ecological Risk Assessment").

**FOR FURTHER INFORMATION CONTACT:** Bill van der Schalie, U.S. Environmental Protection Agency (8101), 401 M Street SW., Washington, DC 20460, Telephone (202) 260-6743.

**SUPPLEMENTARY INFORMATION:** This draft proposed for Agency-wide ecological risk assessment guidelines is the culmination of a broad-based effort by EPA's Risk Assessment Forum. Since initiating the guidelines development process in 1989, the Risk Assessment Forum has sponsored numerous colloquia and workshops to discuss concepts and peer review documents related to ecological risk assessment. Products of these efforts include the widely-used report *Framework for Ecological Risk Assessment* (Framework Report; EPA/630/R-92/001), two sets of ecological assessment case studies, and a report containing nine ecological risk assessment issue papers. The draft proposed guidelines expand upon and replace the Framework Report and draw extensively from the case studies and issue papers.

The guidelines workshop is the next step in a process that has emphasized peer review and consensus-building. After the workshop, the guidelines will be given additional evaluation by EPA and the EPA Science Advisory Board. Following revision, the proposed guidelines will be published in the Federal Register for public comment. The goal of the guidelines is to improve

the quality and Agency-wide consistency of EPA's ecological risk assessments.

Dated: November 8, 1995.

Henry Longest II,

*Acting Assistant Administrator for Research and Development.*

[FR Doc. 95-29249 Filed 11-29-95; 8:45 am]

BILLING CODE 6560-50-M

[FRL-5337-1]

#### **Risk Assessment and Risk Management Commission**

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Risk Assessment and Risk Management Commission established as an Advisory Committee under Section 303 of the Clean Air Act Amendments of 1990, will meet on January 17, 1996 at the One Washington Circle Hotel at 1 Washington Circle, Washington, D.C. subject to availability of funding. Unexpected budget problems prevented the Commission from meeting during the months of October, November and December. If the Federal government is still on a continuing resolution, please call the hotel to ascertain if the meeting is still being held (202-872-1680).

A copy of the agenda can be obtained by calling 202-233-9537 or fax note to 202-233-9540. Please be sure to include your fax number when you call or fax a request to us. This will expedite your request for information.

Dated: November 20, 1995.

Gail Charnley,

*Executive Director, Commission on Risk Assessment and Risk Management.*

[FR Doc. 95-29247 Filed 11-29-95; 8:45 am]

BILLING CODE 6560-50-M

[FRL-5337-2]

#### **Technical Workshop on WTI Incinerator Risk Issues**

**AGENCY:** U.S. Environmental Protection Agency (EPA).

**ACTION:** Notice of Meeting.

**SUMMARY:** EPA is announcing a workshop for scientific peer review of the EPA draft risk assessment for the Waste Technologies Industries (WTI) hazardous waste incinerator in East Liverpool, Ohio. The workshop will be open to members of the public as observers. The peer review, to be conducted by scientists from outside EPA, is being organized to assist EPA in completing the risk assessment.

**DATES:** The workshop will begin on Thursday, January 11, 1996, at 7:30 a.m.

and end on Friday, January 12, 1996, at 2 p.m. Members of the public may attend as observers.

**ADDRESSES:** The meeting will be held at the Holiday Inn, Georgetown, 2101 Wisconsin Avenue NW., Washington, DC, 20007. Eastern Research Group, Inc., an EPA contractor, is providing logistical support for the workshop. To attend the workshop as an observer, contact Eastern Research Group, Inc., Tel: 617/674-7374 by December 20, 1995. Please register early.

**FOR FURTHER INFORMATION CONTACT:** For technical inquiries, contact Harriet Croke, U.S. EPA Region V, 77 West Jackson Boulevard, Chicago, IL 60604, Telephone (312) 353-4789. Copies of the draft risk assessment document (EPA905-D95-002a-g) will be available in EPA regional libraries, EPA Headquarters library, and from the National Technical Information Service (NTIS document numbers PB96-121546, PB121553, PB96-121561, PB96-121579, PB96-121587, PB96-121595, and PB96-121603; Phone: 1-800-553-6847). In addition, the draft risk assessment will be available in the following libraries in the vicinity of the WTI facility: Carnegie Public Library of East Liverpool, 219 E. 4th St., East Liverpool, OH 43920; Lynn Murray Memorial Library, 601 Railroad St., Chester WV 26034; Carnegie Public Library, 61 Ninth St., Midland, PA 15059. Further, a summary of the draft risk assessment will be available on the Internet on EPA's ORD Home Page (<http://www.epa.gov/docs/ORD/>).

For other workshop information, contact William Wood, U.S. Environmental Protection Agency (8501), 401 M Street SW., Washington, DC 20460, Telephone (202) 260-6743.

**SUPPLEMENTARY INFORMATION:** Previously, several preliminary risk assessments were conducted by EPA concerning the WTI incinerator. To prepare for a final, detailed risk assessment the EPA decided, in July 1993, that the Agency would arrange independent scientific peer reviews of both the project plan and the draft risk assessment. The first peer review was held in December, 1993 (17 November, 1993 Federal Register, pp. 60628-60629) and concerned the draft project plan for the risk assessment. For this first workshop, EPA convened a peer review panel of 13 independent scientists from the fields of toxicology, environmental fate and transport, combustion engineering, atmospheric modeling, and exposure assessment. The comments and recommendations provided during this workshop are published in "Reports on the Technical Workshop on WTI

Incinerator Risk Issues" (EPA/630/R-94/001). This document is available from the Center for Environmental Research Information (Phone: 513-569-7562). Major recommendations from this workshop included: (1) using additional incinerator performance test data; (2) refining computer models used to simulate airborne dispersions; (3) conducting a screening level ecological risk assessments; and (4) performing an evaluation of accident scenarios.

For the current review, EPA is convening the same panel, enhanced with eight additional experts in the area of ecological risk assessments and accident analysis. These scientists will focus on the scientific data, methods, and analyses, along with the assumptions and uncertainties that are associated with the risk estimates at the site. Following the workshop, EPA will consider the workshop recommendations in completing the risk assessment. Policy and permitting issues will not be discussed at the current workshop.

Dated: November 22, 1995.

Henry Longest II,

*Acting Assistant Administrator for Research and Development.*

[FR Doc. 95-29248 Filed 11-29-95; 8:45 am]

**BILLING CODE 6560-50-M**

**[FRL-5336-8]**

**Proposed Settlements Pursuant to Sections 122(h) and 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Proposed administrative settlements and opportunity for public comment.

**SUMMARY:** In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(i), the U.S. Environmental Protection Agency ("EPA"), Region II, announces proposed administrative settlements pursuant to Sections 122(h) and 122(g) of CERCLA, 42 U.S.C. 9622(g),(h), relating to the Quanta Resources Syracuse Superfund Site ("Site"). The Site is located at 2802-2810 Lodi Street, Syracuse, Onondaga County, New York. This notice is being published pursuant to Section 122(i) of CERCLA to inform the public of the proposed settlements and of the opportunity to comment. EPA will consider any comments received during

the comment period and may withdraw or withhold consent to the proposed settlements if comments disclose facts or considerations which indicate that the proposed settlements are inappropriate, improper, or inadequate.

The proposed administrative settlements have been separately memorialized in an Administrative Cost Recovery Agreement and an Administrative Order on Consent between EPA and eighty-eight ORC-settling parties ("Respondents"). These administrative settlements will become effective after the close of the public comment period, unless comments received disclose facts or considerations which indicate that these agreements are inappropriate, improper or inadequate, and EPA, in accordance with Section 122(i)(3) of CERCLA, modifies or withdraws its consent to this Agreement. Under these administrative settlements, the Respondents will be obligated to pay an aggregate of approximately \$500,000 to the Hazardous Substance Superfund in reimbursement of EPA's response costs relating to the Site.

Pursuant to CERCLA Section 122(g)(4) &(h)(1), the administrative settlements may not be issued without the prior written approval of the Attorney General or her designee. In accordance with that requirement, the Attorney General or her designee has approved the proposed administrative settlements in writing.

EPA intends to settle with other potentially responsible parties concerning reimbursement of EPA's remaining response costs.

**DATES:** Comments must be provided on or before January 2, 1996.

**ADDRESSES:** Comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, New York/Caribbean Superfund Branch, 17th Floor, 290 Broadway, New York, New York 10007 and should refer to: "Quanta Resources Syracuse Superfund Site, U.S. EPA Index No. II-CERCLA-95-0223 and Index No. II-CERCLA-95-0224". For a copy of the settlement document, contact the individual listed below.

**FOR FURTHER INFORMATION CONTACT:** Jeannie M. Yu, Law Clerk, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 17th Floor, 290 Broadway, New York, New York 10007. Telephone: (212) 637-3178.

Dated: November 22, 1995.

Jeanne M. Fox,

*Regional Administrator.*

[FR Doc. 95-29245 Filed 11-29-95; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-5336-4]

### Draft Cook Inlet General NPDES Permit for Oil and Gas Exploration, Production and Development in Waters of the United States: General NPDES Permit No. AKG285100

**AGENCY:** Environmental Protection Agency, Region 10.

**ACTION:** Extension of the public comment period.

**SUMMARY:** On September 20, 1995, EPA provided notice of the draft general National Pollutant Discharge Elimination System (NPDES) permit no. AKG285100 for oil and gas stratigraphic and exploration wells on the Alaskan Outer Continental Shelf, in addition to exploration, production and development wells in offshore and coastal waters of the State of Alaska. The public comment period schedule was published in the notice. At the request of interested parties, EPA is today providing notice that the public comment period has been extended.

**DATES:** Original public notice issuance date: September 20, 1995. Extended public notice expiration date: January 29, 1996.

**ADDRESSES:** Public comments: Interested persons may submit written comments on the draft general NPDES permit to: Environmental Protection Agency, Attn: Laurie Mann (WD-134), 1200 Sixth Avenue, Seattle, Washington 98101. All comments should include the name, address, and telephone number of the commenter and a concise statement of comment and the relevant facts upon which it is based. Comments of either support or concern which are directed at specific, cited permit requirements are appreciated. Comments must be submitted to EPA on or before the extended expiration date of the public notice.

Administrative record: The complete administrative record for the draft permit is available for public review at the EPA Seattle address listed above; and at the U.S. EPA, Anchorage Operations Office, Room 537, Federal Building, 222 West Seventh Avenue, #19, Anchorage, Alaska 99513. Copies of the draft general NPDES permit and fact sheet are available upon request from

the Region 10 Public Information Center at 1-800-424-4EPA (4372).

**FOR FURTHER INFORMATION CONTACT:**

Laurie Mann, EPA Region 10, at the EPA Seattle address listed above or telephone (206) 553-1583.

Dated: November 2, 1995.

Philip G. Millam,

*Acting Director, Office of Water.*

[FR Doc. 95-29246 Filed 11-29-95; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

[DA 95-2119]

### Licensing of General Category Frequencies

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** By this Order, the Wireless Telecommunications Bureau suspends acceptance of General Category channels in the 800 MHz band. This action is taken to ensure the successful resolution of the spectrum allocation issues raised in PR Docket 93-144 are not compromised. The intended effect of this action is to freeze acceptance of new applications after the effective date.

**EFFECTIVE DATE:** October 4, 1995.

**FOR FURTHER INFORMATION CONTACT:**

D'wana Speight or David Kirschner, Legal Branch, Commercial Wireless Division, Wireless Telecommunications Bureau at (202) 418-0620.

**SUPPLEMENTARY INFORMATION:** Adopted: October 4, 1995. Released: October 4, 1995.

By the Chief, Wireless Telecommunications Bureau:

1. On October 20, 1994, the Commission adopted a Further Notice of Proposed Rulemaking in PR No. Docket 93-144, 59 FR 60111, November 22, 1994, which proposed a new framework for the licensing of Specialized Mobile Radio (SMR) systems in the 800 MHz band. In the context of this proceeding the Commission tentatively concluded that it should revise its eligibility rules for the General Category Channels to prohibit SMR and non-SMR applicants from applying for the same channels in the future. For the reasons stated below, we have decided to place a freeze on the filing of new applications for General Category frequencies.

2. The General Category channels are available to all eligible users in the 800 MHz band for either conventional or trunked operations. Recently, there has been a steep rise in demand for General

Category frequencies, especially by SMR applicants and licensees, as a result of regulatory actions affecting certain 800 MHz frequencies. On August 9, 1994, the Commission imposed a freeze on the acceptance of new 800 MHz applications on the 280 SMR category channels. In addition, on April 15, 1995, the Wireless Telecommunications Bureau ("Bureau") placed a freeze on the filing of new applications for inter-category sharing on all private mobile radio service frequencies in the 806-821/851-866 MHz bands.

3. We believe that the current situation warrants a freeze on new applications for General Category channels. Because of the pressure placed on the General Category channels, unless we immediately freeze new applications the successful resolution of the spectrum allocation issues raised in PR Docket No. 93-144 could be compromised. Freezing acceptance of these applications is a temporary action that would preserve the current licensing landscape of the General Category and allow resolution of the issues regarding future licensing of these channels in PR Docket No. 93-144. We anticipate that this action will be of limited duration, because the Commission intends to resolve expeditiously the issues presented in PR Docket No. 93-144. We emphasize, however, that this action is limited to new applications for General Category channels and does not affect the acceptance of new applications for other categories of 800 MHz frequencies, e.g. Public Safety, Industrial/Land Transportation, and Business Category Channels.

4. As a result of today's action, we will continue to process those new applications for General Category channels which have been received by the Bureau's Licensing Division as of 12:00 a.m. midnight on October 4, 1995. All other applications, including those which still are in the frequency coordination process, will be subject to this freeze and, thus, will be returned to the applicant upon receipt by the Bureau's Licensing Division.

5. Accordingly, *it is ordered* That the acceptance of applications for the General Category channels is suspended effective October 4, 1995.<sup>1</sup>

<sup>1</sup> The imposition of this freeze is procedural in nature and therefore is not subject to the notice and comment, and effective date requirements of the Administrative Procedure Act (APA). See *Kessler v. FCC*, 326 F.2d 673 (D.C. Cir. 1963). Furthermore, good cause exists for noncompliance with these APA requirements. Adherence to the notice and comment, and effective date requirements in this matter would be contrary to the public interest, because compliance would undercut the purposes of the freeze.

Federal Communications Commission.

Regina M. Keeney,

Chief, Wireless Telecommunications Bureau.  
[FR Doc. 95-29193 Filed 11-29-95; 8:45 am]

BILLING CODE 6714-01-M

## FEDERAL MARITIME COMMISSION

### Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Celebrity Cruises, Inc. and Blue Sapphire Marine, Inc., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: CENTURY

Dated: November 27, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95-29241 Filed 11-29-95; 8:45 am]

BILLING CODE 6730-01-M

### Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Club Med Sales, Inc. and Services et Transports Cruise Lines, 40 West 57th Street, New York, N.Y. 10019

Vessel: CLUB MED 1

Dated: November 22, 1995.

Joseph C. Polking,

Secretary.

[FR Doc. 95-29215 Filed 11-29-95; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### ABS Investors, LLC, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 26, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *ABS Investors, LLC*, Atlanta, Georgia; to become a bank holding company by acquiring 50.1 percent of the voting shares of American Bankshares, Inc., Marietta, Georgia, and thereby indirectly acquire Cobb American Bank & Trust Company, Marietta, Georgia.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Crosstown Holding Company*, Ham Lake, Minnesota; to merge with Balaton Agency, Inc., Balaton, Minnesota, and thereby indirectly acquire 21st Century Bank, Balaton, Minnesota.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Quanah Financial Corporation Employee Stock Ownership Plan*, Quanah, Texas; to become a bank holding company by acquiring 31.23 percent of the voting shares of Quanah

Financial Corporation, Quanah, Texas, and thereby indirectly acquire Quanah Bancshares, Inc., Quanah, Texas, and First National Bank, Quanah, Texas.

In connection with this application, Quanah Financial Corporation, Quanah, Texas, also has applied to become a bank holding company by acquiring 100 percent of the voting shares of Quanah Bancshares, Inc., Quanah, Texas, and thereby indirectly acquire First National Bank, Quanah, Texas.

Board of Governors of the Federal Reserve System, November 27, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95-29276 Filed 11-29-95; 8:45 am]

BILLING CODE 6210-01-F

### Commercial Guaranty Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 26, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Commercial Guaranty Bancshares, Inc.*, Shawnee Mission, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of First Commercial Bank, N.A., Overland Park, Kansas (in organization).

2. *Swanton Agency, Inc.*, Swanton, Nebraska; to acquire 100 percent of the voting shares of Farmers State Bank of Plymouth, Plymouth, Nebraska.

Board of Governors of the Federal Reserve System, November 24, 1995.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 95-29225 Filed 11-29-95; 8:45 am]

BILLING CODE 6210-01-F

**David G. Massad, 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 December 15, 1995.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *David G. Massad*, Westboro, Massachusetts; to retain 9.99 percent, and acquire up to an additional 90.01 percent, for a total of up to 100 percent, of the voting shares of The Safety Fund Corporation, Fitchburg, Massachusetts; and thereby indirectly acquire Safety Fund National Bank, Fitchburg, Massachusetts.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *William L. Lee*, Lakeland, Georgia; to acquire an additional 1.59 percent, for a total of 15.24 percent of the voting shares of FMB Bankshares, Inc., Lakeland, Georgia, and thereby indirectly acquire Farmers & Merchants Bank, Lakeland, Georgia, and United Banking Company, Nashville, Georgia.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *David J. Gardner*, Tonka Bay, Minnesota; to acquire an additional

15.45 percent, for a total of 34.21 percent, of the voting shares of Sentry Bancorp, Inc., Edina, Minnesota, and thereby indirectly acquire Cannon Valley Bank, Dundas Minnesota.

2. *Mark Johnson*, Darwin, Minnesota, acting in concert, to acquire an additional 12.80 percent, for a total of 25.81 percent; Thomas Johnson, Winthrop, Minnesota, acting in concert, to acquire an additional 12.15 percent, for a total of 24.49 percent; Michael Johnson, Litchfield, Minnesota, acting in concert, to acquire an additional 12.37 percent, for a total of 24.93 percent; and Michele Larson, Paynesville, Minnesota, acting in concert, to acquire an additional 12.27 percent, for a total of 24.72 percent, of the voting shares of Darwin Bancshares, Inc., Darwin, Minnesota, and thereby indirectly acquire Farmers State Bank of Darwin, Darwin, Minnesota, and Farmers and Merchants State Bank, Paynesville, Minnesota.

Board of Governors of the Federal Reserve System, November 24, 1995.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 95-29226 Filed 11-29-95; 8:45 am]

BILLING CODE 6210-01-F

**Poca Valley Bankshares, Inc.; Notice of Proposal to Engage de novo in Permissible Nonbanking Activities**

The company listed in this notice has given notice 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.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether commencement of the activity can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of

interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 15, 1995.

A. Federal Reserve Bank of Richmond, (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Poca Valley Bankshares, Inc.*, Walton, West Virginia; to engage *de novo* through its subsidiary, Poca Valley Insurance and Financial Services Co., Inc., Walton, West Virginia, in general insurance agency activities in a town of less than 5,000, pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y; and in discount brokerage activities, pursuant to § 225.25(b)(15) of the Board's Regulation Y. These activities will be conducted throughout the towns of Clendenin, Elkview, and Walton, West Virginia.

Board of Governors of the Federal Reserve System, November 27, 1995.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 95-29277 Filed 11-29-95; 8:45 am]

BILLING CODE 6210-01-F

**FEDERAL TRADE COMMISSION**

**Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules**

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers of acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants

were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

## TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 092595 AND 100695

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Acadia Partners, L.P., MRI Business Properties Fund, Ltd. II, MRI Business Properties Fund, Ltd. II	95-2611	09/25/95
Farmland Industries, Inc., Sunset Limited Partnership, FDL Foods, Inc	95-2616	09/25/95
Greenfield Industries, Inc., Rule Industries, Inc., Rule Industries, Inc	95-2617	09/25/95
The Multicare Companies, Inc., Andrew Panteleakis, Great American Nursing Centers, Inc., Great American Ma	95-2620	09/25/95
Ripplewood Interim Partners, L.P., Landmark Equity Partners III L.P., Edwards Baking Company	95-2623	09/25/95
Mallinckrodt Group Inc., Molecular Biosystems, Inc., Molecular Biosystems, Inc	95-2625	09/25/95
Trust U/W Helen M. Rivoire F/B/O William Ziegler, III, Montedison S.p.A. (an Italian Corporation), Swisher International, Inc	95-2631	09/25/95
Carmike Cinemas, Inc., N.L. Benton, MidContinent Theatre Co. of Minnesota, MidContinent	95-2635	09/25/95
The Duriron Company, Inc., Durametall Corporation, Durametall Corporation	95-2638	09/25/95
James S. Ware, The Duriron Company, Inc., The Duriron Company, Inc	95-2639	09/25/95
IPL Energy Inc., Burlington Resources Inc., Portal Pipe Line Company	95-2644	09/25/95
IMCO Recycling Inc., Alumar Associates, Inc., Alumar Associates, Inc	95-2647	09/25/95
IPL Energy Inc., Loyal Trust No. 1, Portal Pipe Line Company	95-2653	09/25/95
Alco Standard Corporation, Steven P. Cress, Service Packaging Corporation	95-2659	09/25/95
Richard G. Haworth, U.S. Industries, Inc., Office Group America, Inc	95-2666	09/25/95
Odyssey Partners, L.P., Peak Jersey Trust (of Jersey), Elder Leasing Company	95-2670	09/25/95
International Shipholding Corporation, Chas. Kurz & Co., Inc., Intercoastal Bulk Carriers, Inc., Asset	95-2506	09/26/95
Atlantic Richfield Company, Robert S. Howard, Howard Publications, Inc	95-2632	09/26/95
Allen A. Meyer, Mid-America Dairymen, Inc., Flav-O-Rich	95-1478	09/27/95
BancTec, Inc., Recognition International Inc., Recognition International Inc	95-1890	09/27/95
First Data Corporation, First Financial Management Corporation, First Financial Management Corporation	95-1925	09/27/95
Merck & Co., Inc., Rhone-Poulenc S.A., Rhone-Poulenc S.A	95-2474	09/27/95
Rhone-Poulenc S.A., Merck & Co., Inc., Merck & Co., Inc	95-2475	09/27/95
Merck & Co., Inc., Merck & Co., Inc., Merck & Co., Inc	95-2485	09/27/95
Merix Corporation, Hewlett-Packard Company, Printed Circuit Board Operation	95-2508	09/27/95
Rhone-Poulenc S.A., Rhone-Poulenc S.A., Rhone-Poulenc S.A	95-2531	09/27/95
Panhandle Eastern Corporation, Rex Kary, Continental Energy Marketing Ltd	95-2536	09/27/95
James River Corporation of Virginia, Michael T. Kennedy, Winkler cutlery div. of Benchmark Corp. of Delaware	95-2537	09/27/95
Keramik Holding AG Laufen, Phyllis G. Quasha, CeramicUS	95-2552	09/27/95
K N Energy, Inc., Parker & Parsley Petroleum Company, Parker & Parsley Petroleum Company	95-2578	09/27/95
Cardinal Health, Inc., Medicine Shoppe International, Inc., Medicine Shoppe International, Inc	95-2618	09/27/95
The Sherwin-Williams Company, White Lightning Products Corp., White Lightning Products Corp	95-2628	09/27/95
British Steel plc, Avesta Sheffield AB, Avesta Sheffield AB	95-2636	09/27/95
EXEL Limited, Risk Capital Holdings, Inc., Risk Capital Holdings, Inc	95-2652	09/27/95
The Dial Corp., Unigate PLC (a British Company), Giltspur North America, Giltspur Exhibits of Canada	95-2658	09/27/95
Standard Management Corporation, Dixie National Corporation, Dixie National Life Insurance Company	95-2566	09/28/95
Time-Warner Inc., Toshiba Corporation, TAE Holding, Inc	95-2597	09/28/95
Glenn R. Jones, Cable TV Fund 12-D, Ltd., Cable TV Fund 12-D, Ltd Assets	95-2607	09/28/95
Glenn R. Jones, Time Warner, Inc., Time Warner Entertainment Advance/Newhouse Partnership	95-2608	09/28/95
Glenn R. Jones, Jones Cable Income Fund 1-B, Ltd., Jones Cable Income Fund 1-B, Ltd	95-2610	09/28/95
Alexander & Alexander Services Inc., Jardine Matheson Holdings Limited, JIB Holdings Inc	95-2612	09/28/95
Century Communications Corp., AT&T Corp., McCaw Communications of Lafayette, Inc	95-2626	09/28/95
AT&T Corp., Century Communications Corp., Centennial Clay Cellular Corp	95-2627	09/28/95
Golden West Telecommunications Cooperative, Inc., US West, Inc., US West Communications, Inc	95-2629	09/28/95
Interstate Telecommunications Cooperative, Inc., US West, Inc., US West Communications, Inc	95-2630	09/28/95
United Meridian Corporation, Enron Corp., Northern Natural Gas Company	95-2661	09/28/95
Ford Motor Company, Caisse Nationale de Credit Agricole, LCA Holding Corporation	95-2662	09/28/95
DeVlieg-Bullard, Inc., Acme-Cleveland Corporation, The National Acme Company	95-2667	09/28/95
Massachusetts Mutual Life Insurance Company, Connecticut Mutual Life Insurance Company, Connecticut Mutual Life Insurance Company	95-2669	09/28/95
Central and South West Corporation, NORWEB plc, NORWEB plc	95-2710	09/28/95
Houston Industries Incorporated, NORWEB plc, NORWEB plc	95-2713	09/28/95
United HealthCare Corporation, The MetraHealth Companies, Inc., The MetraHealth Companies, Inc	95-2194	09/29/95
Francois Carrette, James D. Levine, Levine-Fricke, Inc	95-2622	09/29/95
Imperial Credit Industries, Inc., Coast Savings Financial, Inc., CoastFed Business Credit Corporation	95-2642	09/29/95
EZ Communications, Inc., Scott R. McQueen, KFKF Broadcasting, Inc	95-2643	09/29/95
EZ Communications, Inc., Randall T. Odeneal, KFKF Broadcasting, Inc	95-2646	09/29/95
Henri Bacou, Carl-Zeiss-Stiftung, Titmus Optical, Inc	95-2648	09/29/95
Francois Carrette, Carl A.P. Fricke, Levine-Fricke, Inc	95-2656	09/29/95
Genesis Health Ventures, Inc., McKerley Health Care Centers, Inc., McKerley Health Care Centers, Inc	95-2660	09/29/95
First Financial Management Corporation, New Valley Corporation, Western Union Data Services Company, Inc	95-2674	09/29/95
Hicking Pentecost PLC (a British Corporation), U.S. Industries, Blue Mountain Industries Assets	95-2683	09/29/95
Carlisle Companies Incorporated, Walker Stainless Equipment Company, Inc., Walker Stainless Equipment Company, Inc	95-2690	09/29/95
The Atlantic Foundation, Marcam Corporation, Marcam Corporation	95-2691	09/29/95
Young Broadcasting Inc., The Prudential Insurance Company of America, Broad Street Television, L.P	95-2694	09/29/95

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 092595 AND 100695—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Henry Schein, Inc., Marvin H. Schein, Schein Dental Equipment Corp .....	95-2701	09/29/95
Fund American Enterprises Holdings, Inc., Carbadon Corporation, Empire of America Realty Credit Corp .....	95-2712	09/29/95
Lomak Petroleum, Inc., Mitsubishi Corporation (a Japanese company), Transfuel, Inc .....	95-2716	09/29/95
Forest Laboratories, Inc., Biovail Corporation International, a Canadian Company, Biovail Laboratories Inc., a Barbados Company .....	95-2727	09/29/95
Donald H. Gales, Paul L. Snyder, II, Olympic Management Systems, Inc .....	95-2730	09/29/95
William H. Gates, III, The Kraus Organization Limited, The Bettmann Archive L.L.C .....	95-2734	09/29/95
Coda Energy, Inc., Snyder Oil Corporation, Snyder Oil Corporation .....	95-2735	09/29/95
Sutter Health, California Healthcare System, California Healthcare System .....	95-2640	10/02/95
CSR Limited, Poly Pipe Industries, Inc., Poly Pipe Industries, Inc .....	95-2673	10/03/95
HIG Investment Group, L.P., ALU Menziken Holding AG, Precise Imports Corporation, PIC Imports Corporation .....	95-2706	10/03/95
Apple South, Inc., DF&R Restaurants, Inc., DF&R Restaurants, Inc .....	95-2733	10/03/95
Marc D. Redus, Apple South, Inc., Apple South, Inc .....	95-2738	10/03/95
David P. Frazier, Apple South, Inc., Apple South, Inc .....	95-2739	10/03/95
Amphenol Corporation, United International Holdings, Inc., United International Holdings, Inc .....	95-2645	10/04/95
B. Wayne Hughes, Storage Equities, Inc., Storage Equities, Inc .....	95-2678	10/04/95
Electronique d2, Quantam Corporation, La Cie, Ltd .....	95-2692	10/04/95
Onset Corporation, Bell Atlantic Corporation, Bell Atlantic Business Systems Services, Inc .....	95-2742	10/04/95
AirTouch Communications, Inc., Cellular Communications, Inc., Cellular Communications, Inc .....	95-2725	10/04/95
Alco Standard Corporation, Thomas I. Altholz, Inlander-Steindler Paper Company .....	95-2726	10/04/95
Philip F. Anschutz, Jeffrey P. Sudikoff, LAK Acquisition Corp., debtor-in-possession .....	95-2764	10/04/95
Philip F. Anschutz, Joseph M. Cohen, LAK Acquisition Corp., debtor-in-possession .....	95-2765	10/04/95
Sisters of Mercy Health Systems, St. Louis, Inc., Columbia/HCA Healthcare Corporation, St. Mary's Hospital of Enid, Oklahoma, Inc .....	95-2570	10/05/95
Knight-Ridder, Inc., Margaret L. Leshar QTIP Trust, Leshar Communications, Inc .....	95-2675	10/05/95
TCW Special Credits Fund V—The Principal Fund, KinderCare Learning Centers, Inc., KinderCare Learning Centers, Inc .....	95-2687	10/05/95
Time Warner Inc., Henry Posner, Jr., Star Cable Associates .....	95-2693	10/05/95
TCA Cable TV, Inc., Time Warner Inc., Time Warner Entertainment Advance/Newhouse Partnership .....	95-2702	10/05/95
Central and South West Corporation, NORWEB plc (a British company), NORWEB plc (a British company) .....	96-0004	10/05/95
Houston Industries Incorporated, NORWEB plc (a British company), NORWEB plc (a British company) .....	96-0005	10/05/95
Francois Pinault, United Auto Group, Inc., United Auto Group, Inc .....	95-2565	10/06/95
North West Water Group PLC, NORWEB plc, NORWEB plc .....	95-2715	10/06/95
McKechnie plc, Desmond J. Toal, DLO Investments, Inc .....	95-2731	10/06/95
Sea Containers Ltd., Marshall S. Cogan, "21" Club, Inc .....	95-2747	10/06/95
ITOCHU Corporation, Stephen L. Hull, Hull Chevrolet, Inc. and First Auto Credit Corporation .....	95-2753	10/06/95
Roger S. Penske, Kmart Corporation, Automotive Service Center Assets .....	95-2759	10/06/95
IES Industries Inc., Mitsubishi Corporation (a Japanese corporation), Transfuel, Inc .....	95-2760	10/06/95
Osborn Jay Call, CENEX, Inc., CENEX, Inc .....	95-2761	10/06/95
Fibreboard Corporation, Andrew M. Spriet, Vytex International Corp. (a Canadian Corp.) .....	95-2768	10/06/95
Maybelline, Inc., Wasserstein Perella Partners, L.P., Intellectual Property Holdings Co .....	95-2776	10/06/95
W.R. Grace & Co., Mobil Corporation, Mobil Corporation .....	95-2800	10/06/95

**FOR FURTHER INFORMATION CONTACT:**

Sandra M. Peay or Renee A. Horton,  
Contact Representatives, Federal Trade  
Commission, Premerger Notification  
Office, Bureau of Competition, Room  
303, Washington, DC 20580, (202) 326-  
3100.

By Direction of the Commission.

Donald S. Clark,  
Secretary.

[FR Doc. 95-29278 Filed 11-29-95; 8:45 am]

BILLING CODE 6750-01-M

**DEPARTMENT OF HEALTH AND  
HUMAN SERVICES**

**Administration for Children and  
Families**

**Agency Information Collection Under  
OMB Review**

Proposed Information Collection  
Submitted for Public Comment and  
Recommendations.

In compliance with the requirements  
of Section 3506(c)(2)(A) of the  
Paperwork Reduction Act of 1995 for  
opportunity for public comment on  
proposed data collection projects, the  
Administration for Children and  
Families (ACF) is publishing the  
following summary(ies). To request  
copies of the proposed collection of  
information write to The Administration  
for Children and Families, OIS, DIRMS,  
338F, 370 L'Enfant Promenade, S.W.,

Washington, D.C. 20447, Attn: ACF  
Reports Clearance Officer.

Comments are invited on: (a) Whether  
the proposed collection of information  
is necessary for the proper performance  
of the functions of the agency, including  
whether the information shall have  
practical utility; (b) the accuracy of the  
agency's estimate of the burden of the of  
the proposed collection of information;  
(c) ways to enhance the quality, utility,  
and clarity of the information to be  
collected; and (d) ways to minimize the  
burden of the collection of information  
on respondents, including through the  
use of automated collection techniques  
or other forms of information  
technology. Consideration will be given  
to comments and suggestions submitted  
within 60 days of this publication.

Proposed Project(s) in determining how effective their policymaking efforts have been over time in applying the various child support legislation to the overall child support enforcement picture. This information will help policymakers determine to what extent individuals on welfare would be removed from the welfare rolls as a result of more stringent child support enforcement efforts.

*Title:* April 1996 Current Population Survey Supplement on Child Support.  
*OMB No.:* 0992-0003.  
*Description:* Collection of these data will assist legislators and policymakers

*Respondents:* Individuals or Households.

Title	No. of respondents	No. of responses per respondent	Average burden per response	Burden
Supplement .....	47,000	1	.0241	1,136

Estimated Total Annual Burden Hours: 1,136.

Dated: November 24, 1995.  
 Roberta Katson,  
*Acting Director, Office of Information Resource Management.*  
 [FR Doc. 95-29195 Filed 11-29-95; 8:45 am]  
**BILLING CODE 4184-01-M**

**Agency Information Collection Under OMB Review**

Proposed Information Collection Submitted for Public Comment and Recommendations  
 In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Administration for Children and Families (ACF) is publishing the following summary(ies). To request

copies of the proposed collection of information write to The Administration for Children and Families, OIS, DIRMS, 338F, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Proposed Project(s)

*Title:* Summary Data Component (SDC) of the National Child Abuse and Neglect Data System (NCANDS)  
*OMB No.:* 0980-0229.

*Description:* The Summary Data Component of the National Child Abuse and Neglect Data System is a voluntary reporting system collection aggregate data from State child protective services agencies on key indicators of reported child abuse and neglect. These data are used to inform policy and program development at the national, State and local levels.

*Respondents:* State, Local or Tribal Govt.

Title	No. of respondents	No. of responses per respondent	Average burden per response	Burden
SDC .....	56	1	30	1,680

Estimated Total Annual Burden Hours: 1,680.

Dated: November 24, 1995.  
 Roberta Katson,  
*Acting Director, Office of Information Resource Management.*  
 [FR Doc. 95-29196 Filed 11-29-95; 8:45 am]  
**BILLING CODE 4184-01-M**

**Food and Drug Administration**

[Docket No. 95N-0026]

**Blood Systems Inc., United Blood Services; Revocation of U.S. License No. 183-009**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 183-009) and the

product licenses issued to Blood Systems, Inc., United Blood Services, now doing business as Blood Systems, Inc., for the manufacture of Whole Blood, Red Blood Cells, Plasma, Cryoprecipitated antihemophilic factor (AHF), Platelets, and Source Leukocytes. Blood Systems, Inc., United Blood Services has several locations; only the Lubbock, TX, location is affected by this revocation. In a letter to FDA dated June 8, 1994, the firm voluntarily requested revocation of its establishment license and product licenses at the Lubbock, TX, location and thereby waived an opportunity for a hearing.

**DATES:** The revocation of the establishment license (U.S. License No. 183-009) and the product licenses became effective July 19, 1994.

**FOR FURTHER INFORMATION CONTACT:** Sharon Carayiannis, Center for Biologics Evaluation and Research (HFM-635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-594-3074.

**SUPPLEMENTARY INFORMATION:** FDA has revoked the establishment license (U.S. License No. 183-009) and the product licenses issued to Blood Systems, Inc., United Blood Services, 2523 48th St., Lubbock, TX 79413, for the manufacture of Whole Blood, Red Blood Cells, Plasma, Cryoprecipitated AHF, Platelets, and Source Leukocytes. The firm's other locations are not affected by this revocation. Blood Systems, Inc., United Blood Services submitted a notice of corporate name change and is now doing business as Blood Systems, Inc.

FDA conducted an inspection of Blood Systems Inc., United Blood

Services, Lubbock, TX, from March 16 through March 25, 1994. The inspection also involved a concurrent investigation which included interviews with individuals knowledgeable about the firm's operations. The inspection and the investigation documented serious deviations from the applicable Federal regulations. Deviations identified in the inspection included, but were not limited to, the following: (1) Failure to collect blood by aseptic methods in a sterile system to protect against contamination (21 CFR 640.4(f)), in that: (a) current and former employees stated in affidavits that on numerous occasions employees broke the sterility barrier of blood containers and drained blood into vacutainer tubes or biohazard containers in order to conceal overbleeds, and (b) employees used an incorrect phlebotomy technique on numerous occasions thereby possibly contaminating the blood collection bags with room air; (2) failure to maintain records of donor adverse reaction reports (21 CFR 606.160(b)(1)(iii)), in that, on numerous occasions, employees did not document mild to moderate donor adverse reactions; (3) failure to follow standard operating procedures to adequately determine donor suitability (21 CFR 606.100(b)(1)), in that employees stated that: (a) donors were not always asked screening questions, such as high risk behavior questions, in order to expedite the donation process, (b) donors were sometimes asked if anything had changed since the last time they donated instead of being asked the required acquired immune deficiency syndrome (AIDS)-related behavior questions, and (c) individuals under the influence of alcohol were accepted as blood donors; and (4) failure to adequately and promptly notify the Director, Center for Biologics Evaluation and Research, of such errors or accidents in the manufacture of products that may affect the safety, purity or potency of any product pursuant to 21 CFR 600.14, in that, all known facts of the incidents involving a phlebotomist who used an incorrect phlebotomy technique, whereby the units may have become contaminated with room air, were not reported to the agency.

FDA determined that the deviations from Federal regulations were significant and constituted a danger to public health, warranting a suspension pursuant to 21 CFR 601.6(a). In a letter to Blood Systems, Inc., United Blood Services, dated June 6, 1994, FDA detailed the violations noted earlier in this document and suspended the firm's establishment and product licenses. In

the same letter, FDA acknowledged receipt of letters dated April 13, April 15, and May 24, 1994, submitted by the firm in response to the Form FDA-483, Inspectional Observations, left at the close of the inspection. FDA concluded that the firm's promises of corrective action were not sufficient based on the seriousness of the documented deviations. It was FDA's view that the establishment and products failed to conform to applicable donor protection standards which are intended to ensure a continuous and healthy donor population, as well as standards designed to ensure the continued safety, purity, potency, and quality of products manufactured.

FDA's letter dated June 6, 1994, also stated that the agency's inspection and investigational findings, including evidence that records were knowingly falsified, demonstrated willfulness on the part of the firm. As a result, pursuant to 21 CFR 601.5(b) the firm was not given additional time to achieve compliance with the regulations. The same letter provided notice that FDA intended to initiate proceedings to revoke U.S. License No. 183-009 and product licenses issued to Blood Systems, Inc., United Blood Services pursuant to 21 CFR 601.5(b) and provided notice of opportunity for a hearing pursuant to 21 CFR 12.21(b). In a letter to FDA dated June 8, 1994, Blood Systems, Inc., voluntarily requested that its licenses for the Lubbock, TX, location be revoked and thereby waived its opportunity for a hearing. In a letter to the firm dated July 13, 1994, FDA acknowledged voluntary revocation of the establishment license (U.S. License No. 183-009) and the aforementioned product licenses of Blood Systems, Inc., United Blood Services at the Lubbock, TX, location only. In the July 13, 1994, letter to the firm, FDA restricted the interstate distribution of autologous units currently in inventory except in documented emergency situations, and permitted the firm to resume collections of allogeneic and autologous blood products intended for distribution within the State of Texas.

FDA has placed copies of letters relevant to the license revocations on file under the docket number found in brackets in the heading of this document in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. These documents are available for public examination in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Accordingly, under section 351 of the Public Health Act (42 U.S.C. 262), 21 CFR 601.5, and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.68), the establishment license (U.S. License No. 183-009) and the product licenses issued to the Lubbock, TX, location of Blood Systems, Inc., United Blood Services for the manufacture of Whole Blood, Red Blood Cells, Plasma, Cryoprecipitated AHF, Platelets, and Source Leukocytes, were revoked, effective July 19, 1994.

This notice is issued and published under 21 CFR 601.8 and under authority delegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.67).

Dated: October 31, 1995.

Michael G. Beatrice,

*Deputy Director, Center for Biologics Evaluation and Research.*

[FR Doc. 95-29220 Filed 11-29-95; 8:45 am]

BILLING CODE 4160-01-F

## Health Resources and Services Administration

### Advisory Council on Nurses Education; Notice of Meeting Cancellation

In Federal Register Document 95-27189 appearing on page 55720 in the issue for Tuesday, November 2, 1995, the December 14-15, 1995, meeting of the "National Advisory Council on Nurse Education and Practice" will be cancelled.

Dated: November 27, 1995.

Jackie E. Baum,

*Advisory Committee Management Officer, HRSA.*

[FR Doc. 95-29260 Filed 11-29-95; 8:45 am]

BILLING CODE 4160-15-P

## National Institutes of Health

### National Institutes of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of the rescheduling of the meeting of the Environmental Health Sciences Review Committee, the notice of which was published in the Federal Register 60 FR 49848 on September 27, 1995. This meeting could not be convened on November 16-17 due to the partial shutdown of the Federal Government. It is rescheduled for December 3-5 at 6:00 p.m., at the Omni Europa Hotel, Chapel Hill, NC, and is closed to members of

the public on the same bases as provided in the initial notice.

Dated: November 28, 1995.  
Susan K. Feldman,  
*Committee Management Officer, NIH.*  
[FR Doc. 95-29343 Filed 11-29-95; 8:45 am]  
BILLING CODE 4140-01-M

### Substance Abuse and Mental Health Services Administration (SAMHSA)

#### Cancellation of Receipt Date for SAMHSA Conference Grant Applications

**AGENCY:** Center for Substance Abuse Prevention and Center for Substance Abuse Treatment, SAMHSA.  
**ACTION:** Cancellation of January 10, 1996 Application Receipt Date.

**SUMMARY:** Pending certainty on the fiscal year 1996 appropriation for SAMHSA, the Center for Substance Abuse Prevention (CSAP) and the Center for Substance Abuse Treatment (CSAT) are canceling the January 10, 1996, receipt date for applications for the following grant programs:  
CSAP's Knowledge Dissemination Conference Grants (CFDA No. 93.174)  
CSAT's Substance Abuse Treatment Conference Grants (CFDA No. 93.218)  
For information regarding future receipt dates or for programmatic assistance, potential applicants should contact the following individuals:  
CSAP: Ms. Luisa del Carmen Pollard, Division of Public Education and Dissemination, CSAP, Rockwall II Building, Suite 800, 5600 Fishers Lane, Rockville, Maryland 20857, Tele: (301) 443-0377.  
CSAT: Ms. Nancy Kilpatrick, Office of Scientific Analysis and Evaluation, CSAT, Rockwall II Building, Suite 840, 5600 Fishers Lane, Rockville, Maryland 20857, Tele: (301) 443-8831.

Dated: November 24, 1995.  
Richard Kopanda,  
*Acting Executive Officer, SAMHSA.*  
[FR Doc. 95-29261 Filed 11-30-95; 8:45 am]  
BILLING CODE 4162-20-P

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Office of the Assistant Secretary for Housing

[Docket No. FR-3917-N-30]

#### Notice of Proposed Information Collection for Public Comment

**AGENCY:** Office of the Assistant Secretary for Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due date: January 29, 1996.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451-7th Street, SW., Room 9116, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Barbara D. Hunter, Telephone number (202) 708-3944 (this is not a toll-free number) for copies of the proposed forms and other available documents.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:*

Section 8 Housing Assistance Payments Program, Additional Assistance Payments Projects with HUD-held Mortgages 24 CFR Part 886, Subpart A, Housing Assistance Payment (HAP)

*OMB Control Number:* 2502-0407.

*Description of the need for the information and proposed use:* The Section 8 Housing Assistance Program, Part 886, Subpart A (Loan Management

Set-Aside Special Allocations), authorized the use of Section 8 assistance in existing multifamily projects with HUD-insured or HUD-held mortgages, including Section 202 projects (except those receiving assistance under 24 CFR part 885) and projects sold by the Department subject to purchase money mortgages. The form HUD-52537, Section 8 HAP Contract (Part I), provides the administrative mechanism to obligate the necessary funds for the financially troubled projects aided under this regulation, a copy of which is attached.

It is also necessary to collect application information using the form HUD-52530 for the Department to evaluate applications for Section 8 Loan Management Set-Aside (LMSA) assistance.

*Agency form numbers:* HUD 52530 and 52537.

*Members of affected public:*

Individuals, households and State/Local Government and Non-Profit Institutions.

An estimation of the total numbers of hours needed to prepare the information collection is 22,642, the number of respondents is 3,126, frequency of response is 1, and the hours of response is 7,243.

Status of the proposed information collection: Extension with change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 7, 1995.  
Nicolas P. Retsinas,  
*A/S Secretary for Housing—Federal Housing Commissioner.*  
[FR Doc. 95-29232 Filed 11-29-95; 8:45 am]  
BILLING CODE 4210-27-M

#### Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. FR-3917-N-31]

#### Notice of Proposed Information Collection for Public Comment

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: January 29, 1996.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street SW., Room 9116, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Oliver Walker, Telephone number (202) 708-1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Master Appraisal Report.

*OMB Control Number:* 2502-0493.

*Description of the need for the information and the proposed use:* Section 203 of the National Housing Act P.L. 479, 48 Stat. 1246, 12 U.S.C. 1701 et seq.) authorizes the Secretary of Housing and Urban Development (HUD) to insure mortgages on application by an approved mortgagee for appraisal and Commitment/Direct Endorsement Statement of Appraised Value on a designated property. The Master Appraisal Report, Form HUD-91322, and accompanying forms HUD-91322.1, 91322.2 and 91322.3 involve only "proposed" construction.

*Agency Form Numbers:* HUD-91322, 91322.1, 91322.2 and 91322.3.

*Members of Affected Public:* Business or other for profit numbers.

An estimation of the total numbers of hours needed to prepare the information

collection is 10,500, number of respondents is 3,500, frequency is dependent upon the occasion of the application and the hour of response is .25 of an hour.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 21, 1995.

Nicolas P. Retsinas,

*A/S Secretary for Housing-Federal Housing Commissioner.*

[FR Doc. 95-29231 Filed 11-30-95; 8:45 am]

**BILLING CODE 4210-27-M**

[Docket No. FR-3917-N-32]

### Notice of Proposed Information Collection for Public Comment

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: January 29, 1996.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Oliver Walker, Telephone number (202) 708-1694 (this is not a toll-free number) for copies of the proposed forms and other available documents.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have

practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Request for Alternative Construction ("No Action Letter") Alternative Construction of Manufactured Homes—24 CFR 3282.14.

*OMB Control Number:* 2502-0295.

*Description of the need for the information and proposed use:* The information is needed by the Department of Housing and Urban Development to permit manufacturers to build homes using alternative construction methods other than those required by the national manufactured home construction and safety standards established by the Secretary and to assure that home purchasers are aware of any use of alternative construction.

*Agency form numbers:* Not applicable.

*Members of affected public:* Home Purchasers.

An estimation of the total numbers of hours needed to prepare the information collection is 770, the number of respondents is 11, frequency of response is on occasion, and the hours of response is 33.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 7, 1995.

Nicolas P. Retsinas,

*A/S Secretary for Housing-Federal Housing Commissioner.*

[FR Doc. 95-29230 Filed 11-29-95; 8:45 am]

**BILLING CODE 4210-27-M**

### Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR-2961-N-06]

### Notice of Proposed Information Collection for Public Comment

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below

will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: January 29, 1996.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451-7th Street, SW, Room 4240, Washington, D.C. 20410-5000.

**FOR FURTHER INFORMATION CONTACT:** Mildred M. Hamman, (202)-708-0846, (This is not a toll-free number.) for copies of the proposed forms and other available documents.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the

proposed collection of information to:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of proposal:* Family Self-Sufficiency Program (FSS).

*OMB control number:* 2577-0178.

*Description of the need for the information and proposed use:* The FSS program will promote the development of local strategies that coordinate the use of public housing assistance and assistance under Section 8 rental certificate and voucher programs with public-private resources to enable eligible families to achieve economic independence and self-sufficiency.

Housing agencies will enter into a Contract of Participation with each eligible family that opts to participate in the program; consult with local officials to develop an Action Plan; and report annually to HUD on implementation of the FSS program.

*Agency form numbers, if applicable:* HUD-52650 and HUD-52652.

*Members of affected public:* Individuals or households, State or Local Government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 660 respondents, annually and on occasion, 2.26 average hours per response, 84,150 hours for a total reporting burden.

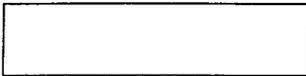
*Status of the proposed information collection:* Reinstatement of a Previously Approved Collection for Which Approval has Expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 22, 1995.

Kevin Emanuel Marchman,  
*Deputy Assistant Secretary for Distressed and Troubled Housing Recovery.*

**BILLING CODE 4210-33-M**



7420.8

**Family Self-Sufficiency Program  
Contract of Participation**

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

Section 8, Public Housing and Indian Housing Programs  
(See the Instructions page for the Public Reporting and Privacy Act Statements)

OMB Approval No. 2577-0178 (exp. 6/30/95)

This Contract of Participation for the Family Self-Sufficiency (FSS) Program is between

\_\_\_\_\_, Housing Agency (HA),  
and

\_\_\_\_\_, head of the FSS family.

The FSS family includes everyone in the household, and is referred to in this contract as "family".

**Type of FSS Program.**

The family is a participant in the:(Check only one)

- Section 8 Rental Certificate or Rental Voucher FSS Program
- Public Housing FSS Program
- Indian Housing FSS Program

If the family is participating in the Section 8 program and moves outside the HA's jurisdiction under Section 8 portability procedures, the HA may transfer the balance of the family's FSS escrow account to another HA.

**Withdrawal of Funds from FSS Escrow Account**

The HA may permit the family to withdraw funds from the FSS escrow account before completion of the contract if the family has completed specific interim goals, designated by the HA, and needs some of the FSS escrow account funds to complete the contract (example: to pay for school costs).

**Purpose of Contract**

The purpose of this contract is to state the rights and responsibilities of the family and the HA, the resources and supportive services to be provided to the family, and the activities to be completed by the family.

The HA will pay the head of the family the amount in the family's FSS escrow account, less any amount owed to the HA, when:

**Term of Contract**

This contract will be effective on \_\_\_\_\_  
This contract will expire on \_\_\_\_\_

- (1) the HA determines that the family has completed this contract, and,
- (2) at the time of contract completion, the head of the family provides written certification to the HA that no member of the family is receiving welfare assistance. Welfare assistance means income assistance from Federal or state welfare programs including AFDC, SSI that is subject to an income eligibility test, Medicaid, food stamps, and general assistance. Welfare assistance does not include transitional Medicaid or child care for JOBs participants or SSI payments to guardians of disabled children.

The HA can extend the term of the contract up to 2 years if the family gives the HA a written request for an extension and the HA finds that good cause exists for the extension.

If the head of the family leaves the assisted unit, the remaining family members may, after consulting the HA, name another family member to receive the FSS escrow account funds.

**Resources and Supportive Services**

During the term of the contract, the HA will try to provide the resources and services listed in the individual training and services plans. If the resources and services are not available, the HA will try to substitute other resources and services. However, the HA has no liability to the family if the resources and services are not provided.

**Loss of FSS Escrow Account**

- The family will not receive the funds in its FSS escrow account if:
- (1) the contract of participation is terminated,
  - (2) the contract of participation is declared null and void; or
  - (3) the family has not met its family responsibilities within the times specified as stated in this contract.

**FSS Escrow Account**

The HA will establish an FSS escrow account for the family. A portion of the increases in the family's rent because of increases in earned income will be credited to the FSS escrow account in accordance with HUD requirements.

**Family Responsibilities**

The head of the family must:

Listed below are the family's annual income, earned income, and family rent when the family begins the FSS program. These amounts will be used to determine the amount credited to the family's FSS escrow account because of future increases in earned income.

Annual Income \$ \_\_\_\_\_  
 Earned Income \$ \_\_\_\_\_  
 Family Rent (Total Tenant Payment or, for rental vouchers, 30% of monthly Adjusted Income) \$ \_\_\_\_\_

Seek and maintain suitable employment after completion of the job training programs listed in the individual training and services plan. The HA, after consulting with the head of the family, will determine what employment is suitable based on the skills, education, and job training of that individual and available job opportunities in the area.

The HA will invest the FSS escrow account funds in HUD-approved investments.

The head of the family and those family members who have decided, with HA agreement, to execute an individual training and services plan, must:

The HA will give the family a report on the amount in the family's FSS escrow account at least once a year.

Complete the activities within the dates listed in each individual training and services plan.

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Provide the HA and HUD with information about the family's participation in the FSS program in order to help the HA and HUD evaluate the FSS program. This could include information regarding employment, job interviews, training, educational attendance, and other FSS services and activities.

**All family members must:**

Comply with the terms of the lease.

If receiving welfare assistance, become independent of welfare assistance and remain independent of welfare assistance for at least 12 consecutive months before the contract expires.

If participating in the Section 8 program, live in the jurisdiction of the HA that enrolled the family in the FSS program at least 12 months from the effective date of this contract and comply with the family obligations under the Section 8 rental certificate or rental voucher program.

**Corrective Actions for Failure to meet Family Responsibilities**

If any member of the family does not meet his or her responsibilities under this contract, the family will not receive the money in its FSS escrow account and the HA may:

- (1) stop supportive services for the family,
- (2) terminate the family's participation in the FSS program, and
- (3) if the family is participating in the rental certificate or rental voucher program, terminate the Section 8 assistance, when allowed by HUD requirements.

**HA Responsibilities**

Attempt to obtain commitments from public and private sources for supportive services for families.

Establish an FSS escrow account for the family, invest the escrow account funds, and give the family a report on the amount in the FSS escrow account at least once a year.

Determine which, if any, interim goals must be completed before any FSS escrow funds may be paid to the family; and pay a portion of the FSS escrow account to the family if the HA determines that the family has met these specific interim goals and needs the funds from the FSS escrow account to complete the contract.

Determine if the family has completed this contract.

Pay the family the amount in its FSS escrow account, if the family has completed the contract and the head of the family has provided written certification that no member of the family is receiving welfare assistance.

**Completion of the Contract of Participation**

Completion of the contract occurs when the HA determines that:

- (1) the family has fulfilled all of its responsibilities under the contract; or
- (2) 30 percent of the family's monthly adjusted income equals or is greater than the Fair Market Rent amount for the unit size for which the family qualifies.

**Termination of the Contract of Participation**

The HA may terminate this contract if:

- (1) the family and the HA agree to terminate the contract;
- (2) the HA determines that the family has not fulfilled its responsibilities under this contract;
- (3) the family withdraws from the FSS program;
- (4) an act occurs that is inconsistent with the purpose of the FSS program; or
- (5) the HA is permitted in accordance with HUD requirements.

The HA may declare this contract null and void if the resources and services necessary to complete the contract are not available.

The HA must give a notice of termination or nullification to the head of the family. The notice must state the reasons for the HA decision to terminate or nullify the contract.

If the contract is terminated or declared null and void, the family has no right to receive funds from the family's FSS escrow account. The HA must close the family's FSS escrow account and may use the funds for purposes in accordance with HUD requirements.

If the family is participating in the Section 8 program, the HA will terminate the contract if the family moves outside the HA's jurisdiction under Section 8 portability procedures and enters the FSS program of another HA.

If the family is participating in the Section 8 program, this contract is automatically terminated if the family's section 8 assistance is terminated in accordance with HUD requirements.

**Conflict with the Public or Indian Housing Lease**

If part of this contract conflicts with the public or Indian housing lease, the lease will prevail.

**Compliance with HUD Regulations and Requirements**

The contract of participation must be interpreted and administered in accordance with HUD regulations and requirements. Terms and figures, such as the income and rent amount on page 1, are subject to correction by the HA for compliance with HUD regulations and requirements. The HA must notify the family in writing of any adjustments made to the contract.

**Signatures:**

**Family**

\_\_\_\_\_  
(Signature of head of family)

\_\_\_\_\_  
(Date Signed)

**Housing Agency**

\_\_\_\_\_  
(Name of HA)

\_\_\_\_\_  
(Signature of HA Official)

\_\_\_\_\_  
(Official Title)

\_\_\_\_\_  
(Date Signed)

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**HA Instructions for Executing the FSS Contract of Participation**

OMB Approval No. 2577-0178 (exp. 6/30/95)

Public reporting burden for this collection of information is estimated to average 1.0 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 Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0178), Washington, D.C. 20503. Do not send this completed form to either of these addresses.

Sensitive Information: The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained.

**Parties to the Contract/Signatures**

The head of the participating family must be the adult member of the family who is the head of the household for income eligibility and rent purposes.

**Term of Contract**

The effective date is the first day of the month following the date the contract was signed by the family and the HA's representative.

The expiration date is five years from the effective date of the contract.

If the HA decides to extend the term of the contract, the original expiration date listed on page one of the contract must be crossed out and the new expiration date added.

If a family moves under Section 8 portability procedures and is going to participate in the receiving HA's FSS program, the effective date of the contract between the family and the receiving HA is the first day of the month following the date the contract was signed by the family and the HA's representative. The expiration date of the contract between the receiving HA and the family must be the same as the expiration date of the contract between the initial HA and the family.

**FSS Escrow Account**

The income and rent numbers to be inserted on page one may be taken from the amounts on the last reexamination or interim determination before the family's initial participation in the FSS program, unless more than 120 days will pass between the effective date of the reexamination and the effective date of the contract of participation. If it has been more than 120 days, the HA must conduct a new reexamination or interim redetermination.

If a family moves under Section 8 portability procedures and is going to participate in the receiving HA's FSS program, the receiving HA must use the amounts listed for annual income, earned income, and family rent on page one of the contract between the initial HA and the family.

**Changes to the Contract**

This contract of participation can only be changed to modify the contract term, the head of the family, or the individual training and services plans.

Any change of the head of the family under the contract must be included as an attachment to the contract. The attachment must contain the name of the new designated head of the family, the signatures of the new head of the family and an HA representative, and the date signed.

Any change/s to an individual training and services plan must be included as a revision to the individual training and services plan (attachment) to which the change applies. The revision must include the item changed, signatures of the participant and an HA representative, and the date signed.

For extensions to the contract term, see the "Term of Contract" section.

If, twelve months after the effective date of the contract, a family in the Section 8 FSS program moves outside of the HA's jurisdiction under Section 8 portability procedures, an HA may take one of the following actions:

(1) The initial HA may permit the family to continue to participate in its FSS program, if the family demonstrates to the initial HA's satisfaction that it can meet the family responsibilities of the contract in the new location. In this case, the existing contract remains in effect with no change. The initial HA must transfer the family's FSS escrow account balance when the family is absorbed by the receiving HA.

(2) The receiving HA may permit the family to participate in its FSS program. If so, the initial HA must terminate its contract with the family. The initial HA must also transfer the family's FSS escrow account balance when the family is absorbed by the receiving HA. The receiving HA will execute a new contract with the family.

(3) In cases where the family cannot fulfill its family obligations in the new location, and the receiving HA does not permit the family to participate in its FSS program, the contract between the initial HA and the family shall terminate and the family will lose the funds in its FSS escrow account.

**Individual Training and Services Plans**

The contract must include an individual training and services plan for the head of the family. Other family members age eighteen and older may choose to execute an individual training and services plan if agreed to by the HA.

The resources and supportive services to be provided to each family member must be listed in the individual training and services plans which are attachments to the contract of participation.

Page one of each participant's individual training and services plan includes space for the final goal and the first interim goal needed to achieve the final goal. The additional pages provide a format for recording each interim goal and specific information related to its achievement. The first page of each participant's plan must be signed by the participant and an HA representative.

Interim goals must be specified along with the activities and services needed to achieve them. For example, a single mother with two children who has an interim goal of completing her secondary education might require several different activities and services to achieve that goal. These could include transportation, tutoring, and child care.

All completion dates included in the individual training and services plan/s must be on or before the contract of participation expires.

One of the interim goals for families receiving welfare assistance is to become independent of welfare assistance for at least twelve consecutive months before the end of the contract. Any family that is receiving welfare assistance must have this included as an interim goal in the head of the family's individual training and services plan.

The final goal listed on the individual training and services plan of the head of the family must include getting and maintaining suitable employment specific to that individual's skills, education, job training, and the available job opportunities in the area.

**Incentives**

If the HA has chosen to offer other incentives in connection with the FSS program, these incentives may be included in the individual training and services plans or as an attachment to this contract.

Previous Editions are Obsolete

form HUD-52650 (5/93)  
ref. Handbook 7420.8

## Family Self-Sufficiency Program FSS Escrow Account Credit Worksheet

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

(See back for Public reporting and Sensitive Information statement)

OMB Approval No. 2577-0178 (exp. 6/30/95)

**Escrow credit must be determined at each reexamination and interim determination occurring after the effective date of the FSS Contract of Participation while the family is participating in the FSS program.**

Head of the FSS family	Date
1. Current Annual Income (Enter amount on line 5 of form HUD-50058.)	1.
2. Applicable Lower-Income Limit (Enter the current lower-income limit for the jurisdiction in which the FSS family is living.)	2.
3. Current Adjusted Income (Enter amount on line 10b of form HUD-50058.) <b>If line 3 is greater than line 2, this family does not qualify for an FSS credit.</b>	3.
4. Earned income included in line 1 (Add up the income items coded B, M, F, and W in column 3a of form HUD-50058.)	4.
5. Earned income included in Annual Income on effective date of the FSS Contract of Participation. (Enter amount from contract of participation.)	5.
6. Increase in earned income since the effective date of the FSS Contract of Participation. (Subtract line 5 from line 4. If negative, enter 0.)	6.
7. Current Annual Income less increase in earned income since the effective date of the FSS Contract of Participation. (Subtract line 6 from line 1.)	7.
8. Thirty percent of current monthly Adjusted Income (Line 3 divided by 40. The calculated amount should equal the amount on line 11 of form HUD-50058.)	8.
9. Current Adjusted Income less increase in earned income since the effective date of the FSS Contract of Participation. (Subtract line 6 from line 3.)	9.
10. 30% of current monthly Adjusted Income less increase in earned income since the effective date of the FSS Contract of Participation. (Line 9 divided by 40)	10.
11. 10% of current monthly Annual Income less increase in earned income since the effective date of the FSS Contract of Participation. (Line 7 divided by 120)	11.
12. If applicable, welfare rent (enter amount on line 13 of form HUD-50058) or public housing ceiling rent (enter amount on line 16a of form HUD-50058)	12.
13. TTP based on current Annual Income less increase in earned income since effective date of the FSS Contract of Participation. (If rental vouchers, enter the amount on line 10, otherwise, enter the greater of line 10, 11, or 12.)	13.
14. Difference between 30% of current monthly Adjusted Income and TTP adjusted for increases in earned income. (Subtract line 13 from line 8. Enter 0 if negative.)	14.
15. Current TTP (Enter the amount on line 16b of form HUD-50058 or, in the case of rental vouchers, enter the amount on line 8 of this form.)	15.
16. TTP on effective date of the FSS Contract of Participation or, in the case of rental vouchers, 30% of monthly Adjusted Income on effective date of the FSS Contract of Participation. (Enter amount from contract of participation.)	16.
17. Difference between current TTP and TTP on effective date of the FSS Contract of Participation. (Subtract line 16 from line 15. Enter 0 if negative.)	17.
18. Enter the lesser of line 14 or line 17.	18.
19. Applicable Very Low-Income Limit (Enter the current very low-income limit for the jurisdiction in which the FSS family is living.)	19.
20. Amount by which Adjusted Income exceeds the Very Low-Income Limit (Subtract line 19 from line 3.)	20.
21. 30% of the amount by which Adjusted Income exceeds the Very Low-Income Limit (Line 20 divided by 40)	21.
22. Escrow credit (Subtract line 21 from line 18.)	22.

This HUD form is optional and is used here to illustrate the process. PHAs may develop their own FSS Worksheet.

Previous Editions are Obsolete

form HUD-52652 (12/93)  
ref. Handbook 7420.8

**Instructions for Completing the FSS Escrow Account Credit Worksheet**

**Public reporting burden** for this collection of information is estimated to average 1.0 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 Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2577-0178), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

**Sensitive information:** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained.

**General Instructions:**

1. An escrow credit must be determined at each reexamination and interim determination occurring after the effective date of the FSS contract of participation while the family is participating in the FSS program.
2. The amount of the escrow credit can be calculated using Form HUD-52652, or another document which incorporates the procedures in Form HUD-52652.
3. The amount of the escrow credit will vary depending on the income level of each FSS family and is based on increases of **earned** income since the effective date of the contract of participation. If the family's adjusted income exceeds the lower-income limit in the jurisdiction in which the FSS family is living (the amount on line 3 is greater than the amount on line 2), the family does not qualify for an escrow credit. In such cases, line 4 - line 22 of Form HUD-52652 will not be completed.

Previous Editions are Obsolete

form HUD-52652 (12/93)  
ref. Handbook 7420.8

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****Endangered and Threatened Species Permit Application**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

PRT-808510

*Applicant:* Charles R. Bomar, Department of Biology, University of Wisconsin-Stout, Menomonie, Wisconsin.

The applicant requests a permit to take (capture and release; collect if accidentally killed) Karner Blue Butterflies (*Lycaeides melissa samuelis*) in Western Wisconsin as part of a study to monitor insect populations on restored prairies.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056. Telephone: (612/725-3536 x250); FAX: (612/725-3526).

Dated: November 24, 1995.

Matthias A. Kerschbaum,

*Acting Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.*

[FR Doc. 95-29221 Filed 11-29-95; 8:45 am]

**BILLING CODE 4310-55-M**

**Endangered and Threatened Species Permits Issued**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of Permits Issued for the Months of June, July, August, and September 1995.

Notice is hereby given that the U.S. Fish and Wildlife Service has taken the following action with regard to permit applications duly received in accordance with section 10 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1539, *et seq.*). Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the endangered species, and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

Name	Permit No.	Date issued
TAMS Consultants, Inc .....	801466	6/23/95
The Nature Conservancy .....	801467	7/25/95
Ross, Tamara .....	801463	8/4/95
3D/Environmental .....	802776	8/11/95
Ohio Historical Society .....	801465	8/17/95
Malacological Consultants .....	801471	8/21/95
Whitaker, John .....	802777	8/24/95
Assistant Regional Director, USFWS .....	<sup>1</sup> 697830	8/30/95
Woodward-Clyde Consultants .....	805737	9/27/95

<sup>1</sup> Amendment.

Additional information on these permit actions may be requested by contacting the U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056, telephone 612/725-3536 x250, during normal business hours (7:30 a.m.-4:00 p.m.) weekdays.

Dated: November 24, 1995.

Matthias A. Kerschbaum,

*Acting Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.*

[FR Doc. 95-29222 Filed 11-29-95; 8:45 am]

BILLING CODE 4310-55-M

### Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of

1973, *as amended* (16 U.S.C. 1531, *et seq.*):

*Applicant:* Hornocker Wildlife Research Institute, Moscow, ID, PRT-808113

The applicant has requested a permit to import blood and tissue samples from free-living Siberian tiger (*Panthera tigris altaica*), and Amur leopard (*Panthera pardus orientalis*) and salvaged tissue samples as available from carcasses of the same species for the purpose of enhancement of the species through scientific research.

*Applicant:* Ellen Trout Zoo, Lufkin, TX, PRT-808918

The applicant requests a permit to export a female captive-born jaguar (*Panthera onca*) to Belize Zoo, Belize City, Belize for the purpose of enhancement of the species through captive breeding and conservation education.

*Applicant:* Ing. Loro Piana Company, New York, NY, PRT-808449

The applicant request a permit to import and re-export products of vicuna (*Vicugna vicugna*) from Lanificio Ing. Loro Piana & Co. S.P.A., Italy for the purpose of enhancement of the survival of the species through conservation education. The products imported and re-exported for this activity are for display purposes only and are not authorized to be sold, traded, bartered, or donated.

*Applicant:* The Denver Zoological Gardens, Denver, CO, PRT-807412

*Type of Permit:* Import for scientific research

*Name and Number of Animals:* Polar Bear (*Ursus maritimus*)

*Summary of Activity to be*

*Authorized:* The applicant has requested a permit to import up to 70 serum and/or milk samples surplus to the needs of Canadian scientific research projects and which have been freezer-banked in Canada for the purpose of scientific research.

*Source of Marine Mammals for Research/Public Display:* Canada as described above.

*Period of Activity:* Up to five years from issuance of a permit, if issued.

*Applicant:* Point Defiance Zoo and Aquarium, Tacoma, WA, PRT-808562

*Type of Permit:* Public display  
*Name and Number of Animals:* Polar bear (*Ursus maritimus*), 1

*Summary of Activity to be*

*Authorized:* The applicant has requested a permit to maintain one female polar bear, recovered as a stranded/orphaned animal in Alaska, for the purposes of public display.

*Source of Marine Mammals for Research/Public Display:* Northern Alaska (stranded/orphaned animal approximately 10 months old)

*Period of Activity:* indefinite

Concurrent with the publication of this notice in the Federal Register, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: November 24, 1995.

Caroline Anderson,

*Acting Chief, Branch of Permits, Office of Management Authority.*

[FR Doc. 95-29208 Filed 11-29-95; 8:45 am]

BILLING CODE 4310-55-P

## Bureau of Land Management

[MT-921-06-1320-01-P; MTM 83859]

### Notice of Amended Coal Lease Application—MTM 83859—Spring Creek Coal Company

**AGENCY:** Bureau of Land Management, Department of the Interior.

**ACTION:** Notice.

**SUMMARY:** This is notice of an amendment to Spring Creek Coal Company's Coal Lease Application MTM 83859 for certain coal resources within the Powder River Coal Region.

The land included in Amended Coal Lease Application MTM 83859 is located in Big Horn County, Montana, and is described as follows:

T. 8 S., R. 39 E., P.M.M.

Sec. 22: E $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$

Sec. 25: SW $\frac{1}{4}$ SW $\frac{1}{4}$

Sec. 26: S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
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T. 8 S., R. 40 E., P.M.M.

Sec. 30: S $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ ,

S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$

The 320.00-acre tract contains an estimated 37.8 million tons of recoverable coal reserves.

The application will be processed in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181, *et seq.*), and the implementing regulations at 43 CFR 3400. A decision to allow leasing of the coal resources in said tract will result in a competitive lease sale to be held at a time and place to be announced through publication pursuant to 43 CFR 3422.

**SUPPLEMENTARY INFORMATION:** Notice of the initial application was published in the Federal Register (60FR26452) on Wednesday, May 17, 1995. The supplementary information provided in said publication continues to apply.

**NOTICE OF AVAILABILITY:** The application and amendment are available for review between the hours of 9 a.m. and 4 p.m. at the Bureau of Land Management, Montana State Office, 222 North 32nd Street, Billings, Montana 59101, and at the Bureau of Land Management, Miles City District Office, whose address is Garryowen Road, Miles City, Montana 59103, between the hours of 7:45 a.m. and 4:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Ed Hughes telephone 406-255-2830, Bureau of Land Management, Montana State Office, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107-6800.

Dated: November 21, 1995.

Thomas P. Lonnie,

*Deputy State Director, Division of Resources.*

[FR Doc. 95-29236 Filed 11-29-95; 8:45 am]

BILLING CODE 4310-DN-P

[MT-925-06-1020-00]

### Notice of Intent To Modify Management Plans and To Prepare an Environmental Impact Statement (EIS) To Address Standards for Rangeland Health and Guidelines for Grazing Management; Montana, North Dakota, and South Dakota

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management (BLM) in Montana, North Dakota, and South Dakota intends to modify existing management plans and to conduct appropriate National Environmental Policy Act (NEPA) analysis to address standards for rangeland health and guidelines for grazing management, as required by BLM grazing regulations (43 CFR Part 4100). Public comment is sought on the issues and alternatives to be considered, and on suggested standards and guidelines.

**DATES:** Comments will be accepted throughout the process of modifying plans and conducting NEPA analysis. However, comments received after January 19, 1996, may not be reflected in the alternatives considered in the draft EIS or other NEPA analysis.

**ADDRESSES:** Comments and requests for additional information should be addressed to Dan Lechefskey, Planning Team Leader, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107, 406-255-2919.

**SUPPLEMENTARY INFORMATION:** The BLM's new grazing administration regulations (43 CFR Part 4100), which became effective August 21, 1995, provide for the development of standards for rangeland health and guidelines for grazing management. These standards and guidelines are to be developed through BLM planning and NEPA processes. Incorporating standards and guidelines into existing plans will require some form of plan modification, ranging from simple plan maintenance to plan amendment. Management plans to be modified are: Big Dry, Billings, Dillon, Headwaters, Judith, North Dakota, Phillips, Powder River, South Dakota, Valley, and West HiLine. The Garnet Resource Management Plan will also be modified to incorporate standards and guidelines,

although through a separate process tied to an ongoing regional assessment and environmental analysis for the Upper Columbia River Basin being conducted jointly by the BLM and Forest Service.

At this point in time, it is unclear what level of plan modification (maintenance or amendment) and NEPA analysis will be needed. Should further scoping and development of the proposed action and alternatives indicate that an EIS is not needed, NEPA analysis will be accomplished through preparation of an environmental assessment.

Resource Advisory Councils in Montana and the Dakotas will be consulted during the development of proposed standards and guidelines. This notice invites additional public comment on the issues to be addressed and alternatives to be considered in the EIS or other NEPA analysis. Issues preliminarily identified include: the effect that adoption of standards will have on resource conditions, uses, and users of public land, and the effect that adoption of guidelines will have on grazing management and livestock operations. Three preliminary alternatives have been identified: the continuation of current management as provided for in existing management plans, the adoption of the fallback standards and guidelines contained in the regulations, and the adoption of standards and guidelines developed in consultation with Resource Advisory Councils for Montana and the Dakotas.

Dated: November 24, 1995.

Randy D. Heuscher,

*Acting Deputy State Director, Division of Resources.*

[FR Doc. 95-29234 Filed 11-29-95; 8:45 am]

BILLING CODE 4310-DN-P

[CO-070-06-1020-00-241A]

#### **Northwest Colorado Resource Advisory Council Meeting**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Meeting.

**SUMMARY:** Notice is hereby given that the next meeting of the Northwest Colorado Resource Advisory Council will be held on Tuesday, December 12, 1995, in Meeker, Colorado.

**DATES:** The meetings is scheduled for Tuesday, December 12, 1995.

**ADDRESS:** For further information, contact Lynda Boody, Bureau of Land Management (BLM), Grand Junction District Office, 2815 H Road, Grand Junction, Colorado 81506; Telephone (970) 244-3000; TDD (970) 244-3011.

**SUPPLEMENTARY INFORMATION:** The meeting is scheduled to begin Tuesday at 8:30 a.m. in the Conference Room at the Bureau of Land Management Office, 73544 Highway 64, Meeker, CO 81641. The agenda for this meeting will focus on ecosystem training and general Council business.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the Grand Junction/Craig District Manager.

Summary minutes for the Council meeting will be maintained in the Grand Junction and Craig District Offices and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: November 22, 1995.

Mark T. Morse,

*Grand Junction/Craig District Manager.*

[FR Doc. 95-29239 Filed 11-29-95; 8:45 am]

BILLING CODE 4310-70-P

[NV-930-1430-01; NVN 20972]

#### **Termination of Recreation and Public Purpose Classification and Opening Order, Nevada**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice terminates existing Recreation and Public Purposes Classification N 20972 in its entirety and opens the land to appropriation under the public land laws and general mining laws, subject to any valid existing rights.

**EFFECTIVE DATE:** November 30, 1995.

**FOR FURTHER INFORMATION CONTACT:**

Charles J. Kihm, Bureau of Land Management, Carson City District, 1535 Hot Springs Road, Carson City, Nevada 89706, (702) 885-6000.

**SUPPLEMENTARY INFORMATION:** On June 2, 1984, the public lands described below were classified as suitable for lease and sale under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, 869-1 to 869-4).

Mount Diablo Meridian, Nevada

T. 16 N., R. 22 E.,

Sec. 16, NW<sup>1</sup>/<sub>4</sub> of Lot 2.

The area described contains 10.81 acres in Lyon County.

On July 25, 1984, the subject lands were leased for a fire station and park

to Lyon County for a five year period with right of renewal. The lease was subsequently renewed for five years until July 24, 1994, at which time the lease expired and was not renewed. The classification no longer serves any purpose; accordingly, pursuant to section 7 of the Taylor Grazing Act (48 Stat. 1272) and the authority delegated by Appendix 1 of the Bureau of Land Management 1203 Manual, the aforementioned Recreation and Public Purposes classification is hereby terminated.

At 10:00 a.m. on November 30, 1995, the above described land will become open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws, rules and regulations.

At 10:00 a.m. on November 30, 1995, the above described land will become open to location under the United States mining laws. Appropriation of the land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

This land has been and will remain open to the operation of the Recreation and Public Purposes Act, and to leasing under the mineral leasing laws.

Dated: November 13, 1995.

John O. Singlaub,

*District Manager, Carson City.*

[FR Doc. 95-29211 Filed 11-29-95; 8:45 am]

BILLING CODE 4310-HC-M

[AZ-040-1430-06-00; AZA-28238 and AZA 29330]

#### **Notice of Realty Action; Proposed Sale of Public Lands; Arizona**

**AGENCY:** Bureau of Land Management, Safford District, Arizona.

**ACTION:** Notice.

**SUMMARY:** The following lands in Cochise County, Arizona have been found suitable for sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713) at not less than the appraised fair market value. The land

will not be offered for sale until at least 60 days after the date of this notice

Gila and Salt River Meridian, Arizona

T. 23 S., R. 24 E., (AZA 28238)

Sec. 8, lot 6.

The area described contains 0.1 acre.

T. 19 S., R. 25 E., (AZA 29330)

All public land in sections 17, 18 and 20.

The area described contains 650 acres, more or less.

**SUPPLEMENTARY INFORMATION:** Upon publication of this notice in the Federal Register, the lands will be segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action or 270 days from the date of publication of this notice, whichever occurs first.

The land is being offered for sale under modified competitive bidding procedures which will allow designated bidders to meet the apparent high bid after a competitive offering. If a determination is reached that the subject parcels contain no known mineral values, the mineral interests may be conveyed simultaneously under section 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2757, 43 U.S.C. 1719). Detailed information concerning sale procedures, specific conditions and reservations will be available to interested parties from the Safford District Office, Bureau of Land Management, 711 14th Avenue, Safford, Arizona 85546.

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 District Manager, Safford District, at the above address. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: November 21, 1995.

Frank L. Rowley,

*Acting District Manager.*

[FR Doc. 95-29210 Filed 11-29-95; 8:45 am]

**BILLING CODE 4310-32-M**

#### [CA-942-5700-00]

#### Filing of Plats of Survey; California

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

**EFFECTIVE DATE:** Unless otherwise noted, filing was effective at 10 a.m. on the

next federal work day following the plat acceptance date.

#### FOR FURTHER INFORMATION CONTACT:

Lance J. Bishop, Acting Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2800 Cottage Way, Room E-2845, Sacramento, CA 95825, 916-979-2890.

**SUPPLEMENTARY INFORMATION:** The plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, CA.

Mount Diablo Meridian, California

T. 5 N., R. 11 E.—Supplemental plat of the SE $\frac{1}{4}$  of section 35, accepted October 12, 1995, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 21 S., R. 32 E.—Dependent resurvey and subdivision of sections, (Group 1225) accepted October 24, 1995, to meet certain administrative needs of the U.S. Forest Service, Sequoia National Forest.

T. 22 S., R. 32 E.—Dependent resurvey and subdivision of sections, (Group 1226) accepted October 24, 1995, to meet certain administrative needs of the U.S. Forest Service, Sequoia National Forest.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: November 20, 1995.

Lance J. Bishop,

*Acting Chief, Branch of Cadastral Survey.*

[FR Doc. 95-29212 Filed 11-29-95; 8:45 am]

**BILLING CODE 4310-40-M**

#### [ID-957-1420-00]

#### Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., November 22, 1995.

The supplemental plat, prepared to correct the value of the latitude at the southeast corner of section 12, T. 10 S., R. 18 E., Boise Meridian, Idaho, was accepted November 22, 1995.

All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: November 22, 1995.

Duane E. Olsen,

*Chief Cadastral Surveyor for Idaho.*

[FR Doc. 95-29213 Filed 11-29-95; 8:45 am]

**BILLING CODE 4310-GG-M**

#### [CA-050-1430-00; CACA 36304]

#### Notice of Proposed Withdrawal and Opportunity for Public Meeting; California

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management proposes to withdraw 150 acres, more or less, of public lands and 1,132 acres, more or less, of non-federal lands along Clear Creek to protect the natural, recreational, scenic, and historic values associated with the Clear Creek Acquisition Area. This notice closes the public lands for up to two years from mining. The lands will remain open to mineral leasing and the Materials Act of 1947.

**DATE:** Comments and requests for meeting should be received on or before February 28, 1996.

**ADDRESS:** Comments and meeting requests should be sent to the California State Director (CA-931), BLM, 2800 Cottage Way, Room E-2845, Sacramento, California 95825.

**FOR FURTHER INFORMATION CONTACT:** Duane Marti, BLM California State Office, 916-979-2858 or Michael Truden, BLM Redding Resource Area Office, 916-224-2100.

**SUPPLEMENTARY INFORMATION:** On November 8, 1995, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described lands from settlement, sale, location or entry under the United States mining laws (30 U.S.C. Ch.2), subject to valid existing rights:

Mount Diablo Meridian

T. 31 N., R. 4 W.,

Sec. 30, that portion of an unsurveyed island in the Sacramento River,

Sec. 31, lots 1 and 2, and that portion of an unsurveyed island in the Sacramento River,

Sec. 32, lots 4 to 8, inclusive, and that portion of an unsurveyed island in the Sacramento River.

T. 31 N., R. 6 W.,

Sec. 15, lots 17 and 18,

Sec. 36, lots 5, and 7 to 10, inclusive.

The areas described aggregate 150 acres, more or less, in Shasta County.

The petition was also approved allowing the Bureau of Land Management to file an application to

withdraw the following described non-Federal lands (private surface and private minerals). In the event the non-Federal lands (private surface and private minerals) return to Federal ownership, the lands would become subject to the withdrawal.

#### Mount Diablo Meridian

(A). Surveyed lands previously conveyed out of public ownership

T. 31 N., R. 4 W.,

Sec. 29, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ,

Sec. 30, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$ , and E $\frac{1}{2}$ SE $\frac{1}{4}$ ,

Sec. 32, lots 1 to 3, inclusive, and N $\frac{1}{2}$ N $\frac{1}{2}$ ,

Sec. 33, W $\frac{1}{2}$ SW $\frac{1}{4}$ .

T. 31 N., R. 5 W.,

Sec. 26, lots 3 and 4, and W $\frac{1}{2}$ SW $\frac{1}{4}$ ,

Sec. 27, S $\frac{1}{2}$ SE $\frac{1}{4}$ ,

Sec. 31, lots 3 and 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ ,

Sec. 32, S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , and N $\frac{1}{2}$ S $\frac{1}{2}$ ,

Sec. 33, S $\frac{1}{2}$ NE $\frac{1}{4}$  and N $\frac{1}{2}$ S $\frac{1}{2}$ ,

Sec. 34, N $\frac{1}{2}$  and NW $\frac{1}{4}$ SW $\frac{1}{4}$ ,

Sec. 35, lot 1 and NW $\frac{1}{4}$ NW $\frac{1}{4}$ .

T. 31 N., R. 6 W.,

Sec. 10, lots 10 and 15,

Sec. 15, lots 6, 11, 14, and 22, and N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,

Sec. 22, lots 3, 6, 7, 10, 11, 17, and 22, and Mineral Survey 424,

Sec. 25, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ,

Sec. 26, lots 4 and 13, S $\frac{1}{2}$ NW $\frac{1}{4}$ ,

NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and S $\frac{1}{2}$ SE $\frac{1}{4}$ ,

Sec. 27, lots 2, 15, and 16, and Mineral Survey 4688,

Sec. 36, lot 6, NW $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ , and Mineral Surveys 307 and 411.

(B). Surveyed lands located in Buena Ventura Grant 1

That area of land in the Buena Ventura Grant 1, located in T. 31 N., R. 4 W., lot 38, and T. 31 N., R. 5 W., lot 37, more specifically shown on the Federal Emergency Management Agency's *Flood Insurance Rate Map* for Clear Creek, on file in the office of the Bureau of Land Management's Redding Resource Area, Redding, California. The pertinent panels of that map and their dates of publication are, respectively: (a) 060358 0880 B, 09/27/1985; (b) 060358 0690 C, 09/05/1990; and (c) 060360 0025 C, 09/29/1989.

The areas described aggregate 1,132 acres, more or less, in Shasta County.

The purpose of the proposed withdrawal is to accomplish the following actions in the Clear Creek Acquisition Area: (a) Enhance anadromous salmonoid habitat, (b) Restore the quality and quantity of riparian vegetation, (c) Establish a greenway along Clear Creek from the Sacramento River to the Whiskeytown Unit of the National Recreation Area, (d) Maintain the scenic quality of the canyon above the Clear Creek Road bridge, (e) Protect the native plant communities and associated fauna of the area, and (f) Protect the historic values of the area.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the California State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the California State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the Federal Register at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the Federal Register, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are licenses, permits, cooperative agreements, or other discretionary land use authorizations of a temporary nature.

Dated: November 21, 1995.

Duane Marti,

*Acting Chief, Branch of Lands.*

[FR Doc. 95-29238 Filed 11-29-95; 8:45 am]

BILLING CODE 4310-40-P

## DEPARTMENT OF JUSTICE

### Office of Juvenile Justice and Delinquency Prevention

#### Information Collection Under Review

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" from the date listed at the top of this page in the Federal Register.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

(2) evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. e.g., permitting electronic submission of responses. If you have additional comments or suggestions, please include them with your written response. If a copy of the proposed collection instrument with instructions is not published in this notice please contact the agency representative listed below if you wish to receive a copy. Contact: Ms. Marilyn C. Landon, Telephone: 202-307-0586. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Room 742, 633 Indiana Avenue NW., Washington, DC 20531 United States Department of Justice.

#### Overview of this Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Organizational Study, Evaluation of the "Comprehensive Community-Wide Approach to Gang Prevention, Intervention and Suppression Program." (3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form number: None.

Sponsored by the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice.

(4) *Who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-Profit Institutions. Other: State, Local, or Tribal Government. The study focuses on information about program policies and mechanisms used to analyze and address the gang problem, including interorganizational relationships, and to test the effectiveness of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) approach over time. Respondents will be mainly administrative personnel in organizations participating in the program and a comparable group not participating in the comprehensive approach.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 250 responses at 2 hours per response.*

(6) *An estimate of the total public burden (in hours) associated with the collection: 500 annual burden hours.*

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Systems Policy Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530. Telephone: 202-514-4319.

Dated: November 27, 1995.

Robert B. Briggs,

*Department Clearance Officer, United States Department of Justice.*

[FR Doc. 95-29259 Filed 11-29-95; 8:45 am]

BILLING CODE 4410-18-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95-106]

### Notice of Prospective Patent License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of prospective patent license.

**SUMMARY:** NASA hereby gives notice that Crystal Systems, Inc., of Decatur, Alabama, has applied for an exclusive license to practice the inventions described and claimed in (1) U.S. Patent No. 4,833,233 entitled Human Serum Albumin Crystals and Method of Preparation, (2) U.S. Patent Application Serial No. 08/351,861 entitled Crystals of Serum Albumin for Use in Genetic Engineering and Rational Drug Design, (3) U.S. Patent Application Serial No. 08/448,196 entitled Biologically Active Protein Fragments Containing Specific Binding Regions of Serum Albumin or Related Proteins, and (4) U.S. Patent Application Serial No. 08/422,963 entitled Device and Method for Screening Crystallization Conditions in Solution Crystal Growth, all of which are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license to Crystal Systems, Inc. should be sent to Jerry L. Seemann at NASA/Marshall Space Flight Center, CC01/Office of Chief Counsel, Huntsville, Alabama 35812.

**DATE:** Responses to this Notice must be received by January 29, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Jerry L. Seemann at (205) 544-0026.

Dated: November 13, 1995.

Edward A. Frankle,

*General Counsel.*

[FR Doc. 95-29216 Filed 11-29-95; 8:45 am]

BILLING CODE 7510-01-M

[Notice 95-107]

### Notice of Prospective Patent License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of prospective patent license.

**SUMMARY:** NASA hereby gives notice that IVAC Corporation, of San Diego, California, has applied for an exclusive license to practice the invention described and claimed in U.S. Patent Application Serial No. 08/500,806, entitled Electronic Clinical Thermometer, which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license to IVAC Corporation should be sent to Jerry L. Seemann at NASA/Marshall Space Flight Center, CC01/Office of Chief Counsel, Huntsville, Alabama 35812.

**DATE:** Responses to this Notice must be received by January 29, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jerry L. Seemann at (205) 544-0026.

Dated: November 20, 1995.

Edward A. Frankle,

*General Counsel.*

[FR Doc. 95-29217 Filed 11-29-95; 8:45 am]

BILLING CODE 7510-01-M

## COMMISSION OF FINE ARTS

### Notice of Meeting

The Commission of Fine Arts' next meeting is scheduled for 14 December 1995 at 10:00 AM in the Commission's offices in the Pension Building, Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C. 20001 to discuss various projects affecting the appearance of Washington, D.C., including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, D.C., November 21, 1995.

Charles H. Atherton,

*Secretary.*

[FR Doc. 95-29235 Filed 11-29-95; 8:45 am]

BILLING CODE 6330-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-298]

### Nebraska Public Power District (Cooper Nuclear Station); Exemption

I

Nebraska Public Power District (NPPD, the licensee) is the holder of Facility Operating License No. DPR-46, which authorizes operation of the Cooper Nuclear Station (CNS) at power levels not in excess of 2381 megawatts thermal. The facility consists of a boiling water reactor at the licensee's site in Nemaha County, Nebraska. The operating license provides, among other things, that CNS is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

II

Pursuant to 10 CFR 55.59(a)(1), each licensed operator is required to successfully complete a requalification program developed by the licensee that has been approved by the Commission. This program is to be conducted for a continuous period not to exceed 24 months in duration and upon its conclusion must be promptly followed by a successive requalification program.

In addition, pursuant to 10 CFR 55.59(a)(2), each licensed operator must also pass a comprehensive requalification written examination and an annual operating test.

III

By letter dated October 16, 1995, NPPD requested an exemption under 10 CFR 55.11 from the requirements of 10 CFR 55.59(a)(2). The scheduler exemption requested would extend the completion date for the administration of licensed operator examinations for the CNS requalification program from December 22, 1995, to March 15, 1996, because the scheduled examination time coincides with the plant refueling outage. The requested exemption would constitute a one-time extension of the requalification program duration.

In support of its request for exemption, NPPD indicated that the licensed operators at CNS will continue to participate in the ongoing requalification training program. NPPD further indicated that the assignment of

licensed operators to refueling outage organization positions represents a shutdown risk benefit with regard to plant safety.

The Code of Federal Regulations at 10 CFR 55.11 states that, "The Commission may, upon application by an interested person, or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property and are otherwise in the public interest."

#### IV

The Commission has determined that pursuant to 10 CFR 55.11, granting an exemption to NPPD from the requirements in 10 CFR 55.59(a)(1) and (a)(2) is authorized by law and will not endanger life or property and is otherwise in the public interest. This one-time exemption will allow additional licensed operator support during the current refueling outage, which will provide a safety enhancement during plant shutdown operations and post-maintenance testing. The affected licensed operators will continue to demonstrate and possess the required levels of knowledge, skills, and abilities needed to safely operate the plant throughout the extension period via continuation of the current satisfactory licensed operator requalification program. In meeting the requirement for the administration of examinations during the 24 month requalification cycle, the current plant refueling outage could be prolonged without a net benefit to safety, and would otherwise have a detrimental effect on the public interest. Accordingly, the Commission hereby grants Nebraska Public Power District an exemption on a one-time only basis from the schedular requirements of 10 CFR 55.59(a)(1) and (2), to allow the current Cooper Nuclear Station requalification program to be extended beyond 24 months, until March 15, 1996.

Pursuant to 10 CFR 51.32, the Commission has also determined that the issuance of the exemption will have no significant impact on the environment. An Environmental Assessment and Finding of No Significant Impact was noticed in the Federal Register on November 16, 1995 (60 FR 57603).

This exemption is effective upon issuance and expires on March 15, 1996. Dated at Rockville, Maryland this 16th day of November 1995.

For the Nuclear Regulatory Commission.  
Jack W. Roe,  
*Director Division of Reactor Projects—III/IV,  
Office of Nuclear Reactor Regulation.*  
[FR Doc. 95-29223 Filed 11-29-95; 8:45 am]  
BILLING CODE 7590-01-P

#### [Docket No. 50-341]

#### **Detroit Edison Co., FERMI, Unit 2; Environmental Assessment and Finding of No Significant Impact**

The U. S. Nuclear Regulatory Commission (the Commission) is considering issuance of a schedular exemption from certain requirements of 10 CFR Part 50, Appendix J, to the Detroit Edison Company (the licensee) for the Fermi, Unit 2, facility located in Monroe County, Michigan.

#### Environmental Assessment

##### *Identification of Proposed Action*

The proposed action would grant a one-time schedular exemption from the requirements of Sections III.D.2(a) and III.D.3 (Type B and Type C tests, respectively) of Appendix J to 10 CFR Part 50 relating to the primary reactor containment leakage testing for water-cooled reactors. Type B and C tests are associated with leakage testing of bellows, manway gasket seals, flanges, and containment isolation valves. Sections III.D.2(a) and III.D.3 require, in part, that Type B and C tests be performed at intervals no greater than 2 years. The purpose of the tests is to assure that leakage through primary reactor containment shall not exceed allowable leakage rate values as specified in the Technical Specifications and that periodic surveillance is performed. The licensee has proposed a one-time exemption to allow a 25-percent extension to the 2-year testing interval.

The proposed action is in accordance with the licensee's application for exemption dated September 1, 1995.

##### *The Need for the Proposed Action*

The proposed action would provide a one-time schedular exemption for Fermi, Unit 2, from the local leak rate test intervals for Type B and C leak rate tests required by 10 CFR Part 50, Appendix J, Sections III.D.2(a) and III.D.3. The exemption is requested to support a revised outage schedule and to avoid the potential for a forced reactor shutdown. If a forced outage is imposed to perform testing, it would present undue hardship and cost in the form of increased radiological exposure. Furthermore, if a forced outage is imposed to perform the required testing,

an additional plant shutdown and startup will be required.

Due to a lengthy turbine outage and power ascension program, the licensee proposed deferring the spring 1996 refueling outage until September 27, 1996. This would permit targeted fuel burnup to be met so that Cycle 6 operation can be conducted as planned. However, the 2-year interval for performing Type B and C tests expires in April 1996. Since these tests cannot be performed when the plant is at power, performance of these tests to meet the 2-year interval would necessitate a plant shutdown. Therefore, Detroit Edison has proposed a one-time exemption to allow a 25-percent extension to the testing interval. This would allow for a maximum Type B and C test interval of 30 months and would permit continued plant operation until the September 27, 1996, outage date.

##### *Environmental Impacts of the Proposed Action*

The proposed exemptions will add a one-time only 6-month extension to the Appendix J test intervals for Type B and C testing. As stated in 10 CFR Part 50, Appendix J, the purpose of the primary containment leak rate testing requirements is to ensure that leakage rates are maintained within the Technical Specification requirements and to assure that proper maintenance and repair is performed throughout the service life of the containment boundary components. The requested exemption is consistent with the intent of 10 CFR 50.12(a), in that it represents a one-time only schedular extension of short duration. The required leak tests will still be performed to assess compliance with Technical Specification requirements, albeit later, and to assure that any required maintenance or repair is performed. As noted in Sections III.D.2(a) and III.D.3 of Appendix J, it was intended that the testing be performed during refueling outages or other convenient intervals. Extending the Appendix J intervals by a small amount to reach the next refueling outage will not significantly impact the integrity of the containment boundary, and therefore, will not significantly impact the consequences of an accident or transient in the unlikely event of such an occurrence during the 6-month extended period.

Past Unit 2 local leak rate test data have, in general, demonstrated good leak rate test results. A combined Type B and C leakage rate was established by the licensee at the conclusion of the last refueling outage and a running total leakage is maintained during each operating cycle. This running total

leakage rate is 73.81 standard cubic feet per hour, which is 41.5 percent of the limit of 0.6 L<sub>a</sub>. Based on this margin, it is clear that extending the test interval a maximum of 6 months will not affect the overall integrity of the containment.

The above data provides a basis for showing that the probability of exceeding the offsite dose rates established in 10 CFR Part 100 will not be increased by extending the current Type B and C testing intervals for a maximum of 6 months. The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

#### *Alternatives to the Proposed Action*

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternative with equal or greater environmental impact need not be evaluated. The principal alternative to the exemption would be to require rigid compliance with the requirements of Sections III.D.2(a) and III.D.3 of Appendix J to 10 CFR Part 50. Such action would not enhance the protection of the environment and would result in increased radiation exposure for the licensee.

#### *Alternate Use of Resources*

This action does not involve the use of any resources not considered previously in the Final Environmental Statement for Fermi, Unit 2, dated August 1981.

#### *Agencies and Persons Consulted*

In accordance with its stated policy, on November 9, 1995, the staff consulted with the Michigan State official, Mr. Dennis Hahn of the Michigan Department of Public Health, Nuclear Facilities and Environmental Monitoring, regarding the environmental impact of the proposed

action. The State official had no comments.

#### Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's request for exemption dated September 1, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Rockville, Maryland, this 22nd day of November 1995.

For the Nuclear Regulatory Commission,  
Tae Kim,

*Acting Director, Project Directorate III-1,  
Division of Reactor Projects—III/IV, Office of  
Nuclear Reactor Regulation.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-36491; File No. SR-GSCC-95-02]

### **Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Netting Services for the Non-Same- Day-Settling Aspects of Next-Day and Term Repurchase and Reverse Repurchase Transactions**

November 17, 1995.

On August 1, 1995, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-GSCC-95-02) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> On August 29, 1995, and September 19, 1995, GSCC amended the filing.<sup>2</sup> Notice of the proposal was published in the Federal Register on September 26, 1995.<sup>3</sup> One

<sup>1</sup> 15 U.S.C. § 78s(b)(1) (1988).

<sup>2</sup> Letters from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Christine Sibille, Division of Market Regulation, Commission (August 24, 1995, and September 14, 1995).

<sup>3</sup> Securities Exchange Act Release No. 36252 (September 19, 1995), 60 FR 49649.

comment letter was received regarding the proposed rule change.<sup>4</sup> For the reasons discussed below, the Commission is approving the proposed rule change.

#### I. Description

On May 12, 1995, GSCC implemented its comparison service for next-day (also referred to as "overnight") and term repurchase and reverse repurchase transactions involving government securities as the underlying instrument ("repos").<sup>5</sup> As of October 10, 1995, forty-five members are participating in this service. This rule filing allows GSCC to implement the next stage of its repo services, which is providing netting and risk management services for the non-same-day-settling aspects of next-day and term repo transactions.<sup>6</sup>

The repo netting process began in test mode on October 12, 1995, and continues on a daily basis. The test process is conducted using data submitted during the previous day's production cycle. GSCC anticipates fully implementing repo netting in mid-November 1995 after the November refunding of government securities. In order to accommodate the repo netting process, the proposed rule change substantially modifies GSCC's procedures and methodologies as described below.

##### *(1) Eligibility for Netting*

GSCC netting members, other than interdealer broker netting members, may participate in the repo netting system upon being designated by GSCC's Membership and Standards Committee as eligible for such services.<sup>7</sup> The

<sup>4</sup> Letter from Barry E. Silverman, President, Delta Government Options Corp., to Jonathan G. Katz, Secretary, Commission (October 20, 1995).

<sup>5</sup> For a complete description of GSCC's repo comparison service, refer to Securities Exchange Act Release No. 35557 (March 31, 1995), 60 FR 17598 [File No. SR-GSCC-94-10] (order approving proposed rule change relating to implementing a comparison service for repos).

<sup>6</sup> GSCC plans to offer its repo services in three phases. Phase I involves providing comparison and netting services for next-day and term repo transactions; Phase II will focus on providing comparison, netting, and risk management services for open repos; and Phase III will focus on providing intraday netting and risk management services for same-day settling aspects of repo transactions. Future phases will add the following repo services (not necessarily in this order): (1) tracking and facilitation of collateral substitutions, (2) enhanced comparison services for forward-settling repos, and (3) interest rate protection for forward-settling repos.

<sup>7</sup> Interdealer broker netting members will not be eligible for GSCC's repo netting service during this first phase because brokering in the repo market currently is done on a "give up" basis with interdealer brokers giving up the name of each counterparty to the other counterparty and the no longer having any involvement in the transaction.

Committee will base its determination of eligibility on: (1) Satisfactory participation in GSCC's repo comparison service, (2) demonstration by the member of its ability to meet its obligations with regards to the netting and settlement of repos, and (3) execution by the member of documents provided by GSCC to ensure that the netting and settlement of the member's repos will be done in conformity with GSCC's rules.

A start leg or a close leg of a repo is eligible for netting and settlement through the netting system if: (1) The repo is compared through GSCC, (2) (i) for the start leg, the number of calendar days between the business day on which the repo is submitted to GSCC and the scheduled settlement date for the close leg associated with the settling start leg must not be greater than the maximum number of calendar days set by GSCC, which initially is 195 calendar days and (ii) for the close leg, the number of calendar days between the business day on which the repo is submitted to GSCC and the scheduled settlement date for the close leg must not be greater than the maximum number of calendar days set by GSCC, (3) netting of the start or close leg must occur on or before its scheduled settlement date (*i.e.*, the leg cannot be a same-day settling leg), (4) data on each side of the repo must be submitted to GSCC by members designated as eligible to participate in the repo netting process, (5) the underlying securities must be eligible for netting,<sup>8</sup> and (6) the maturity date of the underlying securities must be on or later than the scheduled settlement date of the leg.

A forward-settling start leg<sup>9</sup> is not netted with other trades and is not guaranteed until the scheduled settlement date for that start leg. A forward-settling close leg is not netted with other trades and is not guaranteed until the scheduled settlement date for the associated start leg.

## (2) Netting Process

Each night a participating repo netting member's eligible repo transactions will be netted with its regular buy/sell cash activity and Treasury auction purchases in the same CUSIP to establish a single net position in each security. For netting purposes, the settlements associated

<sup>8</sup> Pursuant to GSCC's rules, an eligible security is a security issued or guaranteed by the U.S., a U.S. government agency or instrumentality, or a U.S. government-sponsored corporation (except a mortgage-backed security) that GSCC has listed on its eligible securities master file.

<sup>9</sup> A forward-settling transaction is submitted one or more business days prior to its scheduled settlement date.

with repo start legs and reverse repo close legs will be treated as short positions. The settlements associated with repo close legs and reverse repo start legs will be treated as long positions. The difference between a member's total short activity and its total long activity within a CUSIP is its net position in the CUSIP.

GSCC will provide each participant with a daily netting system output that will breakdown its net positions by reporting for each security: (1) The net cash position, (2) the net repo position, and (3) the total net position.<sup>10</sup> Each participant's forward-settling net position for each of its securities is recalculated on a daily basis. Forward-settling net positions automatically convert into deliver or receive obligations on their scheduled settlement dates.

## (3) Settlement

Each processing day, GSCC conducts two settlement processes. These are a securities settlement and a funds-only settlement.<sup>11</sup> For securities settlement, each netting member is obliged to deliver to or receive from GSCC its net deliver or receive obligation in each CUSIP that is generated as a result of the netting process. Securities settlement for repo legs will not differ from securities settlement for regular cash activity. For funds-only settlement, GSCC will add amounts pertaining to repos to amounts pertaining to regular cash activity and Treasury auction purchases and will report such amounts within the existing categories (*e.g.*, forward margin or fail mark obligations).<sup>12</sup>

## (4) Coupon Protection

When the start leg of a repo is initiated, securities are moved from the account of the funds borrower (*i.e.*, the long side for the close leg) to the account of the funds lender (*i.e.*, the short side for the close leg) until the settlement date of the close leg. However, because the funds lender is not entitled to any coupon payments which are made by the issuer directly to

<sup>10</sup> The daily netting system output separately lists forward-settling start legs and close legs until such transactions are eligible for netting (*i.e.*, the settlement date of the start leg).

<sup>11</sup> At 2:00 a.m., GSCC issues to each participant its netting output reports which establish the participant's deliver, receive, and payment obligations for the day. By 10:00 a.m., a participant must satisfy its funds only settlement obligations, and GSCC will pay funds credits owed to participants by 11:00 a.m. A participant may satisfy its securities deliver obligations at any time during the day.

<sup>12</sup> The daily net funds-only settlement amount for each netting member will be adjusted to reflect certain changes to GSCC's margining processes as discussed below in Section (7).

the funds lender's clearing bank while the securities are in its possession, the coupon payments will be passed through from the funds lender (short side) to the funds borrower (long side) when the coupon date is after the repo start date and on or before the repo close date. GSCC's current procedures for paying coupon on all fail obligations will not change and will apply to fail obligations arising from repos as well.<sup>13</sup>

## (5) Collateral Substitution

In this initial phase of repo netting, GSCC will not perform collateral substitutions on an automated basis. However, participants may make collateral substitutions by designating new underlying collateral for a repo transaction through use of the "cancel and correct" feature of GSCC's comparison system. GSCC's operations staff manually will process the collateral substitution as it does now for clearing fund securities margin.

## (6) Guarantee of Settlement

As in cash transactions, GSCC novates the repo transaction at the time the start or close leg is netted. At that time, GSCC assumes contraparty responsibility and guarantees settlement of the repo. GSCC's guarantee includes the return of the underlying collateral to the funds borrower and both the return of principal (repo start amount) and the payment of interest to the term of the repo transaction to the funds lender. As discussed above, forward-settling repo start legs and close legs are not netted or guaranteed until the scheduled settlement date of the start leg.

## (7) Forward Margin

Because GSCC guarantees the settlement of all transactions once they are compared and netted, each day GSCC will mark-to-market each participant's forward-settling net positions and will recalculate each participant's forward margin obligation. Participating members will then be assessed forward margin accordingly in their daily funds settlement.<sup>14</sup>

Margin for cash trades will continue to be calculated by marking each transaction to the market using the following formula:

$$\text{Market value} = \text{GSCC Price} \times \text{Par Amount} + \text{Accrued Coupon Interest}$$

<sup>13</sup> Under these procedures, on the coupon payment date GSCC will collect the coupon payment from a member with a fail net short position and pass the coupon payment to the member with the fail net long position.

<sup>14</sup> Because forward-settling start legs are not guaranteed until the scheduled settlement date, such transactions are not margined.

Calculated to Scheduled Settlement Date

The resulting value is then subtracted from the contract value to calculate the appropriate margin amount.

To take into account differences between the repo market and the when-issued cash market, including the fact that the liquidation process for repos involves a cost-of-carry element, forward margin calculations for repos will differ from those of cash market trades. To margin a forward-settling repo close leg, GSCC begins by calculating market value, using the following formula:

$$\text{Market Value} = \text{GSCC Price} \times \text{Par Amount} + \text{Accrued Coupon Interest Calculated to Current Date}$$

The market value calculated is subtracted from the repo's contract value<sup>15</sup> to establish a debit or credit collateral mark.

Next, the repo financing mark for the transaction is calculated. If a member in a net short position (reverse side) fails, GSCC will replace the position by buying securities and putting them out on repo in the market and thus will incur a financing cost. Conversely, if a member in a net long position (repo side) fails, GSCC will replace the position by selling securities obtained by doing a reverse repo in the market and thus will create interest income potential. To account for its possible financing costs and interest income potential, GSCC computes the financing mark and includes it in the clearing margin calculation. The formula used to calculate the financing mark is:

$$\text{Financing Mark} = \text{Market Value of Repo} \times \text{GSCC Repo Rate} \times \text{Number of Days to Scheduled Settlement Date} \div 360$$

GSCC tailors its repo rate to each individual repo transaction. To establish the repo rate, GSCC first determines if the collateral underlying the repo is general or specific.<sup>16</sup> For general collateral repos, GSCC uses the remaining term of the repo to determine the appropriate market repo rate. For specific collateral repos, GSCC uses both the CUSIP and the remaining term of the repo to determine the specific repo rate. GSCC uses multiple market sources to obtain repo rates which are monitored on a daily basis. After calculating, GSCC debits from the reverse (short) side the financing mark

and credits the financing mark to the repo (long) side.

The total forward margin for repos is calculated using the following formula:  
Total Forward Margin = Collateral Mark + Financing Mark

The debit and credit margins calculated for the individual transactions comprising the participant's net settlement position are then added together. A participant's total forward margin is the mathematical sum of the individual debit and credit margins calculated across all securities and across all settlement dates.

Any credit margin amounts resulting from both cash and repo trades remaining after being used to fully offset debit margin amounts across CUSIPs will be paid out to participants in funds settlements. There are the following exceptions to this pay-through policy: (1) only bank and category one dealer netting members that have been active in the netting system for at least sixty days may collect credit forward margin amounts, (2) if a member has been awarded Treasury securities at auction, GSCC's obligation to pay to such member a credit forward margin payment will be limited by the amount of debit forward margin payment(s) that under GSCC's rules the Federal Reserve Banks are not obligated to pay to GSCC, and (3) GSCC may suspend a member's right to collect credit forward margin if the member is placed on surveillance.

Because credit margins now will be paid to participants, only cash may be used as margin. Members will no longer be able to post collateral in advance in lieu of their cash forward margin obligations. GSCC will pay interest on all margin amounts collected and will charge interest on all margin amounts paid on a daily basis using the effective Fed Funds rate.

#### (8) Clearing Fund

GSCC's method of calculating a member's clearing fund contribution now is based on the net settlement positions of all of the cash and repo activities of the participant. The funds settlement risk component and the securities settlement risk component of the clearing fund calculation has been changed to take into account the average of a member's most active ten days over the most recent seventy-five business days instead of the average of the most recent twenty business days.<sup>17</sup>

The clearing fund formula also has been modified to anticipate any exposure resulting from the clearance of the present day's settlement transactions. Specifically, a member's outstanding net settlement position for clearing fund purposes is calculated alternately by disregarding an by including the amount of securities underlying the positions that are scheduled to settle that day. The portion of the clearing fund formula that reflects securities settlement exposure is calculated by taking the average offset margin amount<sup>18</sup> or, if greater, the greatest of the following three calculations: (1) fifty percent of that day's gross margin amount, (2) one hundred percent of that day's offset margin amount calculated by excluding positions that are schedule to settle that day or (3) one hundred percent of that day's offset margin amount including positions that are scheduled to settle that day.<sup>19</sup>

The calculation of the securities settlement exposure for a Category 2 dealer netting member or a Category 2 futures commission merchant netting member also is revised to require such member to deposit the greatest (1) such member's average gross margin amount based on the average of the ten most active days over the most recent seventy-five business days, (2) such member's gross margin amount calculated by including positions settle that day, or (3) such member's gross margin amount calculated by excluding positions settling that day.

The proposed rule change adds a new component, the repovolatility factor, to the clearing fund formula. Repo volatility factors are a set of percentages which are applied to the net settlement repo positions to cover the securities' settlement exposure posed by such repo activity.<sup>20</sup> Initially, the repo volatility factor for general collateral repos will be set at fifty percent. The repo volatility factor for specific repos that

<sup>18</sup>The offset margin amount is the gross margin (the dollar value of a member's net settlement positions multiplied by the appropriate margin factors) as reduced by offsetting short and long positions based on maturity date and par amount. The average offset margin, which is part of the securities settlement risk component discussed above, takes the average of offset margins from the ten most active days over the previous seventy-five business days.

<sup>19</sup>Prior to this filing, securities settlement exposure was calculated as the greater of the average offset margin amount or 50% of the gross margin amount.

<sup>20</sup>These percentages are derived based on GSCC's research, which has been conducted with the assistance of its members, on historical repo rate volatility including repo market participants' analytics and raw data itself. GSCC is building and will maintain its own date base on the historical daily volatility of repo rates.

<sup>15</sup>The contract value of the repo is the dollar value at which the close leg is to be settled.

<sup>16</sup>General collateral repos refer to repo transactions that do not specify the underlying collateral by a CUSIP number while specific collateral repos indicate by CUSIP number what the underlying security must be.

<sup>17</sup>This change has been made to both the general rules on clearing fund deposits and the specific rules for Category 2 dealer netting members and Category 2 futures commission merchants.

are expected to convert to general collateral repos on a certain date will be the same as the factor for general collateral repos. The repo volatility factor for all other specific repos will be the spread between the system rate for the repo and the system rate for general collateral repos with a minimum factor of fifty basis points.

Each member is required to add to its clearing fund requirement the greater of (1) the product of the repo volatility factors and the market value of the member's repo transactions reduced by offsetting short and long positions based on maturity date and par amount<sup>21</sup> ("offset repo volatility amount") or (2) the average of a member's ten highest offset repo volatility amounts over the most recent seventy five business days. Participants may submit requests for the return of excess collateral on a monthly basis instead of on a quarterly basis.

#### (9) *Obligation To Submit Trades*

GSCC Rule 11, Section 3, which requires a netting member to submit all eligible trades to GSCC for comparison and netting, is not applicable to a netting member's repo transactions. Rule 18, Section 4 requires a repo netting member to submit for comparison and netting all repo trades eligible for netting to either GSCC, to another Commission registered clearing agency, or a clearing agency exempted by the Commission from Clearing agency registration.

#### II. Comments

The Commission received one comment letter opposing the proposal.<sup>22</sup> This commenter argues that: (1) GSCC's system does not novate trades, and therefore, its members may not offset repo trades on their books in reliance on Interpretation 41 of the Financial Accounting Standards Board ("FASB");<sup>23</sup> (2) GSCC's repo volatility factor provides inadequate protection in a volatile market;<sup>24</sup> (3) GSCC does not have a third party credit line to pay for customer defaults; and (4) GSCC has not imposed trading limits on its members. In its response to the commenter, GSCC states that the commenter's arguments are based on misrepresentations and

<sup>21</sup> A twenty-five percent disallowance will be imposed on all offsets.

<sup>22</sup> *Supra* note 4.

<sup>23</sup> The commenter asserts that nothing in GSCC's rules or procedures prevents it from assigning a guaranteed obligation to a system participant having an equal obligation and stepping out as a counterparty.

<sup>24</sup> Specifically, the commenter asserts that GSCC's repo volatility factor is based upon two standard deviations from the mean rate over the historical period instead of the three standard deviations used by the commenter.

misstatements regarding GSCC and its processes.<sup>25</sup>

#### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).<sup>26</sup> Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes GSCC's rule change meets these goals because the implementation of a netting system for repos continues the process whereby GSCC provides the benefits of centralized automated settlement to a broader segment of government securities transactions and because the netting system is being implemented with safeguards adequately designed to limit the risks to GSCC and its participants associated with the netting of repo transactions.

In addition to centralizing and automating the settlement process, repo netting provides several benefits to participants. Among others, these

<sup>25</sup> In its letter, GSCC addressed each of the commenter's points. (1) Regarding novation of trades, GSCC asserts that its rules clearly set forth the novation process whereby GSCC stands in the middle of all net settlement positions as a counterparty to each member for settlement purposes, and with regard to repos, as counterparty it ensures the return of the underlying collateral to the funds borrower and both the return of principal and the payment of interest to the term of the repo to the funds lender. (2) Regarding the protection given by GSCC's repo volatility factor in a volatile market, GSCC asserts that it does not plan to use a two standard deviation measure for the repo volatility component of its clearing fund calculation as asserted by the commenter and states that the factor will reflect the interest rate exposure incurred by GSCC in guaranteeing payment to the funds lender in a repo transaction. (3) Regarding third-party credit support, GSCC asserts that it uses a dynamic margining process whereby margin is recalculated and collected daily and increases or decreases daily based on the level of members' net activity. GSCC states that the dynamic nature of the margining process provides a high level of assurance that GSCC's overall settlement process for the Government securities industry never fails. (4) Regarding system limits and risk assessment, GSCC asserts that it has a comprehensive and highly automated management reporting system that allows it to assess the risks presented by members' activities and changing market conditions. GSCC asserts that the clearing fund and forward margin requirements imposed on members act as limits on system-wide exposure because a member can only increase its trading activity to the extent that it can meet its daily margin obligations. Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (October 27, 1995).

<sup>26</sup> 15 U.S.C. 78q-1(b)(3)(F) (1988).

include: (1) guaranteed settlement, (2) reduction in FedWire transfer activity through the netting of a member's repo transactions with its cash transactions and auction purchases, (3) automated coupon tracking, and (4) automated output.

The proposed rule change also is consistent with the recommendations of the Joint Report on the Government Securities Market.<sup>27</sup> The Joint Report recommended, among other things, that GSCC include more trades in its netting system. The Joint Report noted that the benefits of netting are greater as more trades are included in the net and that as more trades are included in GSCC's net a larger percentage of market trades become guaranteed trades.

The Commission also believes that GSCC has put in place adequate safeguards to limit the settlement risk associated with repo transactions. For example, GSCC does not novate or guarantee the start leg of a repo until the scheduled settlement date. In addition, GSCC's guarantee is limited to repos that are schedule to settle within 195 days of submission to GSCC. The Commission believes that these measures provide additional risk protection. As GSCC becomes more experienced in the netting of repos, it may decide that it can eliminate or modify these limitations consistent with its responsibility to safeguard securities and funds.<sup>28</sup>

The Commission further believes that GSCC's forward margin and clearing fund calculations provide adequate risk management. GSCC's margining system takes into account changes in the price of the underlying collateral and the risk that GSCC may need to replace the underlying collateral if a participant defaults. The clearing fund calculation is based on both a member's funds settlement amount and securities settlement amount. With respect to repos, GSCC also will collect clearing fund contributions based on changes in the financing rate which will reflect possible changes in repo rates. The Commission believes that the margin and clearing fund contributions appropriately take into account the risks posed to GSCC by the settlement of repos.

The Commission also notes that GSCC's rules require that netting

<sup>27</sup> Joint Report on the Government Securities Market (January 1992) at 31 ("Joint Report"), prepared by the Department of the Treasury, the Securities and Exchange Commission, and the Board of Governors of the Federal Reserve System.

<sup>28</sup> Should GSCC decide that it can modify or eliminate the limitations in a manner consistent with its statutory safeguarding obligations, it will file for Commission approval a proposed rule change.

members submit a repo transaction to either GSCC or another registered or exempted clearing agency. The Commission believes that such a requirement is consistent with the Act's goal of establishing a national system for the clearance and settlement of securities by including more trades within the system.<sup>29</sup>

Currently, GSCC will not accept same-day settling repo legs or open repos. The Commission understands that GSCC needs to study further the risk involved with such repos and to modify its systems in order to process these trades in a safe and efficient manner. The Commission believes that the current limitations on eligible transactions are appropriate.

The one adverse commenter argued that GSCC's system does not comply with FASB's Interpretation No. 41 because GSCC does not novate the trades.<sup>30</sup> The Commission believes that the commenter mischaracterizes GSCC's netting process. Pursuant to Section 6 of GSCC's Rule 11, all obligations between netting members are terminated at the time a report of such positions and obligations are made available to members and are replaced by obligations to deliver to and/or to receive from GSCC securities and payments.

The adverse commenter also argues that GSCC's repo volatility factor should take into account a three standard deviation move instead of a two standard deviation move.

Contrary to the commenter's statement, GSCC does not rely upon a two standard deviation movement. Instead, the current minimum repo volatility factor of fifty basis points exceeds the largest one day movement (forty-one basis points) in all general collateral repos.<sup>31</sup>

The commenter also argues that GSCC does not have sufficient liquidity through a third party credit line and does not limit the positions of members. In its release announcing standards for the registration of clearing agencies, the Commission stated that a clearing agency should establish an appropriate level of clearing fund contributions based on the risks to which it is

subject.<sup>32</sup> The purpose of the clearing fund is to enable a clearing agency to meet its obligations to its participants. The Commission believes that by revising its clearing fund formula to take into account repo activity, GSCC will have sufficient liquidity to provide for the safeguarding of securities and funds. Further, GSCC's clearing fund is based upon each member's level of trading activity.<sup>33</sup> Thus, GSCC will collect payments from members in proportion to their trading activity.

Nonetheless, the Commission believes it is appropriate for GSCC to review its liquidity needs and resources after it has experience operating the repo netting system. Accordingly, GSCC has agreed to conduct a study of its liquidity resources within a year after implementing this service, and to provide a copy of such study to the Commission.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with Section 17A(b)(3)(F) of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-GSCC-95-02) be, and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>34</sup>

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 95-29258 Filed 11-29-95; 8:45 am]

BILLING CODE 8010-01-M

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waivers of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received from the American Railway Car Institute (ARCI) a request for waiver of compliance with certain requirements of the Railroad Power Brakes and Drawbars Regulations. The petition is described below, including the regulatory provisions involved, the

nature of the relief being requested and the petitioner's arguments in favor of relief.

American Railway Car Institute (ARCI)  
(FRA Waiver Petition Docket Number PB-95-3)

The ARCI seeks a permanent waiver of compliance from section 232.2 of the Railroad Power Brakes and Drawbars Standards (49 CFR Part 232). That section states in part: "The maximum height of drawbars for freight cars—shall be 34½ inches, and the minimum height of drawbars for freight cars on such standard-gauge railroads—shall be 31½ inches—ARCI is requesting to increase the maximum allowable coupler height one inch from 34.5 inches to 35.5 inches for bottom shelf E couplers and top and bottom shelf E couplers only. ARCI states that the granting of this waiver will allow railroads and car builders to build safer and more efficient cars. It claims industry's need for safer suspension systems is being hampered by the small range of allowable coupler heights. Railroads, truck manufacturers, and freight car manufacturers know that rail worthiness of many cars would be improved if spring travel could be increased. For example, cars negotiating changes in super-elevation as they enter and exit curves would be subject to less wheel unloading if they had softer, more compliant, longer travel suspensions. Wheel unloading is most undesirable in curves, as the wheel set is often developing high lateral forces. High lateral forces combined with wheel unloading can result in derailment. The small range of allowable coupler heights severely limits the use of longer travel springs. By increasing the allowable range of coupler height of one inch would allow designers to make a significant improvement in rail worthiness.

FRA has determined that a public hearing will be held in this matter. Accordingly a public hearing is hereby set for 10 a.m. on January 10, 1996, Room 3328 in the Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR Part 211.25), by a representative designated by the FRA. The hearing will be a nonadversary proceeding in which all interested parties will be given the opportunity to express their views regarding this waiver petition.

Interested parties are also invited to participate in these proceedings by submitting written views, data or

<sup>29</sup> 15 U.S.C. 78q-1(a)(2)(A) (1988).

<sup>30</sup> The commenter noted that although Price Waterhouse LLP issued an opinion stating that GSCC members would be allowed to offset for financial statement purposes positions in repos, this opinion is based on GSCC's description of the novation process by which GSCC becomes the counterparty. Letter from Barry E. Silverman, *supra* note 4, referring to a letter from Price Waterhouse LLP to GSCC (May 30, 1995).

<sup>31</sup> In contrast, a two standard deviation movement is equal to ten basis points.

<sup>32</sup> Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920.

<sup>33</sup> While the commenter suggests that in its repo clearing system it establishes trading limits for all participants, such limits only prohibit additional trading activity that is not margined (*i.e.*, the commenter requires that a participant submit additional margin in order to submit additional trades).

<sup>34</sup> 17 CFR 200.30-3(a)(12) (1994).

comments. All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Number PB-95-3 and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590. Communications received by January 17, 1996 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) in Room 8201, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC on November 27, 1995.

Phil Olekszyk,

*Deputy Associate Administrator for Safety Compliance and Program Implementation.*

[FR Doc. 95-29257 Filed 11-30-95; 8:45 am]

BILLING CODE 4910-06-P

**[FRA Docket No. RST-95-3]**

**Petition for Exemption or Waiver for Cant-Deficient Passenger Train Operation; New York State Department of Transportation**

In accordance with 49 CFR 211.41, notice is hereby given that the New York State Department of

Transportation (NYDOT) has submitted a petition, dated October 16, 1995, for a waiver of compliance with certain requirements of Title 49, Code of Federal Regulations, Part 213: Track Safety Standards.

The purpose of the petition is to secure approval from the Federal Railroad Administration (FRA) for the operation of certain types of passenger trains at curve negotiating speeds producing up to eight inches of cant deficiency (superelevation underbalance). Currently, section 213.57(b) of the Track Safety Standards limits cant deficiency to not more than three inches. (For a detailed discussion of cant deficiency, see 52 FR 38035, October 13, 1987). It is stated in the petition that: "The Petitioner represents the People of the State of New York and their interest in maximizing the efficiency and safety of the state's transportation system, to the benefit of the economy and general welfare."

The petition envisions the operation of modified, so-called Rohr RTL-2 "Turboliner" trainsets within the Empire Corridor, New York City to Niagara Falls. Tracks that would support this proposed train operating scenario are owned by Conrail, Metro North Commuter Rail and the National Railroad Passenger Corporation (Amtrak). The petition focuses attention on passenger rolling stock controlled by Amtrak.

Interested parties are invited to participate in these proceedings by

submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, the party should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Number RST-95-3) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45 days of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m. to 5:00 p.m.) in Room 8201, 400 Seventh Street SW., Washington, D.C., 20590.

Issued in Washington, D.C. on November 20, 1995.

Phil Olekszyk,

*Deputy Associate Administrator for Safety Compliance and Program Implementation.*

[FR Doc. 95-29256 Filed 11-30-95; 8:45 am]

BILLING CODE 4910-06-P

# Sunshine Act Meetings

Federal Register

Vol. 60, No. 230

Thursday, November 30, 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).

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## FEDERAL ELECTION COMMISSION

**DATE AND TIME:** Tuesday, December 5, 1995 at 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, D.C.

**ITEMS TO BE DISCUSSED:**

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C.

§ 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration Internal personnel rules and procedures or matters affecting a particular employee

**DATE AND TIME:** Wednesday, December 6, 1995 at 10:00 a.m.

**PLACE:** 999 E Street, N.W. Washington, D.C. (Ninth Floor).

**STATUS:** This Meeting Will Be Open to the Public.

**ITEM TO BE DISCUSSED:** *MCFL* Rulemaking: Explanation and Justification.

**DATE AND TIME:** Thursday, December 7, 1995 at 10:00 a.m.

**PLACE:** 999 E Street, N.W. Washington, D.C. (Ninth Floor).

**STATUS:** This Meeting Will Be Open to the Public.

**ITEMS TO BE DISCUSSED:**

Correction and Approval of Minutes

Future Meetings (tentative)

Election of Officers

Advisory Opinion 1995-39: Charles H. Bell, Jr. on behalf of the Los Angeles County Republican Central Committee

Advisory Opinion 1995-41: Robert F. Bauer on behalf of Representative Carolyn Maloney and Maloney for Congress

*MCFL* Rulemaking: Explanation and Justification (continued from meeting of December 6, 1995, if necessary)

Fiscal Year 1996 Management Plan Administrative Matters

**PERSON TO CONTACT FOR INFORMATION:**

Mr. Ron Harris, Press Officer, Telephone: (202) 219-4155.

Delores Hardy,

*Administrative Assistant.*

[FR Doc. 95-29378 Filed 11-28-95; 8:45 am]

**BILLING CODE 6715-01-M**

## NATIONAL LABOR RELATIONS BOARD

**TIME AND DATE:** 2:30 p.m., Monday, November 27, 1995.

**PLACE:** Board Conference Room, Eleventh Floor, 1099 Fourteenth St., N.W., Washington, D.C. 20570.

**STATUS:** Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

**MATTERS TO BE CONSIDERED:** Personnel matters.

**CONTACT PERSON FOR MORE INFORMATION:**

John J. Toner, Acting Executive Secretary, Washington, D.C. 20570. Telephone: (202) 273-1940.

Dated, Washington, D.C., November 27, 1995.

By direction of the Board:

John J. Toner,

*Acting Executive Secretary, National Labor Relations Board.*

[FR Doc. 95-29306 Filed 11-28-95; 11:21 am]

**BILLING CODE 7540-01-M**

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## OVERSEAS PRIVATE INVESTMENT CORPORATION

December 12, 1995 Board of Directors Meeting

**TIME AND DATE:** Tuesday, December 12, 1995, 1:00 p.m. (Open Portion 1:30 p.m. (Closed Portion).

**PLACE:** Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, N.W., Washington, D.C.

**STATUS:** Meeting OPEN to the Public from 1:00 p.m. to 1:30 p.m. Closed portion will commence at 1:30 p.m. (approx.).

**MATTERS TO BE CONSIDERED:**

1. President's Report.
2. Approval of September 19, 1995 Minutes (Open Portion).
3. Meeting schedule through September, 1996.

**FURTHER MATTERS TO BE CONSIDERED:** (Closed to the Public 1:30 p.m.)

1. Insurance Project in Russia and Kazakhstan.

2. Finance Project in Brazil.
3. Insurance Project in Bolivia.
4. Insurance in Peru.
5. Insurance Project in Indonesia.
6. Insurance Project in Indonesia.
7. Insurance Project in Papua New Guinea.
8. Pending Major Projects.
9. Approval of 9/19/95 Minutes (Closed Portion).

**CONTACT PERSON FOR INFORMATION:**

Information on the meeting may be obtained from Connie M. Downs at (202) 336-8438.

Dated: November 22, 1995.

Connie M. Downs,

*OPIC Corporate Secretary.*

[FR Doc. 95-29371 Filed 11-28-95; 2:42 pm]

**BILLING CODE 3210-01-M**

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## UNITED STATES INSTITUTE OF PEACE

**DATE AND TIME:** Thursday, December 7—9:00 a.m.-5:30 p.m.

**LOCATION:** University Club\*/Governor's Room, Second Floor, 1135 16th Street, Washington, DC 20036, (202) 862-8800.

\*Professional Dress Is Required.

**STATUS:** (*Open Session*)—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98-525.

**AGENDA:** December Board Meeting, Approval of Minutes of the Seventy-second Meeting of the Board of Directors; Chairman's Report; President's Report; Committee Reports; Approval of Unsolicited Grants; Institute's Longer-term Plans; Other General Issues.

**CONTACT:** Dr. Sheryl Brown, Director, Office of Communications, Telephone: (202) 457-1700.

Dated: November 27, 1995

Charles E. Nelson,

*Vice President for Management and Administration, United States Institute of Peace.*

[FR Doc. 95-29337 Filed 11-28-95; 1:07 pm]

**BILLING CODE 6820-AR-M**

# Defense Federal Register

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Thursday  
November 30, 1995

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## Part II

### Department of Defense

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48 CFR Parts 201, 202, et al.

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Defense Federal Acquisition Regulation  
Supplement; Miscellaneous Amendments;  
Interim and Final Rules

**DEPARTMENT OF DEFENSE**

**48 CFR Parts 201, 202, 203, 204, 206, 207, 208, 209, 210, 211, 212, 214, 215, 217, 219, 223, 225, 226, 227, 228, 231, 232, 234, 235, 237, 239, 242, 246, 247, 249, 250, 252, 253, and Appendices C, F, and G to Chapter 2**

[Defense Acquisition Circular (DAC) 91-9]

**Defense Federal Acquisition Regulation Supplement; Miscellaneous Amendments**

**AGENCY:** Department of Defense (DoD).

**ACTION:** Interim and final rules.

**SUMMARY:** Defense Acquisition Circular (DAC) 91-9 amends the Defense Federal Acquisition Regulation Supplement (DFARS) to revise, finalize, or add language on ethics, personal services contracts, contract award, class justifications and approvals, integrated materiel management, preaward surveys, qualification requirements, audit, field pricing reports, subcontracting plans, environmentally sound products, hazardous materials, foreign source restrictions, supercomputers, Indian incentives, preference for local residents, allowable individual compensation, cost principles, manufacturing science and technology program, research and development, firefighting and security-guard services, automatic data processing equipment leasing reviews, cost monitoring, contract quality requirements, contract data reporting, master agreements, and acquisition of commercial items.

**DATES:** *Effective date:* November 30, 1995.

*Comment date:* Comments on the interim rule (Item XXXV: Sections 203.170-1; 203.170-4; 203.570-5; 207.105; 209.103-70; Parts 210, 211, and 212, Sections 215.971-4; 217.7302; 219.704; 223.570-4; 225.7002-2; 225.7019-2; 225.7103; 225.7201; 227.7101; 227.7102-3; 227.7103-15; 227.7202-2; 234.001; 242.7206; 246.204; 246.704; 246.770-1; 247.572-1; 247.572-2; 252.203-7000; 252.203-7001; 252.209-7000; 252.210-7000 through 252.210-7004; 252.211-7000 through 252.211-7021; 252.212-7000; 252.212-7001; 251.217-7026; 252.219-7003; 252.219-7005; 252.225-7012; 252.225-7014; 252.225-7016; 252.225-7026; 252.227-7103; 252.227-7015; 252.227-7037; 252.247-7023; and 252.247-7024) should be submitted in writing to the address shown below on or before January 29, 1996, to be considered in the formulation of the final rule.

**ADDRESSES:** Interested parties should submit written comments on the interim rule (Item XXXV) to: Defense Acquisition Regulations Council, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 95-D712 in all correspondence related to this rule.

**FOR FURTHER INFORMATION CONTACT:** Item XXXV—Mr. Louis Gaudio, (703) 695-1097.

All other items—Ms. Lucile Martin, (703) 602-0131.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This Defense Acquisition Circular (DAC) 91-9 includes 35 rules and miscellaneous editorial amendments. Five of the rules in the DAC (Items II, IX, XII, XIV, and XXIII) were published previously in the Federal Register and thus are not included as part of this rulemaking notice. These five rules are being published in the DAC to revise the looseleaf edition of DFARS to conform to the previously published revisions. Item XXXV, Acquisition of Commercial Items, was subject to Office of Management and Budget Review under Executive Order 12866, dated September 30, 1993.

**B. Determination to Issue an Interim Rule (Item XXXV)**

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish an interim rule prior to affording the public an opportunity to comment. Federal Acquisition Circular 90-32 (60 FR 48206, September 18, 1995) revised the Federal Acquisition Regulation (FAR) to implement Title VIII of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355). Title VIII of Pub. L. 103-355 contained requirements for the acquisition of commercial items and required publication of implementing FAR revisions by October 1, 1995. The FAR rule became available for use on October 1, 1995, and is mandatory for use by all Federal agencies in commercial item solicitations issued after December 1, 1995. This DFARS rule implements DoD-unique requirements of Pub. L. 103-355 pertaining to the acquisition of commercial items. DoD contracting activities cannot effectively use the FAR commercial item procedures without this supplemental DFARS guidance. Immediate DFARS coverage is needed to permit DoD contracting activities to comply with Pub. L. 103-355 and the

implementing FAR requirements pertaining to the acquisition of commercial items.

**C. Regulatory Flexibility Act**

*DAC 91-9, Items I, VI, VII, VIII, X, XV, XVIII, XXI, XXV, XXVIII, XXIX, XXX, XXXI, XXXIII, XXXIV*

The Regulatory Flexibility Act does not apply because these rules are not significant revisions within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. However, comments from small entities will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately. Please cite the applicable DFARS case number in correspondence.

*DAC 91-9, Items IV, V, XI, XIII, XVI, XVII, XX, XXII, XXVI*

DoD certifies that these rules will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act because:

Item IV—The rule only pertains to (1) purchases made outside the United States for use by armed forces outside the United States; (2) internal Government considerations regarding leasing; (3) production contracts where special tooling/special test equipment costs exceed \$1,000,000; and (4) certain notification requirements under the Certificate of Competency Program which were repealed by Section 7101(b) of the Federal Acquisition Streamlining Act of 1994.

Item V—The use of class justifications and approvals is already permitted by the Federal Acquisition Regulation (FAR). This rule merely expands Defense FAR Supplement (DFARS) guidance to address the use of class justifications and approvals for multiple contracts extending across more than one program phase.

Item XI—The rule primarily relates to the application of Government resources for conducting field pricing reviews.

Item XIII—The rule merely reflects the extension of statutory authority for contractors to claim credit toward their small business subcontracting goals when awarding subcontracts to qualified nonprofit agencies for the blind or severely disabled.

Item XVI—The rule only applies in exceptional situations when non-DoD-owned toxic or hazardous materials are stored or disposed of on a military installation.

Item XVII—The DFARS already permits DoD to grant public interest exceptions to the Buy American Act, where the purposes of the Buy American Act are not served. This rule

merely amends the DFARS guidance to reflect a recent statutory change to the criteria that must be considered when granting a public interest exception, and to streamline internal DoD approval requirements.

Item XX—The rule places restrictions on the acquisition of foreign products.

Item XXII—The rule only applies to contracts that are awarded in support of the closure or realignment of a military installation.

Item XXVI—The rule only applies to contracts that are awarded under the Manufacturing Science and Technology Program.

*DAC 91-9, Items III, XIX, XXIV, XXVII, XXXII*

The Regulatory Flexibility Act applies. A final regulatory analysis has been performed and is available by writing the Defense Acquisition Regulations Council, PDUSD(A&T)DP(DAR), 3062 Defense Pentagon, Washington, DC 20301-3062.

*DAC 91-9, Item XXXV*

This interim rule is expected to have a positive economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule simplifies procedures for DoD acquisition of commercial items. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the address stated herein. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Comments from small entities concerning the affected DFARS subparts will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95-D712 in correspondence.

#### D. Paperwork Reduction Act

*DAC 91-9, Items I, III, IV, V, VI, VII, VIII, X, XI, XV, XVI, XVII, XVIII, XIX, XX, XXI, XXII, XXIV, XXV, XXVI, XXVII, XXVIII, XXIX, XXX, XXXI, XXXII, XXXIII, XXXIV, XXXV*

The Paperwork Reduction Act does not apply because the revisions in this rulemaking notice do not contain and/or affect information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

*DAC 91-9, Item XIII*

The Paperwork Reduction Act applies. OMB has approved the

information collection requirement under OMB Control Number 9000-0007. Michele P. Peterson, Executive Editor, Defense Acquisition Regulations Council.

Defense Acquisition Circular (DAC) 91-9 amends the Defense Federal Acquisition Regulation Supplement (DFARS) 1991 edition. The amendments are summarized as follows:

#### Item I—Ethics (DFARS Case 95-D707)

This final rule deletes DFARS Subpart 203.71, Contractor Employee Communications with Government Officials, and the corresponding contract clause at 252.203-7003, Prohibition Against Retaliatory Personnel Actions. DFARS Subpart 203.71 and the clause at 252.203-7003 implemented 10 U.S.C. 2409a, which was repealed by Section 6005 of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355). Guidance on whistleblower protections for contractor employees has been added to the FAR at Subpart 3.9, by Federal Acquisition Circular 90-30, dated July 21, 1995.

#### Item II—Sequence of Progress Payments and Contract Modifications (DFARS Case 93-D016/95-D012)

This final rule was issued by Departmental Letter 95-012, effective July 3, 1995. The rule amends DFARS Subparts 204.71, 215.4, 217.74, and 243.1 to provide additional guidance regarding identification of funding under DoD contracts. Contracting officers shall ensure that contracts clearly identify the accounting classification reference numbers which apply to each line and subline item. When a line item contains multiple accounting classification citations, the contract shall include instructions which provide for payment in a manner that reflects the performance of work on the contract. Contracts that contain both fixed-price and cost-reimbursement line or subline items shall identify the contract type for each line or subline item. In addition, contract modifications which obligate or deobligate funds shall identify the accounting changes for each line and subline item to facilitate appropriate payment.

#### Item III—Personal Services Contracts (DFARS Case 94-D302)

The interim rule published as Item XXX of DAC 91-7 is revised and finalized. The rule establishes procedures for entering into personal services contracts under 10 U.S.C. 1091 to carry out health care responsibilities in medical treatment facilities. The final rule differs from the interim rule in that it adds language at DFARS 206.001,

deletes 206.102, and amends 237.104(b)(ii), to recognize that personal services contracts authorized by 10 U.S.C. 1091 are exempt from FAR Part 6 competition requirements.

#### Item IV—Contract Award (DFARS Case 95-D701)

The interim rule issued by Departmental Letter 95-016 on August 7, 1995, is converted to a final rule without change. The rule (1) revises DFARS 206.302-5(b)(i) to exclude soft drinks, that are manufactured in the United States, from the limitations which apply to noncompetitive acquisition of items from military exchange stores outside the United States; (2) adds a new section at DFARS 207.470 to place restrictions on the lease of vessels, aircraft, or vehicles for a term of 18 months or more; (3) deletes the language at DFARS 215.871 concerning production special tooling and production special test equipment; and (4) deletes DFARS 219.602-1(a), 219.602-70, and 252.219-7009 to eliminate certain notification requirements pertaining to the Certificate of Competency Program. These DFARS revisions implement Sections 1506, 3065, 3066, and 7101(b) of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355).

#### Item V—Class Justifications and Approvals (DFARS Case 95-D009)

This final rule adds language at DFARS 206.303-1(c) and 207.102 to state that: (1) When conditions warrant, a class justification for other than full and open competition may provide for award of multiple contracts extending across more than one program phase; and (2) when a class justification for other than full and open competition has been approved, planning for competition shall be consistent with the terms of that approval.

#### Item VI—Integrated Materiel Management (DFARS Case 95-D005)

This final rule amends DFARS 208.7003 to permit greater flexibility for local purchase of items assigned for integrated materiel management (IMM), when such action is in the best interest of the Government. The dollar threshold at which file documentation is required to justify local purchase of an IMM item is increased from \$100 per line item to the micro-purchase threshold. The dollar threshold at which a waiver is required, before local purchase of an IMM item, is increased from \$5,000 per line item to the simplified acquisition threshold. Additionally, the list of points of contact for waiver requests is revised.

**Item VII—Preaward Survey (DFARS Case 95-D016)**

This final rule revises DFARS 209.106-1 to delete the requirement for the contracting officer to contact the cognizant contract administration activity when the contracting officer is unable to make a determination of responsibility for a low-dollar value acquisition. Guidance regarding sources of information to support determinations of responsibility can be found at FAR 9.105-1(c).

**Item VIII—Qualification Requirements (DFARS Case 95-D011)**

This final rule revises DFARS 209.202 to delegate authority for approval of qualification requirements, except those pertaining to Qualified Products Lists (QPLs) or Qualified Manufacturers Lists (QMLs), to the chief of the contracting office. QPLs and QMLs are managed in accordance with DoD Manual 4120.3-M, Defense Standardization Program Policies and Procedures.

**Item IX—Institutions of Higher Education (DFARS Case 94-D310)**

This interim rule was issued by Departmental Letter 95-007, effective March 6, 1995. The rule adds a new section and contract clause at DFARS 209.470 and 252.209-7005 to implement Section 558 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103-337). Section 558 provides that no funds available to DoD may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents the Secretary of Defense from obtaining for military recruiting purposes, entry to campuses, access to students on campuses, or access to directory information pertaining to students.

**Item X—Audit (DFARS Case 95-D705)**

This final rule amends DFARS 215.804-8, 235.015-71, 237.7204, 252.239-7010, and C-204.3, and deletes the clause at 252.215-7001, to reflect revisions to the FAR published as Item I of Federal Acquisition Circular (FAC) 90-31 on August 16, 1995. Item I of FAC 90-31 (1) revised the policy pertaining to contractor records retention at FAR 4.703; (2) deleted the clause at FAR 52.215-1, Examination of Records by Comptroller General; and (3) revised the clauses at FAR 52.214-26, Audit and Records—Sealed Bidding, and 52.215-2, Audit and Records—Negotiation, to provide for examination of records by the Comptroller General.

**Item XI—Field Pricing Report (DFARS Case 95-D010)**

This final rule amends DFARS 215.805-5 to increase, from \$1 million to \$10 million, the dollar threshold for requesting field pricing reports for cost-type proposals from offerors without significant estimating system deficiencies.

**Item XII—Comprehensive Small Business Subcontracting Plans (DFARS Case 95-D002)**

This final rule was issued by Departmental Letter 95-015, effective July 10, 1995. The rule amends DFARS 219.702 and the clause at 252.219-7004 to implement Section 7103 of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355). Section 7103 extends, through September 30, 1998, the test program for contractor use of comprehensive small business subcontracting plans.

**Item XIII—Subcontracting Plans for Nonprofit Agencies for the Blind or Severely Disabled (DFARS Case 94-D312)**

The interim rule issued by Departmental Letter 95-004, on February 27, 1995, is converted to a final rule without change. The rule amends DFARS 219.703 to implement Section 804 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103-337). Section 804 extends, through September 30, 1997, the authority for contractors to claim credit toward their small business subcontracting goals for subcontracts with qualified nonprofit agencies for the blind or severely disabled.

**Item XIV—Evaluation Preference for Small Disadvantaged Business Concerns (DFARS Case 95-D008)**

This final rule was issued by Departmental Letter 95-017, effective August 22, 1995. The rule amends DFARS 219.7001 to state that the evaluation preference for small disadvantaged business concerns shall not be used in acquisitions for long distance telecommunications services.

**Item XV—Environmentally Sound Products (DFARS Case 95-D303)**

This final rule adds a new section at DFARS 223.404 to (1) designate the approving official for acquisition of EPA designated items which do not meet EPA or agency minimum recovered material standards; and (2) require agency collection and consolidation of annual contractor certifications pertaining to the use of recovered materials.

**Item XVI—Hazardous Materials (DFARS Case 94-D309)**

The interim rule issued by Departmental Letter 95-006, on March 6, 1995, is revised and finalized. The rule amends DFARS Subpart 223.71 and the clause at 252.223-7006 to implement Section 325 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103-337). Section 325 provides an additional exception to the statutory prohibition on storage and disposal of non-DoD-owned toxic and hazardous materials on military installations. The final rule differs from the interim rule in that it revises alternate paragraph (d) of the clause at 252.223-7006 to clarify requirements for flowdown of the clause to subcontractors.

**Item XVII—Determinations Under the Buy American Act (DFARS Case 94-D313)**

The interim rule issued by Departmental Letter 95-011, dated July 3, 1995, is converted to a final rule without change. The rule amends DFARS 225.102 to implement Section 812 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103-337). Section 812 adds several factors to the series of factors at 10 U.S.C. 2533 that must be considered when deciding whether to grant a public interest exception to the Buy American Act. In addition, the rule changes the approval levels for granting such exceptions.

**Item XVIII—Australian Memorandum of Agreement (DFARS Case 95-D013)**

This final rule amends DFARS 225.872-1 to add Australia to the list of countries whose defense products are not subject to the restrictions of the Buy American Act/Balance of Payments Program. The rule implements a Memorandum of Agreement Concerning Reciprocal Defense Procurement, dated April 19, 1995, between the United States and Australia, and a determination made by the Deputy Secretary of Defense, on April 29, 1995, that it is inconsistent with the public interest to apply the restrictions of the Buy American Act to the acquisition of defense equipment produced or manufactured in Australia.

**Item XIX—Restriction on Procurement of Goods (DFARS Case 94-D314)**

The interim rule published as Item XIV of DAC 91-7 is revised and finalized. The rule implements the foreign source restrictions of 10 U.S.C. 2534. The interim rule differs from the final rule in that it revises DFARS 225.7007-4, 225.7010-3, and 225.7016-3 to refer to, rather than repeat, the waiver criteria at 225.7004-4.

**Item XX—Supercomputers (DFARS Case 95–D301)**

The interim rule issued by Departmental Letter 95–013 on July 3, 1995, is revised and finalized. The rule adds a section at DFARS 225.7023 and a contract clause at 252.225–7011 to implement Section 8023 of the Fiscal Year 1995 Defense Appropriations Act (Pub. L. 103–335). Section 8023 and comparable sections in prior Defense Appropriations Acts require that any supercomputers acquired with defense funds appropriated in Fiscal Years 1988 through 1995 must be manufactured in the United States, unless the Secretary of Defense certifies to the Congress that the supercomputers are for national security purposes and are not available from United States manufacturers. The final rule differs from the interim rule in that it corrects the statutory citation at 225.7023–1.

**Item XXI—Indian Incentives (DFARS Case 95–D027)**

This final rule adds a new section at DFARS 226.103 to provide procedures for obtaining contract funding for an approved Indian incentive payment request.

**Item XXII—Preference for Local Residents (DFARS Case 94–D315)**

The interim rule published as Item XX of DAC 91–7 is revised and finalized. The rule implements Section 817 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103–337). Section 817 authorizes the Secretary of Defense to give preference to entities that plan to hire local residents, when entering into contracts for services to be performed at a military installation that is affected by closure or realignment under a base closure law. The final rule differs from the interim rule in that it adds language at DFARS 226.7104 to clarify that the guidance in this section applies to contracts related to base closure activities.

**Item XXIII—Payment Protections in Construction Contracts Between \$25,000 and \$100,000 (DFARS Case 95–D305)**

This interim rule was issued by Departmental Letter 95–018, effective August 31, 1995. The rule adds a new section and contract clause at DFARS 228.171 and 252.228–7007. The rule provides alternative payment protections for construction contracts between \$25,000 and \$100,000, pending implementation of Section 4104(b)(2) of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355) in the FAR. Section 4104(b)(2) requires FAR revisions to provide alternatives to

payment bonds as payment protections for suppliers of labor and material under construction contracts between \$25,000 and \$100,000. Federal Acquisition Circular 90–29 revised FAR Part 13 to exclude construction contracts and subcontracts at or below the simplified acquisition threshold from Miller Act bond requirements, in accordance with Section 4104(b)(1) of Pub. L. 103–355.

**Item XXIV—Limitation on Allowable Individual Compensation (DFARS Case 94–D318)**

The interim rule published as Item XXII of DAC 91–7 is converted to a final rule without change. The interim rule amended DFARS 231.205, 231.303, 231.603, and 231.703 to implement Section 8117 of the Fiscal Year 1995 Defense Appropriations Act (Pub. L. 103–335). Section 8117 limits allowable costs for individual compensation to \$250,000 per year. This limitation applies to contracts that are awarded after April 15, 1995, and that are funded with Fiscal Year 1995 appropriations.

**Item XXV—Cost Principles (DFARS Case 95–D704)**

This final rule amends the DFARS to delete language that was incorporated into the FAR by Federal Acquisition Circular 90–31, dated August 15, 1995. Accordingly, the following DFARS sections are deleted: 231.205–6(g)(2)(i); 231.603(1); 231.703(1); 231.70; 237.171; 242.705–1(b) (3) and (4); 242.770; 252.231–7001; 252.237–7020; 252.237–7021; and 252.242–7001.

**Item XXVI—Manufacturing Science and Technology Program (DFARS Case 94–D307)**

The interim rule published as Item XXVI of DAC 91–7 is converted to a final rule without change. The interim rule added language at DFARS 235.006 (a) and (b)(iv) to implement Section 256 of the Fiscal Year 1995 Defense Authorization Act (Pub. L. 103–337). Section 256 requires use of competitive procedures in awarding contracts under the Manufacturing Science and Technology Program, and use of a cost-sharing arrangement for these contracts unless an alternative arrangement is approved by the Secretary of Defense.

**Item XXVII—Federally Funded Research and Development Centers (FFRDCs) (DFARS Case 94–D306)**

The interim rule published as Item XXVIII of DAC 91–7 is revised and finalized. The rule allows DoD-sponsored FFRDCs that function primarily as research laboratories to respond to solicitations and announcements for programs which

promote research, development, demonstration, or transfer of technology. The final rule differs from the interim rule in that it adds, at DFARS 235.017–1, the names of DoD-sponsored FFRDCs that function primarily as research laboratories.

**Item XXVIII—Research and Development Streamlined Contracting Procedures—Test (DFARS Case 92–D034)**

This final rule amends DFARS 235.7002 to add the Army Soldier Systems Command and the Naval Command, Control and Ocean Surveillance Center to the list of contracting offices authorized to participate in the streamlined research and development contracting test program. In addition, editorial corrections are made at 235.7003(b)(1) and in paragraph H.5 of the exhibit at 235.7006(d).

**Item XXIX—Firefighting and Security-Guard Services (DFARS Case 95–D035)**

This final rule adds a new section at DFARS 237.102–70 to reflect the requirements of 10 U.S.C. 2465, which prohibits the award of DoD contracts for firefighting or security-guard functions except under certain conditions.

**Item XXX—Annual Automatic Data Processing Equipment (ADPE) Leasing Review (DFARS Case 95–D017)**

This final rule amends DFARS 239.7303 to eliminate the requirement for annual review of ADPE leasing costs and, instead, require review of ADPE leasing costs as warranted.

**Item XXXI—Cost Monitoring (DFARS Case 95–D08)**

This final rule deletes the language of DFARS 242.7003–1(b), regarding requirements for in-depth functional reviews of certain contractor activities, to provide contract administration offices greater flexibility in planning and executing cost monitoring programs.

**Item XXXII—Contract Quality Requirements (DFARS Case 95–D007)**

The interim rule issued by Departmental Letter 95–010, on June 13, 1995, is converted to a final rule without change. The rule amends DFARS Part 246 to encourage increased use of commercial quality standards by removing existing requirements to use military quality standards. The rule revises the definition of “quality program,” replaces direct references to MIL–I–45208 and MIL–Q–9858 with references to higher-level contract quality requirements, and deletes Table

#### 46-1, Contract Quality Requirements Guide.

#### Item XXXIII—Contract Data Reporting (DFARS Case 95-D711/95-D713)

This final rule contains the guidance issued by Departmental Letter 95-014, on July 6, 1995, and additional guidance pertaining to DD Form 350 and DD Form 1057 reporting requirements. The rule revises DFARS 204.6, 253.204-70 and 253.204-71 to comply with reporting requirements of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355). Except for contracting actions pertaining to contingencies as described at FAR 13.101, contracting officers will continue to use DD Form 350 to report all contracting actions exceeding \$25,000. Contracting actions pertaining to contingencies will continue to be reported on DD Form 1057. Until the forms are revised, the term "small purchase procedures" used on DD Forms 350 and 1057 shall be interpreted to mean "simplified acquisition procedures."

#### Item XXXIV—Master Agreements (DFARS Case 95-D038)

This final rule deletes DFARS 237.270, Master Agreements. The authority to award master agreements for advisory and assistance services under 10 U.S.C. 2304 expired on September 30, 1994.

#### Item XXXV—Acquisition of Commercial Items (DFARS Case 95-D712)

This interim rule amends the DFARS to conform to the FAR changes pertaining to the acquisition of commercial items, published as Item III of FAC 90-32 on September 18, 1995. The rule also implements DoD-unique requirements of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103-355) regarding the acquisition of commercial items. Following is a summary of the DFARS amendments contained in this rule:

- Part 203 is amended to reflect that the statutory prohibitions of 10 U.S.C. 2397b do not apply to contractors that supply only commercial items to DoD.
- Part 207 is amended to reflect the preference for commercial items and the requirement for market research contained in FAR Parts 10 and 11.
- Parts 210, 211, and 212 are revised to reflect the restructuring of FAR Parts 10, 11, and 12. Part 210 is retitled "Market Research" and contains no DFARS text; Part 211 is retitled "Describing Agency Needs" and revised to include guidance that was previously included in Part 210; and

Part 212 is retitled "Acquisition of Commercial Items" and revised to include two new subparts. Subpart 212.3 prescribes solicitation provisions and contract clauses for use in DoD acquisitions of commercial items, to include a new solicitation provision at 252.212-7000, Offeror Representations and Certifications—Commercial Items, and a new contract clause at 252.212-7001, Contract Terms and Conditions Required to Implement Statutes Applicable to Defense Acquisition of Commercial Items. Subpart 212.5 contains lists of statutes that do not apply, or have limited application to, contracts or subcontracts for the acquisition of commercial items.

- Part 217 is amended to state that the requirement for contractor identification of sources of supply does not apply to commercial items.
- Part 225 is amended to state that certain foreign source restrictions do not apply to commercial items or components purchased by contractors from subcontractors/suppliers.
- Part 227 is amended to delete definitions which appear in FAR Part 2 and to clarify that clauses prescribed by 227.7102-3 and 227.7103-15 do not flow down to subcontractors providing commercial items or components.
- Part 234 is amended to include the definitions of "systems" and "systems acquisition" which were deleted from 210.001.
- Part 246 is amended to conform to the policy in FAR 12.208 on contract quality assurance.
- Amendments are made to conform terminology to the definition of "commercial items" in FAR Part 2 and to delete obsolete references.

#### Item XXXVI—Editorial Revisions

Note: The asterisked items are revisions being made only in the looseleaf edition of the DFARS.

- (a) DFARS is amended by revising "Under Secretary of Defense for Acquisition (USD(A))" to read "Under Secretary of Defense for Acquisition & Technology (USD(A&T))" each place it appears.
- \* (b) Section 202.101 is amended by revising in the definition "Contracting activity" under the heading "NAVY" the entry "Space and Naval Warfare Systems Command" to read "Space and Naval Warfare Systems Command."
- (c) Section 204.7003(a)(1) is amended to update the department/agency identification characters used in procurement instrument identification numbers.

(d) Section 209.403 is amended to update the Air Force entry to read "Air Force—Deputy General Counsel (Contractor Responsibility)."

(e) Section 209.405-1 is amended to redesignate paragraphs (a) and (b) as paragraphs (b) and (c), respectively.

(f) Section 214.406-3(e)(i) is amended to revise "DARPA" to read "ARPA."

(g) Section 225.302. is amended by revising in paragraph (b)(i) under the heading "DEFENSE LOGISTICS AGENCY" the entry "Executive Director, Contracting" to read "Executive Director, Procurement"; and to add a new heading and entry between the headings "DEFENSE MAPPING AGENCY" and "ON-SITE INSPECTION AGENCY" to read "DEPARTMENT OF DEFENSE OFFICE OF DEPENDENT SCHOOLS, Director."

(h) Section 225.770-1 is amended by revising between the word "that" and the word "does" the word "is" to read "it."

(i) Section 227.7103-6 is amended in paragraph (a) to revise the word "Innovative" to read "Innovation."

(j) Section 227.7104 is amended in the title by revising the word "Innovative" to read "Innovation" and by revising in paragraph (a) the word "Innovative" to read "Innovation."

\* (k) Section 232.704-70(c) is amended to revise the word "funs" to read "funds."

(l) Section 242.705-2 is amended to redesignate paragraphs (b)(2)(iii) and (b)(2)(v) as paragraphs (b)(2)(ii) and (b)(2)(iv), respectively.

(m) Section 249.7002(b) is amended in the introductory text to revise the phrase "Office of Economic Adjustment (OEA), Assistant Secretary of Defense (Force Management and Personnel)" to read "Assistant Secretary of Defense (Economic Security), Office of Economic Adjustment (OEA)."

(n) Section 249.7002(b)(2) is amended to revise the Telefax number to read "(703) 604-5843."

\* (o) Section 252.223-7004(a)(1) is amended to revise "employe" to read "employee."

(p) Section 252.225-7040 is amended to revise in the introductory text the reference "225.7004-5(c)" to read "225.7004-6(c)."

(q) Section 252.227-7018 is amended in the section title to revise the word "Innovative" to read "Innovation" and in the clause title to revise the word "INNOVATIVE" to read "INNOVATION."

(r) Appendix F, F-401, Table 2, is amended to update the Army address for Foreign Military Sales.

(s) Appendix G is revised to update activity addresses.

Interim Rules Adopted as Final Without Changes

**PARTS 206, 207, 215, 219, AND 252—[AMENDED]**

The interim rule that was published at 60 FR 40106 on August 7, 1995, is adopted as final without change.

**PART 225—[AMENDED]**

The interim rule that was published at 60 FR 34470 on July 3, 1995, is adopted as final without change.

**PART 231—[AMENDED]**

The interim that was published at 60 FR 2330 on January 9, 1995, is adopted as final without change.

**PART 235—[AMENDED]**

The interim rule that was published at 60 FR 4569 on January 24, 1995, is adopted as final without change.

Interim Rules Adopted as Final With Changes

**PARTS 206 AND 237—[AMENDED]**

The interim rule that was published at 60 FR 2888 on January 12, 1995, is adopted as final with amendments at section 237.104, addition of section 206.001, and removal of Subpart 206.1.

**PART 219—[AMENDED]**

The interim rule that was published at 60 FR 13074 on March 10, 1995, is adopted as final with amendments at section 219.703.

**PARTS 223 AND 252—[AMENDED]**

The interim rule published at 60 FR 13075 on March 10, is adopted as final with amendments at sections 223.7101, 223.7102, and 252.223-7006.

**PARTS 225 AND 252—[AMENDED]**

The interim rule published at 60 FR 19531 on April 19, 1995, is adopted as final with amendments at sections 225.7004-4, 225.7007-4, 225.7010-3, and 225.7016-3.

**PARTS 225 AND 252—[AMENDED]**

The interim rule published at 60 FR 34471 on July 3, 1995, is adopted as final with amendments at sections 225.7023-1, 225.7023-3, and 252.225-7011.

**PART 226—[AMENDED]**

The interim rule published at 60 FR 5870 on January 31, 1995, is adopted as final with a revision at section 226.7104.

**PART 235—[AMENDED]**

The interim rule published at 60 FR 13076 on March 10, 1995, is adopted as final with a revision at section 235.017-1.

**PART 246—[AMENDED]**

The interim rule published at 60 FR 33144 on June 27, 1995, is adopted as final with amendments at section 246.202-3.

List of Subjects in 48 CFR Parts 201, 202, 203, 204, 206, 207, 208, 209, 210, 211, 212, 214, 215, 217, 219, 223, 225, 226, 227, 228, 231, 232, 234, 235, 237, 239, 242, 246, 247, 249, 250, 252, 253, and Appendices C, F, and G to Chapter 2

Government procurement.

Amendments to 48 CFR Chapter 2 (Defense Federal Acquisition Regulation Supplement)

48 CFR Chapter 2 (the Defense Federal Acquisition Regulation Supplement) is amended as set forth below.

1. The authority for 48 CFR parts 201, 202, 203, 204, 206, 207, 208, 209, 210, 211, 212, 214, 215, 217, 219, 223, 225, 226, 227, 228, 231, 232, 234, 235, 237, 239, 242, 246, 247, 249, 250, 252, 253, and Appendices C, F, and G to Chapter 2 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

**PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM**

**201.201-1 [Amended]**

2. Section 201.201-1 is amended by revising in paragraph (d)(i) introductory text the phrase "OUSD(A)" to read "OUSD(A&T);" and by revising in paragraph (d)(i)V. the phrase "USD(A)DP" to read "USD(A&T)DP."

**201.301 [Amended]**

3. Section 201.301(b) is amended by revising the phrase "USD(A)" to read "USD(A&T)."

**201.304 [Amended]**

4. Section 201.304 is amended by revising in paragraph (1) the phrase the "USD(A)" to read "USD(A&T);" by revising in paragraph (2) the phrase "USD(A)" to read "USD(A&T);" and by revising in paragraph (2) the phrase "USD(A)DP" to read "USD(A&T)DP;" by revising in paragraph (3) the phrase "USD(A)DP" to read "USD(A&T)DP;" by revising in paragraph (4) the phrase "USD(A)DP" to read "USD(A&T)DP;" by revising in paragraph (5) the phrase "USD(A)" to read "USD(A&T);" and by

revising in paragraph (5) the phrase "USD(A)DP" to read "USD(A&T)DP."

**201.402 [Amended]**

5. Section 201.402 is amended by revising in paragraph (1) the phrase "Office of the Under Secretary of Defense for Acquisition, USD(A)DP" to read "Office of the Under Secretary of Defense (Acquisition & Technology), USD(A&T)DP;" and by revising in paragraph (3) the phrase "USD(A)DP" to read "USD(A&T)DP".

**PART 202—DEFINITIONS OF WORDS AND TERMS**

6. Section 202.101 is amended by revising the definition of "Senior procurement executive" to read:

**202.101 Definitions.**

\* \* \* \* \*

*Senior procurement executive*, means for DoD—

Department of Defense (including the defense agencies)—Under Secretary of Defense (Acquisition & Technology);

Department of the Army—Assistant Secretary of the Army (Research, Development and Acquisition);

Department of the Navy—Assistant Secretary of the Navy (Research, Development and Acquisition);

Department of the Air Force—Assistant Secretary of the Air Force (Acquisition).

The directors of the defense agencies have been delegated authority to act as senior procurement executive for their respective agencies, except for such actions that by terms of statute, or any delegation, must be exercised by the Under Secretary of Defense (Acquisition & Technology).

**PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**

7. Section 203.170-1 is amended in paragraph (a) by adding a last sentence to read as follows:

**203.170-1 Policy.**

(a) \* \* \* The prohibitions in 10 U.S.C. 2397b do not apply to contractors that supply only commercial items to DoD.

\* \* \* \* \*

8. Section 203.170-4 is revised to read as follows:

**203.170-4 Contract clause.**

Use the clause at 252.203-7000, Statutory Prohibitions on Compensation to Former Department of Defense Employees, in all solicitations and contracts expected to exceed \$100,000, except solicitations and contracts for commercial items.

9. Section 203.570-5 is revised to read as follows:

**203.570-5 Contract clause.**

Use the clause at 252.203-7001, Special Prohibition on Employment, in all solicitations and contracts exceeding the simplified acquisition threshold in FAR part 13, except solicitations and contracts for commercial items.

**203.703 [Amended]**

10. Section 203.703 is amended by revising "Under Secretary of Defense for Acquisition" to read "Under Secretary of Defense (Acquisition & Technology)."

**203.71 [Removed]**

11. Subpart 203.71 is removed.

**PART 204—ADMINISTRATIVE MATTERS**

12. Section 204.602-70 is added to read as follows:

**204.602-70 Solicitation provision.**

When the Commercial and Government Entity codes for the prospective offerors are not available to the contracting office, use the provision at 252.204-7001, Commercial and Government Entity (CAGE) Code Reporting.

**204.603 [Removed]**

13. Section 204.603 is removed.

**204.603-70 [Removed]**

14. Section 204.603-70 is removed.

**204.670-1 [Amended]**

15. Section 204.670-1 is amended by revising in paragraph (c)(3) the acronym "SAF/AQCP" to read "SAF/AQCI."

16. Section 204.670-2 is amended by revising paragraph (c) and paragraph (d) to read as follows:

**204.670-2 Reportable contracting actions.**

\* \* \* \* \*

(c) Do not report on a DD Form 350, contingency actions defined in 213.101. Summarize these actions on a DD Form 1057 in accordance with the instructions in 253.204-71(a)(3).

(d) The following contracting actions are not subject to reporting on either the DD Form 350 or DD Form 1057:

- (1) Micro-purchases obtained through use of the purchase card;
- (2) Transactions that cite only nonappropriated funds (Funds held in trust accounts for foreign governments shall be treated as appropriated funds.);
- (3) Transactions for purchase of land, or rental or lease of real property, when the General Services Administration (GSA) executes the contracting action;
- (4) Orders from GSA stock and the GSA Consolidated Purchase Program;

(5) Transactions that involve Government bills of lading or transportation requests, except orders placed under Regional Storage Management Office's (RSMO) BOAs;

(6) Requisitions transferring supplies within or among the departments or agencies; and

(7) Pursuant to 204.670-6(b), orders placed by other contracting activities against indefinite delivery contracts awarded by the—

- (i) Military Sealift Command;
- (ii) Defense Fuel Supply Center for petroleum and petroleum products; or
- (iii) Defense General Supply Center for petroleum products.

17. Section 204.670-6 is amended by revising paragraph (b) to read as follows:

**204.670-6 Types of DD Form 350 report.**

\* \* \* \* \*

(b) A consolidated report is one DD Form 350 report which combines several contracting actions.

(1) Prepare consolidated reports for—

(i) Air Mobility Command awards for international airlift services. The Command reports these at the end of each operating month with one DD Form 350 for each airlift contract.

(ii) Military Sealift Command awards of indefinite delivery contracts for ocean transportation. The Command reports at the beginning of each fiscal year the estimated value of the orders for that fiscal year on one DD Form 350.

(iii) Defense Fuel Supply Center or Defense General Supply Center indefinite delivery contracts for petroleum or petroleum supplies. The Centers, at the time of award, report the estimated value of the orders to be placed against the contract on one DD Form 350.

(iv) Orders placed by the Defense Commissary Agency (DeCA) for resale items in excess of \$25,000. DeCA consolidates the orders monthly and reports the cumulative dollar amounts and actions on one DD Form 350 in accordance with departmental regulations. Defense Logistics Agency activities submit single rather than consolidated reports.

(v) Vouchers processed by the U.S. Army Contracting Command, Europe (USACCE), for the purchase of utilities from municipalities (e.g., gas, electricity, water, sewage, steam, snow removal, and garbage collection). USACCE consolidates these transactions monthly and reports the cumulative dollar amount on one DD Form 350 in accordance with departmental regulations.

(2) Consolidated reports may be prepared in accordance with departmental instructions for orders

under communications service agreements for local dial tone services.

\* \* \* \* \*

18. Section 204.7003 is amended by revising paragraph (a)(1)(i) to read as follows:

**204.7003 Basic PII number.**

(a) \* \* \*

(1) \* \* \*

(i) Department/agency identification:

- (A) Department of the Army ..... DA
- (B) Department of the Navy (except Marine Corps). N
- (C) Department of the Air Force . F
- (D) Defense Information Systems Agency. DCA
- (E) Defense Logistics Agency ..... S
- (F) Defense Nuclear Agency ..... DNA
- (G) Defense Mapping Agency .... DMA
- (H) Miscellaneous Defense Activities. MDA
- (I) Marine Corps ..... M
- (J) Ballistic Missile Defense Organization. HQ0006
- (K) On Site Inspection Agency ... OSIA
- (L) Defense Commissary Agency DECA
- (M) United States Special Operations Command. USZA

\* \* \* \* \*

**PART 206—COMPETITION REQUIREMENTS**

19. A new section 206.001 is added to read as follows:

**206.001 Applicability.**

(b) Contracts awarded using the procedures in 237.104(b)(ii) are expressly authorized by 10 U.S.C. 1091.

**206.1 [Removed]**

20. Subpart 206.1 is removed.

21. Section 206.303-1 is amended by adding a new paragraph (c) to read as follows:

**206.303-1 Requirements.**

\* \* \* \* \*

(c) When conditions warrant, a class justification may provide for award of multiple contracts extending across more than one program phase.

**PART 207—ACQUISITION PLANNING**

22. Section 207.102 is added to read as follows:

**207.102 Policy.**

When a class justification for other than full and open competition has been approved, planning for competition shall be accomplished consistent with the terms of that approval.

23. Section 207.105 is amended by revising paragraph (b)(6); paragraph (b)(5); and paragraph (b)(17)(A)(8) to read as follows:

**207.105 Contents of written acquisition plans.**

- (a) \* \* \*
- (b) \* \* \*

(6) *Product descriptions*

For development acquisitions, describe the market research undertaken to identify commercial items, commercial items with modifications, or nondevelopmental items (see FAR part 10) that could satisfy the acquisition objectives.

\* \* \* \* \*

(15) *Environmental considerations.*

Discuss actions taken to ensure either elimination of or authorization to use class I ozone-depleting chemicals and substances (see 211.271).

- (17) \* \* \*

(A) \* \* \*

(8) Expanded use of commercial items, commercial items with modifications, or to the extent commercial items are not available, nondevelopmental items (see FAR part 10).

\* \* \* \* \*

**PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

24. Section 208.7003-1 is revised to read as follows:

**208.7003-1 Assignments under integrated material management (IMM).**

(a) All items assigned for IMM must be acquired from the IMM manager except—

(1) Items purchased under circumstances of unusual and compelling urgency as defined in FAR 6.302-2. After such a purchase is made, the requiring activity must send one copy of the contract and a statement of the emergency to the IMM manager;

(2) Items for which the IMM manager assigns a supply system code for local purchase or otherwise grants authority to purchase locally; or

(3) When purchase by the requiring activity is in the best interest of the Government in terms of the combination of quality, timeliness, and cost that best meets the requirement. This exception does not apply to items—

(i) Critical to the safe operation of a weapon system;

(ii) With special security characteristics; or

(iii) Which are dangerous (e.g., explosives, munitions).

(b) When an item assigned for IMM is to be acquired by the requiring activity under paragraph (a)(3) of this subsection, the contracting officer must—

(1) Document the contract file with a statement of the specific advantage of

local purchase for an acquisition exceeding the micro-purchase threshold in FAR part 13; and

(2) Ensure that a waiver is obtained from the IMM manager before initiating an acquisition exceeding the simplified acquisition threshold in FAR part 13, if the IMM assignment is to the General Services Administration (GSA), the Defense Logistics Agency (DLA), or the Army Materiel Command (AMC). Submit requests for waiver to—

(i) For GSA:

Commissioner (F), Federal Supply Service, Washington, DC 20406

(ii) For DLA:

Defense Construction Supply Center, ATTN: DCSC-BDA, P.O. Box 3990, Columbus, OH 43216-5000

Defense Electronics Supply Center, ATTN: DESC-ERM, 1507 Wilmington Pike, Dayton, OH 45444-5000

Defense Fuel Supply Center, ATTN: DFSC-OI, Cameron Station, VA 22304-6160

Defense General Supply Center, ATTN: DGSC-X, Richmond, VA 23297-5000

Defense Industrial Supply Center, ATTN: DISC-OPD, 700 Robbins Avenue, Philadelphia, PA 19111-5096

Defense Personnel Support Center, ATTN: DPSC-CSH, 2800 South 20th Street, P.O. Box 8419, Philadelphia, PA 19101-8419

(iii) For AMC:

Commander, U.S. Army Materiel Command, ATTN: AMCLG-S, 5001 Eisenhower Avenue, Alexandria, VA 22333-0001

25. Section 208.7003-2 is amended by revising paragraph (c) to read as follows:

**208.7003-2 Assignments under coordinated acquisition.**

\* \* \* \* \*

(c) Requirements not in excess of the simplified acquisition threshold in FAR part 13, when contracting by the requiring department is in the best interest of the Government;

\* \* \* \* \*

**PART 209—CONTRACTOR QUALIFICATIONS**

26. Section 209.103-70 is revised to read as follows:

**209.103-70 Contract clause.**

Use the clause at 252.209-7000, Acquisition from Subcontractors Subject to On-Site Inspection Under the Intermediate-Range Nuclear Forces (INF) Treaty, in all solicitations and contracts exceeding the simplified acquisition threshold in FAR part 13,

except solicitations and contracts for commercial items.

27. Section 209.106-1 is revised to read as follows:

**209.106-1 Conditions for preaward surveys.**

(a) If a preaward survey is requested, include the rationale in block 23 of the SF 1403, Preaward Survey of Prospective Contractor (General).

28. Section 209.202 is revised to read as follows:

**209.202 Policy.**

(a)(1) The inclusion of qualification requirements in specifications for products which are to be included on a Qualified Products List, or manufactured by business firms included on a Qualified Manufacturers List, requires approval by the departmental standardization office in accordance with DoD Manual 4120.3-M, Defense Standardization Program Policies and Procedures. The inclusion of other qualification requirements in an acquisition or group of acquisitions requires approval by the chief of the contracting office.

**209.403 [Amended]**

29. Section 209.403 is amended under the definition "Debarring official" to revise the "Air Force" entry to read "Air Force—Deputy General Counsel (Contractor Responsibility)."

**209.405-1 [Amended]**

30. Section 209.405-1 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c).

**209.470-1 [Amended]**

31. Section 209.470-1 is amended by removing in paragraph (a) introductory text the comma after the parenthetical phrase "(Pub. L. 103-337)"; and by revising in paragraph (b) the last sentence "(See FAR 9.404)." to read "(See FAR 9.404)."

**209.470-3 [Amended]**

32. Section 209.470-3 is amended to revise "252.209-7007" to read "252.209-7005."

**PART 210—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS**

**Part 210—[Removed]**

33. Part 210 is removed.

34. Part 211 is revised to read as follows:

**PART 211—DESCRIBING AGENCY NEEDS**

Sec.

211.002 Policy.

211.002-70 Contract clause.

**Subpart 211.2—Using and Maintaining Requirements Documents**

211.201 Identification and availability of specifications.

211.204 Solicitation provisions and contract clauses.

211.270 Brand name or equal purchase descriptions.

211.270-1 Policy.

211.270-2 Solicitation provision.

211.271 Elimination of use of class I ozone-depleting substances.

211.272 Alternate preservation, packaging, and packing.

**Subpart 211.5—Liquidated Damages**

211.504 Contract clauses.

**Subpart 211.6—Priorities and Allocations**

211.602 General.

**211.002 Policy**

All systems acquisition programs in the DoD are subject to the acquisition streamlining policies and procedures in DoDI 5000.2, Defense Acquisition Management Policies and Procedures.

**211.002-70 Contract clause.**

Use the clause at 252.211-7000, Acquisition Streamlining, in all solicitations and contracts for systems acquisition programs.

**Subpart 211.2—Using and Maintaining Requirements Documents****211.201 Identification and availability of specifications.**

(a) The DoD index of data item descriptions is DoD 5010.12-L, Acquisition Management Systems and Data Requirements Control List (AMSDL).

(b) Also, furnish data item descriptions which are not listed in the AMSDL, except when it is not feasible, e.g., documents are bulky or only a limited number of copies are available at the contracting activity.

(d) The AMSDL, all unclassified specifications and standards listed in the DODISS, and data item descriptions listed in the AMSDL may also be purchased from the Standardization Documents Desk, Building 4D, 700 Robbins Avenue, Philadelphia, PA 19111-5094. Include with the letter or DD Form 1425—

(i) The requester's customer number; and

(ii) Complete return mailing address, including any "mark for" instructions.

**211.204 Solicitation provisions and contract clauses.**

(c) When contract performance requires use of specifications and standards which are not listed in the DODISS and data item descriptions which are not listed in the AMSDL, use provisions, as appropriate, substantially the same as those at 252.211-7001, Availability of Specifications and Standards Not Listed in DODISS, Data Item Descriptions Not Listed in DoD 5010.12-L, and Plans, Drawings, and Other Pertinent Documents, and 252.211-7002, Availability for Examination of Specifications, Standards, Plans, Drawings, Data Item Descriptions, and Other Pertinent Documents.

**211.270 Brand name or equal purchase descriptions.****211.270-1 Policy.**

When a "brand name or equal" purchase description is used—

(a) The purchase description—  
(1) Should include a complete common generic identification of the item.

(2) Should reference all known acceptable brand name products, to include—

(i) Name of manufacturer, producer, or distributor of each brand name product referenced (and address if not well known); and

(ii) Model, make, or catalog number for each, and identity of the commercial catalog in which it appears.

(3) May, if necessary to adequately describe an item, use a commercial catalog description or an extract from the catalog. Ensure that a copy of each catalog referenced (except parts catalogs) is available at the contracting office for review by offerors.

(4) Should give prospective offerors the opportunity to offer products other than those specifically referenced by brand name, as long as they meet the needs of the Government in essentially the same manner as the brand name product.

(5) Must identify those salient physical, functional, or other characteristics which are essential to the needs of the Government.

(b) The solicitation—

(1) Shall be at or below the simplified acquisition threshold in FAR part 13.

(2) May require bid samples for "or equal" offers, but not for "brand name" offers.

(3) Must provide for full consideration and evaluation of "or equal" offers against the salient characteristic specified in the purchase description. Do not reject offers for minor differences

in design, construction, or features which do not affect the suitability of the product for its intended use.

(4) Must include the following immediately after the item description—  
Offering:

Manufacturer's Name \_\_\_\_\_ Brand \_\_\_\_\_  
Model or Part No. \_\_\_\_\_

(c) The contract shall—

(1) Not exceed the simplified acquisition threshold in FAR part 13.

(2) Identify, or incorporate by reference an identification of the specific products the contractor is to furnish. Include any brand name, make or model number, descriptive material, and any modifications of brand name products specified in the offer.

**211.270-2 Solicitation provision.**

(a) When a brand name or equal purchase description is included in a solicitation at or below the simplified acquisition threshold in FAR part 13, use the provision at 252.211-7003, Brand Name or Equal.

(b) When component parts of an end item are described by brand name or equal purchase descriptions and application of the provision at 252.211-7003 to some or all of the components is impracticable, either do not use the provision or limit its application to specified components.

**211.271 Elimination of use of class I ozone-depleting substances.**

(a) *Contracts.* No DoD contract may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard is specifically authorized at a level no lower than a general or flag officer or member of the Senior Executive Service of the requiring activity in accordance with Section 326, Public Law 102-484 (10 U.S.C. 2301 (repealed) note).

(b) *Modifications.* (1) Contracts awarded before June 1, 1993, with a value in excess of \$10 million, that are modified or extended (including option exercise) and, as a result of the modification or extension will expire more than one year after the effective date of the modification or extension, must be evaluated in accordance with agency procedures for the elimination of ozone-depleting substances.

(i) The evaluation must be carried out within 60 days after the first modification or extension.

(ii) No further modification or extension may be made to the contract until the evaluation is complete.

(2) If, as a result of this evaluation, it is determined that an economically

feasible substitute substance or alternative technology is available, the contracting officer shall modify the contract to require the use of the substitute substance or alternative technology.

(3) If a substitute substance or alternative technology is not available, a written determination shall be made to that effect at a level no lower than a general or flag officer or member of the Senior Executive Service of the requiring activity.

**211.272 Alternate preservation, packaging, and packing.**

Use the provision at 252.211-7004, Alternate Preservation, Packaging, and Packing, in solicitations which include military preservation, packaging, or packing specifications when it is feasible to evaluate and award using commercial or industrial preservation, packaging, or packing.

**Subpart 211.5—Liquidated Damages.**

**211.504 Contract clauses.**

(b) Use the clause at FAR 52.211-12, Liquidated Damages—Construction, in all construction contracts exceeding \$500,000, except cost-plus-fixed-fee contracts or contracts where the contractor cannot control the pace of the work. Use of the clause in contracts of \$500,000 or less is optional.

**Subpart 211.6—Priorities and Allocations.**

**211.602 General.**

DoD implementation of the Defense Priorities and Allocations System is in DoDI 4400.1, Priorities and Allocations—Delegation of DO and DX Priorities and Allocations Authorities, Rescheduling of Deliveries and Continuance of Related Manuals.

35. Part 212 is revised to read as follows:

**PART 212—ACQUISITION OF COMMERCIAL ITEMS—GENERAL**

Sec.

**Subpart 212.2—Special Requirements for the Acquisition of Commercial Items**

212.211 Technical data.

**Subpart 212.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items**

212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

212.302 Tailoring of provisions and clauses for the acquisition of commercial items.

**Subpart 212.5—Applicability of Certain Laws to the Acquisition of Commercial Items**

212.503 Applicability of certain laws to Executive Agency contracts for the acquisition of commercial items.

212.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.

**Subpart 212.2—Special Requirements for the Acquisition of Commercial Items**

**212.211 Technical data.**

The DoD policy for acquiring technical data for commercial items is at 227.7102.

**Subpart 212.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items**

**212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.**

(f)(i) Use the provision at 252.225-7013, Domestic Wool Preference, as prescribed in 225.7002-4(b).

(ii) Use one of the following provisions as prescribed in part 225: (A) 252.225-7000, Buy American Act—Balance of Payments Program Certificate.

(B) 252.225-7006, Buy American Act—Trade Agreements—Balance of Payments Program Certificate.

(C) 252.225-7035, Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program Certificate.

(iii) Use the provision at 252.212-7000, Offeror Representations and Certifications—Commercial Items, in all solicitations for commercial items exceeding the simplified acquisition threshold in FAR part 13. If an exception to 10 U.S.C. 2410i applies to a solicitation exceeding the simplified acquisition threshold (see 225.770-3), indicate on an addendum that “The certification in paragraph (b) of the provision at 252.225-7000 does not apply to this solicitation.”

(iv) Use the clause at 252.212-7001, Contract Terms and Conditions Required to Implement Statutes Applicable to Defense Acquisitions of Commercial Items, in all solicitations and contracts for commercial items, completing paragraph (b), as appropriate.

**212.302 Tailoring of provisions and clauses for the acquisition of commercial items.**

(c) *Tailoring inconsistent with customary commercial practice.*

The head of the contracting activity is the approval authority within the DoD for waivers under FAR 12.302(c).

**Subpart 212.5—Applicability of Certain Laws to the Acquisition of Commercial Items**

**212.503 Applicability of certain laws to Executive Agency contracts for the acquisition of commercial items.**

(a) The following laws are not applicable to contracts for the acquisition of commercial items:

(i) Section 806, Public Law 102-190 (10 U.S.C. 2301 (repealed) note), Payment Protections for Subcontractors and Suppliers.

(ii) 10 U.S.C. 2306(b), Prohibition on Contingent Fees.

(iii) 10 U.S.C. 2324, Allowable Costs Under Defense Contracts.

(iv) 10 U.S.C. 2384(b), Requirement to Identify Suppliers.

(v) 10 U.S.C. 2397(a)(1), Reports by Employees or Former Employees of Defense Contractors.

(vi) 10 U.S.C. 2397b(f), Limits on Employment for Former DoD Officials.

(vii) 10 U.S.C. 2397c, Defense Contractor Requirements Concerning Former DoD Officials.

(viii) 10 U.S.C. 2408(a), Prohibition on Persons Convicted of Defense Related Felonies.

(ix) 10 U.S.C. 2410b, Contractor Inventory Accounting System Standards (see 252.242-7004).

(x) 107 Stat 1720 (Section 843(a), Public Law 103-160), Reporting Requirement Regarding Dealings with Terrorist Countries.

(xi) Domestic Content Restrictions in the National Defense Appropriations Acts for Fiscal Years 1996 and Subsequent Years.

(c) The applicability of the following laws has been modified in regard to contracts for the acquisition of commercial items:

(i) 10 U.S.C. 2402, Prohibition on Limiting Subcontractor Direct Sales to the United States (see FAR 3.503 and 52.203-6).

(ii) 10 U.S.C. 2306a, Truth in Negotiations Act (see FAR 15.804).

**212.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.**

(a) The following laws are not applicable to subcontracts at any tier for the acquisition of commercial items or commercial components:

(i) 10 U.S.C. 2241 note, Limitations on Procurement of Food, Clothing, and Specialty Metals Not Produced in the United States.

(ii) Section 806, Public Law 102-190 (10 U.S.C. 2301 (repealed) note), Payment Protections for Subcontractors and Suppliers.

(iii) 10 U.S.C. 2306(b) Prohibition on Contingent Fees.

(iv) 10 U.S.C. 2313(c), Examination of Records of a Contractor.  
 (v) 10 U.S.C. 2320, Rights in Technical Data.  
 (vi) 10 U.S.C. 2321, Validation of Proprietary Data Restrictions.  
 (vii) 10 U.S.C. 2324, Allowable Costs Under Defense Contracts.  
 (viii) 10 U.S.C. 2327, Reporting Requirement Regarding Dealings with Terrorist Countries.  
 (ix) 10 U.S.C. 2384(b), Requirement to Identify Suppliers.  
 (x) 10 U.S.C. 2391 note, Notification of Substantial Impact on Employment.  
 (xi) 10 U.S.C. 2393, Prohibition Against Doing Business with Certain Offerors or Contractors.  
 (xii) 10 U.S.C. 2397(a)(1), Reports by Employees or Former Employees of Defense Contractors.  
 (xiii) 10 U.S.C. 2397b(f), Limits on Employment for Former DoD Officials.  
 (xiv) 10 U.S.C. 2397c, Defense Contractor Requirements Concerning Former DoD Officials.  
 (xv) 10 U.S.C. 2408(a) Prohibition on Persons Convicted of Defense Related Felonies.  
 (xvi) 10 U.S.C. 2410b, Contractor Inventory Accounting System Standards.  
 (xvii) 10 U.S.C. 2501 note, Notification of Proposed Program Termination.  
 (xviii) 10 U.S.C. 2534, Miscellaneous Limitations on the Procurement of Goods Other Than United States Goods.  
 (xix) 10 U.S.C. 2534(c), Preference for United States and Canadian Valves and Machine Tools.  
 (xx) 10 U.S.C. 2534(d), Restriction on Acquisition of Carbonyl Iron Powder.  
 (xxi) 10 U.S.C. 2534(e), Restriction on Acquisition of Air Circuit Breakers.  
 (xxii) Effective May 1, 1996: 10 U.S.C. 2631, Transportation of Supplies by Sea.  
 (xxiii) 19 U.S.C. 2512, Trade Agreements Act.  
 (xxiv) 41 U.S.C. 10, Buy American Act.  
 (xxv) 10 U.S.C. 2327 (Section 843(a), Public Law 103-160), Reporting Requirement Regarding Dealings with Terrorist Countries.  
 (xxvi) Domestic Content Restrictions in the National Defense Appropriations Acts for Fiscal Years 1996 and Subsequent Years.  
 (b) Certain requirements of the following laws have been eliminated for subcontracts at any tier for the acquisition of commercial items or commercial components:  
 (i) 10 U.S.C. 2393(d), Subcontractor Reports Under Prohibition Against Doing Business with Certain Offerors (see FAR 52.209-6).  
 (ii) 10 U.S.C. 2402, Prohibition on Limiting Subcontractor Direct Sales to

the United States (see FAR 3.503 and 52.203-6).

**PART 214—SEALED BIDDING**

**214.406—3 [Amended]**

36. Section 214.406-3 is amended by revising in paragraph (e)(i) the phrase “DARPA” to read “ARPA.”

**PART 215—CONTRACTING BY NEGOTIATION**

37. Section 215.804-8 is revised to read as follows:

**215.804-8 Contract clauses.**

If the solicitation or contract includes one of the clauses at FAR 52.215-23, FAR 52.215-24, or FAR 52.215-25, also use the clause at 252.215-7000, Pricing Adjustments.

**215.805-5 [Amended]**

38. Section 215.805-5 is amended by revising in paragraph (a)(1)(A)(3) the amount “\$1 million” to read “\$10 million.”

**215.971-4 [Amended]**

39. Section 215.971-4(d)(3)(A) is amended by revising the word “product” to read “item.”

**PART 217—SPECIAL CONTRACTING METHODS**

**217.103-1 [Amended]**

40. Section 217.103-1 is amended by revising in paragraph (b)(v) the phrase “(Acquisition)” to read “(Acquisition & Technology)” and the phrase “(USD(A)DP)” to read “(USD(A&T)DP);” by revising in paragraph (b)(v) the phrase “Deputy Assistant” to read “Under” and by revising the phrase “(OASD(C)(P/B))” to read “(USD(C)P/B)”; by revising in paragraph (b)(vi)(A)(2) the phrase “(Acquisition)” to read “(Acquisition & Technology);” and by revising in paragraph (b)(viii)(C) the phrase “(Acquisition)” to read “(Acquisition & Technology).”

41. Section 217.7302 is amended by revising paragraph (b) to read as follows:

**217.7302 Procedures.**

\* \* \* \* \*

(b) The requirement in paragraph (a) of this section does not apply to commercial items.

**217.7406 [Amended]**

42. Section 217.7406 is amended by revising “252.217.7027” to “252.217-7027.”

**PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS**

**219.703 [Amended]**

43. Section 219.703(a) is amended by revising the reference “Pub. L. 103-277” to read Public Law 103-337.”

44. Section 219.704 is revised to read as follows:

**219.704 Subcontracting plan requirements.**

(a)(1) The goal for use of small disadvantaged business concerns shall include subcontracts with historically black colleges and universities and minority institutions (see subpart 226.70), in addition to subcontracts with small disadvantaged business concerns. Subcontracts with historically black colleges and universities and minority institutions do not have to be included in the small disadvantaged business goal in commercial items subcontracting plans.

**219.1006 [Amended]**

45. Section 219.1006(b)(2) is amended by revising the phrase “(Acquisition)” to read “(Acquisition & Technology).”

**PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**

46. Section 223.104 is revised to read as follows:

**223.104 Exemptions.**

(c) The authority to act for the agency head under this subpart is limited to a level no lower than an official who is appointed by and with the advice of the Senate. For the defense agencies, this is the Under Secretary of Defense (Acquisition and Technology).

47. A new subpart 223.4 is added to read as follows:

**Subpart 223.4—Use of Recovered Materials**

**223.404 Procedures.**

(b)(3) A contract for an EPA designated item which does not meet the EPA or agency minimum recovered material standards shall not be awarded before approval of the written determination required by FAR 23.404(b)(3). The approving official shall be—

(A) A general or flag officer, or a member of the Senior Executive Service, of the requiring activity; or

(B) For requiring activities without a general or flag officer or member of the Senior Executive Service, the commander of the activity.

(4) Annual contractor certifications shall be submitted for consolidation and reporting in accordance with department/agency procedures.

48. Section 223.570-4 is amended by revising paragraph (b)(1) to read as follows:

**223.570-4 Contract clause.**

\* \* \* \* \*

(b) Do not use the clause in solicitations and contracts for—

(1) Commercial items; or

\* \* \* \* \*

49. Section 223.7101 is revised to read as follows:

**223.7101 Procedures.**

(a) If the contracting officer is uncertain as to whether particular activities are prohibited or fall under one of the exceptions in 223.7102, the contracting officer should seek advice from the cognizant office of counsel.

(b) When storage, treatment, or disposal of non-DoD-owned toxic or hazardous materials is authorized in accordance with this subpart, the contract or authorization should specify the types, conditions, and quantities of toxic or hazardous materials that may be temporarily stored, treated, or disposed of in connection with the contract or as a result of the authorized commercial use of a DoD industrial-type facility.

**223.7102 [Amended]**

50. Section 223.7102 is amended by removing at the end of paragraph (a)(7) the word “or”; by removing at the end of paragraph (a)(8) the period and adding a semicolon and the word “or”; and by adding paragraph (a)(9)(ii) the word “into” after the word “Enters.”

**PART 225—FOREIGN ACQUISITION**

**225.302 [Amended]**

51. Section 225.302 is amended by revising in paragraph (b)(i) under the heading “DEFENSE LOGISTICS AGENCY” the entry “Executive Director, Contracting” to read “Executive Director, Procurement”; and to add a new heading and entry between the headings “DEFENSE MAPPING AGENCY” and “ON-SITE INSPECTION AGENCY” to read “DEPARTMENT OF DEFENSE OFFICE OF DEPENDENTS SCHOOLS, Director.”

**225.403 [Amended]**

52. Section 225.403 is amended by revising in paragraph (d)(1)(A) the phrase “(USD(A)DP)” to read “(USD(A&T)DP):” by revising in paragraph (d)(1)(B) introductory text the phrase “(USD(A)DP)” to read “(USD(A&T)DP);” by revising in

paragraph (d)(1)(B)(2) the phrase “(USD(A)DP)” to read “(USD(A&T)DP).”

**225.770-4 [Amended]**

53-54. Section 225.770-4 is amended by revising the phrase “(OUSD(A)DP)” to read “(OUSD(A&T)DP).”

**225.871-7 [Amended]**

55. Section 225.871-7 is amended in paragraph (a)(1) revising the phrase “(ASD(P&L))” to read “(USD(A&T)DP).”

**225.872-1 [Amended]**

56. Section 225.872.1 is amended in paragraph (a) by adding to the listing in alphabetical order the country “Australia”; and is amended in paragraph (b) by removing from the listing the country “Australia.”

**225.872-2 [Amended]**

57. Section 225.872-2 is amended by revising in paragraph (a)(2)(ii) the phrase “(OASD(P&L), Office of Industrial Base Assessment)” to read “the Deputy Assistant Secretary of Defense (Industrial Affairs).”

**225.872-3 [Amended]**

58. Section 225.872-3 is amended by revising in paragraph (f)(4) the phrase “(Acquisition)” to read “(Acquisition & Technology).”

59. Section 225.7002-2 is amended by adding a new paragraph (j) to read as follows:

**225.7002-2 Exceptions.**

\* \* \* \* \*

(j) Commercial items or components purchased by contractors from subcontractors/suppliers.

60. Section 225.7004-4 is amended by revising paragraph (b) to read as follows:

**225.7004-4 Waiver.**

\* \* \* \* \*

(b) The restriction is waived when it would cause unreasonable costs. The cost of the item of U.S. or Canadian origin is unreasonable if it exceeds 150 percent of the offered price, inclusive of duty, of items which are not of U.S. or Canadian origin.

61. Section 225.7007-4 is revised to read as follows:

**225.7007-4 Waiver.**

The waiver criteria at 225.7004-4 also apply to this restriction.

62. Section 225.7010-3 is revised to read as follows:

**225.7010-3 Waiver.**

The waiver criteria at 225.7004-4 also apply to this restriction.

63. Section 225.7016-3 is revised to read as follows:

**225.7016-3 Waiver.**

The waiver criteria at 225.7004-4 also apply to this restriction.

**225.7018-2 [Amended]**

64. Section 225.7018-2 is amended by revising the phrase “(Acquisition)” to read “(Acquisition & Technology).”

**225.7019-2 [Amended]**

65. Section 225.7019-2 is amended by revising in paragraph (b) the word “products” to read “items.”

**225.7023-1 [Amended]**

66. Section 225.7023-1 is amended by revising the phrase “Section 8101” to read “Section 8112.”

**225.7023-3 [Amended]**

67. Section 225.7023-3 is amended by revising the word “Restrictions” to read “Restriction.”

**225.7103 [Amended]**

68. Section 225.7103 is amended by revising in paragraph (a) the phrase “small purchase” to read “simplified acquisition”; and by revising in paragraph (c) introductory text the word “products” to read “items.”

69. Section 225.7201 is revised to read as follows:

**225.7201 Exception.**

This subpart does not apply to contracts for commercial items, construction, ores, natural gas, utilities, petroleum products and crudes, timber (logs), or subsistence.

**225.7307-1 [Amended]**

70. Section 225.7307-1(f) is amended to revise the phrase “(OUSD(A)DP(FC))” to read “(OUSD(A&T)DP(FC)).”

**225.7307-2 [Amended]**

71. Section 225.7307-2 is amended in paragraph (b) by revising the phrase “(OASD(P&L))” to read “(USD(A&T)DP).”

**PART 226—OTHER SOCIOECONOMIC PROGRAMS**

72. A new subpart 226.1 is added to read as follows:

**Subpart 226.1—Indian Incentive Program.**

**226.103 Procedures.**

Contracting officers shall contact the Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary of Defense for Acquisition and Technology, OUSD(A&T) SADB, Room 2A340, The Pentagon, Washington, DC 20301-3061, (703) 697-1688, to obtain funding for an approved Indian incentive payment request. Upon receipt of funding from OUSD(A&T)

SADBU, the contracting officer shall issue a unilateral contract modification to add the incentive payment.

73. Section 226.7104 is revised to read as follows:

**226.7104 Other considerations.**

When planning for contracts for services related to base closure activities at a military installation affected by a closure or realignment under a base closure law, contracting officers shall consider including, as a factor in source selection, the extent to which offerors specifically identify and commit, in their proposals, to a plan to hire residents of the vicinity of the military installation that is being closed or realigned.

**PART 227—PATENTS, DATA, AND COPYRIGHTS**

**227.7101 [Amended]**

74. Section 227.7101 is amended by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

75. Section 227.7102-3 is amended by adding a last sentence to paragraph (a); by adding a last sentence to paragraph (b); and by adding a last sentence to paragraph (c) to read as follows:

**227.7102-3 Contract clause.**

(a) \* \* \* Do not require the contractor to include this clause in its subcontracts.

(b) \* \* \* Do not require the contractor to include this clause in its subcontracts for commercial items or commercial components.

(c) \* \* \* Do not require the contractor to include this clause in its subcontracts for commercial items or commercial components.

**227.7103-6 [Amended]**

76. Section 227.7103-6 is amended in paragraph (a), second sentence, by revising the word "Innovative" to read "Innovation."

77. Section 227.7103-15 is amended by revising paragraph (c) introductory text to read as follows:

**227.7103-15 Subcontractor rights in technical data.**

\* \* \* \* \*

(c) Require prime contractors whose contracts include the following clauses to include those clauses, without modification except for appropriate identification of the parties, in contracts with subcontractors or suppliers, at all tiers, who will be furnishing technical data for non-commercial items in response to a Government requirement:

\* \* \* \* \*

**227.7104 [Amended]**

78. Section 227.7104 is amended in the title by revising the word "Innovative" to read "Innovation"; and by revising in paragraph (a) the word "Innovative" to read "Innovation."

**227.7202-2 [Removed and Reserved]**

79. Section 227.7202-2 is removed and reserved.

**PART 228—BONDS AND INSURANCE**

**228.171-1 [Amended]**

80. Section 228.171-1(e) is amended by revising "28.204" to read "FAR 28.204."

**PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES**

**231.205-6 [Amended]**

81. Section 231.205-6 is amended by removing paragraph (g)(2)(i).

82. Section 231.603 is revised to read as follows:

**231.603 Requirements.**

The limitation on allowable individual compensation at 231.205-6(a)(2) also applies to this subpart.

83. Section 231.703 is revised to read as follows:

**231.703 Requirements.**

The limitation on allowable individual compensation at 231.205-6(a)(2) also applies to this subpart.

**Subpart 231.70—[Removed]**

84. Subpart 231.70 is removed.

**PART 232—CONTRACT FINANCING**

**232.170 [Amended]**

85. Section 232.170 is amended by revising in paragraph (a) the phrase "Office of the Under Secretary of Defense (Acquisition), USD(A)DP" to read "Office of the Under Secretary of Defense (Acquisition & Technology), USD(A&T)DP"; and by revising in paragraph (b) the phrase "USD(A)DP" to read "USD(A&T)DP."

**232.171 [Amended]**

86. Section 232.171 is amended by revising in paragraphs (a)(1), (b)(1), and (b)(3) the phrase "USD(A)DP" to read "USD(A&T)DP."

**232.173-1 [Amended]**

87. Section 232.173-1(b) is amended by revising the phrase "(Acquisition)" to read "(Acquisition & Technology)."

**232.173-5 [Amended]**

88. Section 232.173-5 is amended by revising in the introductory text the phrase "(Acquisition)" to read "(Acquisition & Technology)."

**232.501-2 [Amended]**

89. Section 232.501-2(a) is amended to revise the two occurrences of "USD(A)DP" to read "USD(A&T)DP."

**232.617 [Amended]**

90. Section 232.617 is amended by revising the phrase "USD(A)DP" to read "USD(A&T)DP."

**PART 234—MAJOR SYSTEM ACQUISITION**

91. Section 234.001 is added to read as follows:

**234.001 Definitions.**

*Systems* means a combination of elements that will function together to produce the capabilities required to fulfill a mission need.

*Systems acquisition* means the design, development, and production of new systems. It also includes modifications to existing systems that involve redesign of the systems or subsystems.

**PART 235—RESEARCH AND DEVELOPMENT CONTRACTING**

**235.015-71 [Amended]**

92. Section 235.015-71 is amended by removing in paragraph (i)(2) the entry "FAR 52.215-1 Examination of Records by Comptroller General" and by revising in paragraph (i)(2) the title of the entry "FAR 52.215-2" to read "Audit and Records—Negotiation."

93. Section 235.017-1 is revised to read as follows:

**235.017-1 Sponsoring agreements.**

(c)(4) DoD-sponsoring FFRDCs that function primarily as research laboratories (CSI Laboratory operated by the Institute for Defense Analysis, Lincoln Laboratory operated by Massachusetts Institute of Technology, and Software Engineering Institute) may respond to solicitations and announcements for programs which promote research, development, demonstration, or transfer of technology (Section 217, Public Law 103-337).

**235.7002 [Amended]**

94. Section 235.7002 is amended by removing at the end of paragraph (a)(1) the period and adding a semicolon and the words "Army Soldier Systems Command contracting office."; and by removing at the end of paragraph (a)(2) the period and adding a semicolon and the words "Naval Command, Control and Ocean Surveillance Center contracting office."

95. Section 235.7003 is amended by revising paragraph (b)(1) to read as follows:

**235.7003 Reporting requirements.**

\* \* \* \* \*

(b) \* \* \*

(1) Army:

Mr. Chuck Boylan, Army Research Laboratory, Fort Monmouth, Phone: (908) 427-3471; DSN 987-3471; FAX: (908) 532-5188; DSN 992-5188

\* \* \* \* \*

**235.7006 [Amended]**

96. Section 235.7006, *Exhibit—Research and Development Streamlined Contracting Format, Part I—The Schedule, Section H, Special Contract Requirements* is amended by revising paragraph designation (H.8) to read (H.5).

**PART 237—SERVICE CONTRACTING**

97. Section 237.102-70 is added to read as follows:

**237.102-70 Prohibition on contracting for firefighting or security-guard functions.**

(a) Under 10 U.S.C. 2465, the DoD is prohibited for entering into contracts for the performance of firefighting or security-guard functions at any military installation or facility unless—

(1) The contract is to be carried out at a location outside the United States (to include any U.S. commonwealth, territory, or possession) at which members of the armed forces would have to be used for the performance of firefighting or security-guard functions at the expense of unit readiness;

(2) The contract will be carried out on a Government-owned but privately operated installation; or

(3) The contract (or renewal of a contract) is for the performance of a function under contract on September 24, 1983.

(b) Under Section 2907 of Public Law 103-160, this prohibition does not apply to services at installations being closed (see subpart 237.74).

**237.104 [Amended]**

98. Section 237.104 is amended by revising in paragraph (b)(ii) introductory text the word “service” to read “services;” by revising in paragraph (b)(ii)(B) the word “service” to read “services;” and by revising the last sentence in paragraph (b)(ii)(B) to read “Selections made using the procedures in this section are exempt by statute from FAR part 6 competition requirements (see 206.001(b)).”

99. Section 237.109 is added to read as follows:

**237.109 Services of quasi-military armed forces.**

See 237.102-70b for prohibition on contracting for firefighting or security-guard functions.

**237.171, 237.171-1, and 237.171-2 [Removed]**

100. Sections 237.171, 237.171-1, and 237.171-2 are removed.

**237.270, 237.270-1, 237.270-2, 237.270-3 and 237.270-4 [Removed]**

101. Sections 237.270, 237.270-1, 237.270-2, 237.270-3 and 237.270-4 are removed.

**237.7204 [Amended]**

102. Section 237.7204 is amended by revising under the heading “GENERAL PROVISIONS” entry No. 6 to read “FAR 52.215-2, Audit and Records—Negotiation” in lieu of “FAR 52.215-1, Examination of Records by Comptroller General.”

**PART 239—ACQUISITION OF INFORMATION RESOURCES**

103. Section 239.7303 is amended by revising paragraph (b) to read as follows:

**239.7303 Review and approval of leasing costs.**

\* \* \* \* \*

(b) The contracting officer shall conduct reviews of leasing costs as warranted, meeting the criteria of FAR 31.205-2(d), to determine the continued need for leasing. In performing the review, the contracting officer shall request the contractor to update its supporting documentation.

\* \* \* \* \*

**PART 242—CONTRACT ADMINISTRATION**

**242.705-1 [Amended]**

104. Section 242.705-1 is amended by removing paragraphs (b)(3) and (b)(4).

**242.705-2 [Amended]**

Section 242.705-2 is amended by revising paragraph designations “(b)(2)(iii)” and “(b)(2)(v)” to read “(b)(2)(ii)” and “(b)(2)(iv)” respectively.

**242.770 [Removed and Reserved]**

105. Section 242.770 is removed and reserved.

**242.770-1, 242.770-2, 242.770-3, 242.770-4, 242.770-5, and 242.770-6 [Removed]**

106. Sections 242.770-1, 242.770-2, 242.770-3, 242.770-4, 242.770-5, and 242.770-6 are removed.

**242.771-3 [Amended]**

107. Section 242.771-3 is amended by revising in paragraph (b)(2) the phrase

“(OUSD(A))” to read “(OUSD(A&T))”; and by revising in paragraph (c) the phrase “(OUSD(A)DDR&E)” to read “(OUSD(A&T)DDR&E).”

108. Section 242.7003-1 is revised to read as follows:

**242.7003-1 Description.**

The annual cost monitoring plan is a schedule for reviewing contractor activities that have the greatest potential for generating erroneous charges to the Government.

109. Section 242.7206 is amended by revising the introductory text to read as follows:

**242.7206 Contract clause.**

Use the clause at 252.242-7004, Material Management and Accounting System, in all solicitations and contracts exceeding the simplified acquisition threshold in FAR part 13 that are not for the acquisition of commercial items and—

\* \* \* \* \*

**PART 246—QUALITY ASSURANCE**

**246.202-3 [Amended]**

110. Section 246.202-3 is redesignated as 246.202-4; and paragraphs (i) and (ii) of newly designated 246.202-4 are redesignated as paragraphs (1) and (2) respectively.

**246.204 [Removed]**

111. Section 246.204 is removed.

**246.704 [Amended]**

112. Section 246.704 is amended by removing in paragraph (2) the words “supplies or services” and inserting the word “items”; and by revising in paragraph (4) the parenthetical phrase “(see 246.202-3)” to read “(see 246.202-4).”

113. Section 246.770-1 is amended by revising paragraph (f)(2)(i) to read as follows:

**246.770-1 Definitions.**

\* \* \* \* \*

(f) \* \* \*

(2) \* \* \*

(i) Commercial items;

\* \* \* \* \*

**PART 247—TRANSPORTATION**

114. Section 247.572-1 is amended by revising paragraph (a) to read as follows:

**247.572-1 Ocean transportation incidental to a contract for supplies, services, or construction.**

(a) This subsection applies when ocean transportation is not the purpose of the contract. However, effective May 1, 1996, this subsection does not apply to subcontracts for the acquisition of

commercial items or commercial components (see 212.504(a)(xxii)).

\* \* \* \* \*

**247.572-2 [Amended]**

115. Section 247.572-2 is amended by removing at the end of paragraph (a)(4) the word "and"; by removing the period at the end of paragraph (a)(5) and inserting a semicolon and the word "and" in its place; and by adding a new paragraph (a)(6) to read as follows:

**247.572-2 Direct purchase of ocean transportation services.**

(a) \* \* \*

(6) Subcontracts under Government contracts or agreements for ocean transportation services.

\* \* \* \* \*

**PART 249—TERMINATION OF CONTRACTS**

**249.7002 [Amended]**

116. Section 249.7002 is amended in paragraph (b) introductory text by revising the phrase "Office of Economic Adjustment (OEA), Assistant Secretary of Defense (Force Management and Personnel)" to read "Assistant Secretary of Defense (Economic Security), Office of Economic Adjustment (OEA)"; and in paragraph (b)(2) by revising the Telefax number to read "(703) 604-5843."

**PART 250—EXTRAORDINARY CONTRACTUAL ACTIONS**

117. Section 250.201-70 is amended by revising in paragraph (b)(1) the phrase "Under Secretary of Defense (Acquisition) (USD(A))" to read "Under Secretary of Defense (Acquisition & Technology) (USDA&T)"; and by revising in paragraph (b)(2) the phrase "USD(A)" to read "USD(A&T)."

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

118. Section 252.203-7000 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (a)(3) to read as follows:

**252.203-7000 Statutory prohibitions on compensation to former Department of Defense employees.**

\* \* \* \* \*

(a) \* \* \*

(3) *Defense contractor* means an entity (including affiliates and subsidiaries which clearly engage in the performance of Department of Defense (DoD) contracts) that contracts directly with the DoD to supply goods or services. "Defense contractor" does not include a State or local government or any person who contracts to supply the

Department of Defense only commercial items.

\* \* \* \* \*

119. Section 252.203-7001 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (g) to read as follows:

**252.203-7001 Special prohibition on employment.**

\* \* \* \* \*

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in part 13 of the Federal Acquisition Regulation, except those for commercial items or components.

\* \* \* \* \*

**252.203-7003 [Removed]**

120. Section 252.203-7003 is removed.

**252.204-7001 [Amended]**

121. Section 252.204-7001 is amended by revising in the introductory text the reference "204.603-70" to read "204.602-70."

122. Section 252.209-7000 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (b) to read as follows:

**252.209-7000 Acquisition from subcontractors subject to on-site inspection under the Intermediate-Range Nuclear Forces (INF) Treaty.**

\* \* \* \* \*

(b) The Contractor shall incorporate this clause, including this paragraph (b), in all solicitations and contracts exceeding the simplified acquisition threshold in part 13 of the Federal Acquisition Regulation, except those for commercial items.

**252.209-7007 [Amended]**

123. Section 252.209-7007 is redesignated as 252.209-7005; the clause date is revised to read "(NOV 1995)"; the title of paragraph (a) is revised to read "*Definition*"; and paragraph (b) is revised to read as follows:

**252.209-7005 Military recruiting on campus.**

\* \* \* \* \*

(b) *General.*

An institution of higher education that has been determined, using procedures established by the Secretary of Defense to implement section 558 of Pub. L. 103-337, (1) to have a policy of denying, or (2) to prevent effectively the Secretary of Defense from obtaining for military recruiting purposes, entry to their campuses, access to students on campuses, or access to directory information pertaining to students, is ineligible for contract award and payments under existing contracts. In addition, the

Government shall terminate this contract for the Contractor's material failure to comply with the terms and conditions of award.

\* \* \* \* \*

**252.210-7000 [Amended]**

124. Sections 252.211-7000 through 252.211-7021 are removed and Section 252.210-7000 is redesignated as 252.211-7003 and the introductory text is revised to read "As prescribed in 211.270-2, use the following provision:".

**252.210-7001 [Amended]**

125. Section 252.210-7001 is redesignated as 252.211-7001 and the introductory text is revised to read "As prescribed in 211.204(c), use the following provision:".

**252.210-7002 [Amended]**

126. Section 252.210-7002 is redesignated as 252.211-7002 and the introductory text is revised to read "As prescribed in 211.204(c), use the following provision:".

**252.210-7003 [Amended]**

127. Section 252.210-7003 is redesignated as 252.211-7000 and the introductory text is revised to read "As prescribed in 211.002-70, use the following clause:".

**252.210-7004 [Amended]**

128. Section 252.210-7004 is redesignated as 252.211-7004 and the introductory text is revised to read "As prescribed in 211.272, use the following provision:".

129-130. Sections 252.212-7000 and 252.212-7001 are added to read as follows:

**252.212-7000 Offeror representations and certifications—Commercial items.**

As prescribed in 212.301(f)(iii), use the following provision:

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (NOV 1995)

(a) *Definitions.*

As used in this clause—

(1) *Foreign person* means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec. 2415).

(2) *United States person* is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) *Certification.*

By submitting this offer, the Offeror, if a foreign person, company or entity, certifies that it—

- (1) Does not comply with the Secondary Arab Boycott of Israel; and
- (2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec. 2407(a) prohibits a United States person from taking.

(c) *Representation of Extent of Transportation by Sea.* (This representation does not apply to solicitations for the direct purchase of ocean transportation services).

(1) The Offeror shall indicate by checking the appropriate blank in paragraph (c)(2) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term "supplies" is defined in the Transportation of Supplies by Sea clause of this solicitation.

(2) *Representation.*

The Offeror represents that it—

\_\_\_\_\_ Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

\_\_\_\_\_ Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(3) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense Federal Acquisition Regulation Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

(End of provision)

**252.212-7001 Contract terms and conditions required to implement statutes or Executive Orders applicable to Defense acquisitions of commercial items.**

As prescribed in 212.301(f)(iv), use the following clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (NOV 1995)

(a) The Contractor agrees to comply with the Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.247-7023, Transportation of Supplies by Sea, which is included in this contract by reference to implement 10 U.S.C. 2631.

(b) The Contractor agrees to comply with any clause that is checked on the following list of DFARS clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive Orders applicable to acquisitions of commercial items or components.

\_\_\_\_\_ 252.205-7000 Provision of Information to Cooperative Agreement Holders (10 U.S.C. 2416).

\_\_\_\_\_ 252.206-7000 Domestic Source Restriction (10 U.S.C. 2304).

\_\_\_\_\_ 252.219-7001 Notice of Partial Small Business Set-Aside with Preferential Consideration for Small Disadvantaged Business Concerns (\_\_\_\_ Alternate I) (Section 9004, Pub. L. 101-165 (10 U.S.C. 2301 (repealed) note)).

\_\_\_\_\_ 252.219-7002 Notice of Small Disadvantaged Business Set-Aside (\_\_\_\_ Alternate I) (15 U.S.C. 644).

\_\_\_\_\_ 252.219-7003 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts) (15 U.S.C. 637).

\_\_\_\_\_ 252.219-7005 Incentive for Subcontracting with Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Universities and Minority Institutions (\_\_\_\_ Alternate I) (Section 9004, Pub. L. 101-165 (10 U.S.C. 2301 (repealed) note)).

\_\_\_\_\_ 252.219-7006 Notice of Evaluation Preference for Small Disadvantaged Business Concerns (\_\_\_\_ Alternate I) (15 U.S.C. 644).

\_\_\_\_\_ 252.225-7001 Buy American Act and Balance of Payment Program (41 U.S.C. 10, E.O. 10582).

\_\_\_\_\_ 252.225-7007 Trade Agreements (10 U.S.C. 2501-2582).

\_\_\_\_\_ 252.225-7012 Preference for Certain Domestic Commodities.

\_\_\_\_\_ 252.225-7014 Preference for Domestic Specialty Metals (10 U.S.C. 2241 note).

\_\_\_\_\_ 252.225-7015 Preference for Domestic Hand or Measuring Tools (10 U.S.C. 2241 note).

\_\_\_\_\_ 252.225-7017 Preference for United States and Canadian Valves and Machine Tools (10 U.S.C. 2534(c)(2)).

\_\_\_\_\_ 252.225-7027 Limitation on Sales Commissions and Fees (12 U.S.C. 2779).

\_\_\_\_\_ 252.225-7028 Exclusionary Policies and Practices of Foreign Governments (22 U.S.C. 2755).

\_\_\_\_\_ 252.225-7029 Restriction on Acquisition of Air Circuit Breakers (10 U.S.C. 2534(a)(3)).

\_\_\_\_\_ 252.225-7036 North American Free Trade Agreement Implementation Act.

\_\_\_\_\_ 252.227-7015 Technical Data—Commercial Items (10 U.S.C. 2320).

\_\_\_\_\_ 252.227-7037 Validation of Restrictive Markings on Technical Data (10 U.S.C. 2321).

\_\_\_\_\_ 252.233-7000 Certification of Claims and Requests for Adjustment or Relief (10 U.S.C. 2410).

\_\_\_\_\_ 252.242-7002 Submission of Commercial Freight Bills for Audit (31 U.S.C. 3726).

\_\_\_\_\_ 252.247-7024 Notification of Transportation of Supplies by Sea (10 U.S.C. 2631).

\_\_\_\_\_ 252.249-7001 Notification of Substantial Impact on Employment (10 U.S.C. 2501 note).

(End of clause)

**252.215-7001 [Removed and Reserved]**

131. Section 252.215-7001 is removed and reserved.

132. Section 252.217-7026 is amended by revising the clause date to

read "(NOV 1995)" and revising paragraph (3) of the table to read as follows:

**252.217-7026 Identification of sources of supply.**

\* \* \* \* \*

(b) \* \* \*

(3) Use "Y" if the item is a commercial item; otherwise use "N." If "Y" is listed, the Offeror need not complete the remaining columns in the table.

\* \* \* \* \*

133. Section 252.219-7003 is amended by revising the title; by revising the clause date to read "(NOV 1995)"; by revising the introductory text of the clause and by revising in paragraph (b) the word "products" to read "items" as follows:

**252.219-7003 Small, small disadvantaged and women-owned small business subcontracting plan (DoD contracts).**

\* \* \* \* \*

This clause supplements the Federal Acquisition Regulation 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan, clause of this contract.

\* \* \* \* \*

**252.219-7005 [Amended]**

134. Section 252.219-7005 is amended by revising the clause date to read "(NOV 1995)" and by revising in paragraph (d) the word "products" to read "items."

135. Section 252.223-7006, ALTERNATE I, is amended by revising the date to read "(NOV 1995)"; by revising in paragraph (c) the word "material" to read "materials"; and by revising paragraph (d) to read as follows:

**252.223-7006 Prohibition on storage and disposal of toxic and hazardous materials.**

\* \* \* \* \*

**ALTERNATE I (NOV 1995)**

\* \* \* \* \*

(d) The Contractor shall include this clause, including this paragraph (d), in each subcontract which requires, may require, or permits a subcontractor to treat or dispose of non-DoD-owned toxic or hazardous materials as defined in this clause.

136-137. Section 252.225-7012 is amended by revising the clause date to read "(NOV 1995)"; by removing the word "or" at the end of paragraph (b)(2); by removing the period at the end of paragraph (b)(3) and adding a semicolon and the word "or" in its place; and by adding a new paragraph (b)(4) to read as follows:

**252.225-7012 Preference for certain domestic commodities.**

\* \* \* \* \*

(b) \* \* \*

(4) To commercial items or components purchased from subcontractors or suppliers.

138. Section 252.225-7014 is amended by revising the clause date to read "(NOV 1995)"; by revising in paragraph (c)(2) the acronym "FAR" to read "Federal Acquisition Regulation"; by removing the word "or" at the end of paragraph (c)(2); by removing the period at the end of paragraph (c)(3) and adding a semicolon and the word "or" in its place; and by adding a new paragraph (c)(4) to read as follows:

**252.225-7014 Preference for domestic specialty metals.**

\* \* \* \* \*

(c) \* \* \*

(4) The specialty metal is contained in a commercial item or component purchased from subcontractors or suppliers.

\* \* \* \* \*

139. Section 252.225-7016 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (b) to read as follows:

**252.225-7016 Restriction on acquisition of antifriction bearings.**

\* \* \* \* \*

(b) The restriction in paragraph (a) does not apply to the extent that the end items or components containing antifriction bearings are commercial items. The commercial item exception does not include items designed or developed under a Government contract or contracts where the end item is bearings and bearing components.

\* \* \* \* \*

140. Section 252.225-7026 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (c)(1) to read as follows:

**252.225-7026 Reporting of contract performance outside the United States.**

\* \* \* \* \*

(c) \* \* \*

(1) The Contractor shall include a clause substantially the same as this one in all first-tier subcontracts exceeding \$100,000, except subcontracts for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.

\* \* \* \* \*

**252.225-7040 [Amended]**

141. Section 252.225-7040 is amended by revising in the introductory text the reference "225.7004-5(c)" to read "225.7004-6(c)."

142. Section 252.227-7013 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (k)(2) to read as follows:

**252.227-7013 Rights in technical data—Noncommercial items.**

\* \* \* \* \*

(k) \* \* \*

(1) \* \* \*

(2) Whenever any technical data for noncommercial items is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher-tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data.

\* \* \* \* \*

143. Section 252.227-7015 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (a) to read as follows:

**252.227-7015 Technical data—Common items.**

\* \* \* \* \*

(a) *Definitions.*

As used in this clause:

(1) *Commercial item* does not include commercial computer software.

(2) *Form, fit, and function data* means technical data that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.

(3) The term *item* includes components or processes.

(4) *Technical data* means recorded information, regardless of the form or method of recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

\* \* \* \* \*

**252.227-7018 [Amended]**

144. Section 252.227-7018 is amended in the title by revising the word "Innovative" to read "Innovation"; and by revising in the clause title the word "Innovative" to read "Innovation."

145. Section 252.227-7037 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (l) to read as follows:

**252.227-7037 Validation of restrictive markings on technical data.**

\* \* \* \* \*

(l) *Flowdown.*

The Contractor or subcontractor agrees to insert this clause in contractual instruments with its subcontractors or suppliers at any tier requiring the delivery of technical data, except contractual instruments for

commercial items or commercial components.

**252.231-7001 [Removed]**

146. Section 252.231-7001 is removed.

**252.237-7020 [Removed and Reserved]**

147. Section 252.237-7020 is removed and reserved.

**252.237-7021 [Removed and Reserved]**

148. Section 252.237-7021 is removed and reserved.

149. Section 252.239-7010 is amended by revising the clause date to read "(NOV 1995)"; by revising paragraph (a) introductory text; and by revising paragraph (b) to read as follows:

**252.239-7010 Audit and records—Common carriers.**

\* \* \* \* \*

(a) For the purpose of verifying the accuracy of the cost or pricing data submitted under the Submission of Cost or Pricing Data—Common Carriers clause of this agreement/contract, the Contracting Officer or authorized representative shall have the right to examine the Contractor's records, the computations and projections used, and other supporting data, as defined in 4.703(a) of the Federal Acquisition Regulation, which will permit adequate evaluation of the cost or pricing data. This right applies to cost and pricing data which were available to the Contractor as of the date of the certification and shall last—

\* \* \* \* \*

(b) The Contractor shall maintain records and other evidence, and accounting procedures and practices, sufficient to show the direct and indirect costs which were the basis for pricing the communication service authorization.

\* \* \* \* \*

**252.242-7001 [Removed and Reserved]**

150. Section 252.242-7001 is removed and reserved.

151. Section 252.247-7023 is amended by revising the clause date to read "(NOV 1995)" by revising paragraph (a)(5); and by revising paragraph (g) to read as follows:

**252.247-7023 Transportation of supplies by sea.**

\* \* \* \* \*

(a) \* \* \*

(5) *Subcontractor* means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract. However, effective May 1, 1996, the term does not include a supplier, materialman, distributor, or vendor of commercial items or commercial components.

\* \* \* \* \*

(g) The Contractor shall include this clause, including this paragraph (g) in all subcontracts under this contract, which exceed the simplified acquisition threshold in Part 13 of the Federal Acquisition Regulation.

152. Section 252.247-7024 is amended by revising the clause date to read "(NOV 1995)" and by revising paragraph (b) to read as follows:

**252.247-7024 Notification of transportation of supplies by sea.**

\* \* \* \* \*

(b) The Contractor shall include this clause, including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties, in all subcontracts hereunder, except (effective May 1, 1996) subcontracts for the acquisition of commercial items or components.

**PART 253—FORMS**

153. Section 253.204-70 is revised to read as follows:

**253.204-70 DD Form 350, Individual Contracting Action Report.**

Policy on use of a DD Form 350 is in 204.670-2. This subsection 253.204-70 contains instructions for completion of Parts A through F of the DD Form 350. Paragraph (g) of this subsection contains special instructions for completing a DD Form 350 for an action of \$25,000 or less under the Small Business Competitiveness Demonstration Program.

(a) *Part A of the DD Form 350.*

Part A identifies the report and the reporting activity. Complete all four blocks.

(1) BLOCK A1, TYPE OF REPORT.

Enter one of three codes.

(i) *Code 0—Original.*

Enter code 0 unless 1 or code 2 applies.

(ii) *Code 1—Cancelling.*

A cancelling action cancels an existing DD Form 350 in accordance with departmental data collection point instructions.

(iii) *Code 2—Correcting.*

A correcting action corrects an existing DD Form 350 action in accordance with departmental data collection point instructions.

(2) BLOCK A2, REPORT NO.

Enter the four digit local control number (see 204.670-3(a)(4)). If Block A1 is coded 1 or 2, use the prior report number rather than a new one.

(3) BLOCK A3, CONTRACTING OFFICE CODE.

Enter the code assigned the contracting office by the departmental data collection point in 204.670-1(c).

(4) BLOCK A4, NAME OF CONTRACTING OFFICE.

Enter sufficient detail to establish the identity of the contracting office.

(b) *Part B of the DD Form 350.*

Part B identifies the transaction.

(1) BLOCK B1, CONTRACT NUMBER.

(i) Enter—

(A) The DoD contract number; or

(B) For orders under contracts

awarded by other Federal agencies, the contract number of that Federal agency as it appears in the contractual instrument.

(ii) Do not leave spaces between characters, and do not enter dashes, slants, or any other punctuation marks.

(iii) The DoD contract number is the basic (13 alphanumeric character) procurement instrument identification number (PIIN) that was assigned in accordance with 204.7001 or constructed under an exception permitted by 204.7000. Do not enter any supplementary procurement instrument numbers as part of the contract number (these go in Block B2).

(2) BLOCK B2, MOD. ORDER OR OTHER ID NUMBER.

Enter the supplemental procurement identification number (if there is one) that was assigned in accordance with 204.7004 or as permitted by 204.7000. It can be up to 19 characters. Usually calls and orders have a four-position number (see 204.7004-4) and modifications (including modifications of calls or orders) have a six-position modification number (see 704.7003 or 204.7004(b)).

(3) BLOCK B3, ACTION DATE.

(i) Enter the year, month, and day of the effective date for fiscal obligation purposes. When contract actions are awarded contingent on the availability of funds, enter the date funds are obligated.

(ii) Enter each segment as a two digit number. Use 01 through 12 for January through December. For example, enter January 2, 1999 as 990102.

(4) BLOCK B4, COMPLETION DATE.

(i) Enter the year, month, and day of the last contract delivery date or the end of the performance period.

(ii) Enter each segment as a two digit number. Use 01 through 12 for January through December. For example, enter January 2, 1999 as 990102.

(5) BLOCK B5, CONTRACTOR IDENTIFICATION INFORMATION.

(i) Use data that relates to the contractor whose name and address appears in the contract document (Block 7 of the SF 26, Award/Contract; Block 8 of the SF 30, Amendment of Solicitation/Modification of Contract; Block 15A of the SF 33, Solicitation, Offer and Award; or Block 9 of the DD Form 1155, Order for Supplies or Services), except—

(A) For contracts placed with the Small Business Administration under Section 8(a) of the Small Business Act,

use data that relates to the company that will be performing the work.

(B) For orders placed against a contract awarded by another agency, also use data that relates to the company that will be performing the work.

(C) For Federal supply schedule orders, use data that applies to the contractor whose name appears on the schedule (not the data for the agent to whom orders may be sent).

(D) For contracts with the Canadian Commercial Corporation (CCC), use data for the appropriate CCC office, except as noted in Block B5B.

(ii) Block B5 has seven parts. Some of the parts may not apply to the action being reported.

(A) BLOCK B5A, ESTABLISHMENT CODE.

Enter the contractor's 9-position contractor establishment code (CEC). If CEC is not available within the contracting activity, use the procedures at 204.7202-2 to obtain one.

(B) BLOCK B5B, CAGE CODE.

Enter the 5-position commercial and Government entity (CAGE) code that identifies the contractor plant or establishment. If the CAGE code is not already available in the contracting office and the apparent awardee does not respond to the provision at 252.204-7001, Commercial and Government Entity (CAGE) Code Reporting, use the procedures at 204.7202-1 to obtain one.

(C) BLOCK B5C, CONTRACTOR NAME AND DIVISION NAME.

Enter the contractor's name. Include its division name.

(D) BLOCK B5D, CONTRACTOR ADDRESS.

Enter the contractor's address. Include street address (and/or P.O. Box), city/town, state/country, and ZIP code, if applicable. Do not enter foreign postal codes.

(E) BLOCK B5E, TIN.

Enter the contractor's taxpayer identification number (see FAR Subpart 4.9).

Leave Block B5E blank if the contractor is—

(1) A nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the trade or business in the United States; and does not have an office or place of business or a fiscal paying agent in the United States;

(2) An agency or instrumentality of a foreign government; or

(3) An agency or instrumentality of a Federal, State, or local government.

(F) BLOCK B5F, PARENT TIN.

Enter the contractor's parent company (common parent) TIN (see FAR 4.9 and 52.204-3). If the contractor does not have a parent company or the parent

company meets the exemption for Block B5E, leave Block B5F blank.

(G) BLOCK B5G, PARENT NAME.

If a parent TIN is entered in Block B5F, enter in Block B5G the name of the parent company (common parent). Leave Block B5G blank if there is no parent company or the parent company is exempted from the requirement to have a TIN.

(6) BLOCK B6, PRINCIPAL PLACE OF PERFORMANCE.

(i) The place, or places, where the contract will be performed may be specified by the Government or listed by the contractor in response to the solicitation provision at FAR 52.214-14, Place of Performance—Sealed Bidding, or FAR 52.215-20, Place of Performance. Use data for the contractor's principal place of performance, which is generally the—

(A) Final assembly point for supply contracts with manufacturers.

(B) Dealer's location for supply contracts with regular dealers (FAR 22.601) where shipment is made from stock.

(C) Subcontractor's location for supply contracts with regular dealers (FAR 22.601) where shipment is made from a subcontractor's plant.

(D) Actual construction site for construction contracts.

(E) Planned construction site for architect-engineer contracts.

(F) Place of mining for mined supplies.

(G) Place (including military installations) where a service is performed for service contracts.

(ii) When there is more than one location for any of paragraphs (i)(A) through (G) (e.g., more than one construction site), use the location involving the largest dollar amount of the acquisition. Do not show more than one location in Block B6.

(iii) If places of performance are too varied or not known, or if commercial procedures were used, enter the contractor's home office location.

(iv) Follow the instructions for each part of Block 6 which applies to the action being reported.

(A) BLOCK B6A, CITY OR PLACE CODE.

(1) For places in the United States and outlying areas, enter the numeric place code, which can be found in the Federal Information Processing Standards (FIPS) Publication (PUB) 55-2, ("Guideline: Codes for named Populated Places, Primary Country Divisions, and Other Locational Entities of the United States and Outlying Areas"). Leave Block B6A blank for places outside the United States and outlying areas.

(2) If the city or locality is not listed, look in FIPS PUB 55-2 for the county

code of the principal place of performance. Enter that in Block B6A. Use 50000 for Washington, DC, with a State code of 11.

(3) Paragraph 5.2, Entry Selection With the Aid of the Class Code, of FIPS PUB 55-2 will help in selecting the correct code. Sometimes, a class code should be used in addition to a place code to accurately identify the place of performance. Do not use place codes where the first position of the class code is X or Z.

(B) BLOCK B6B, STATE OR COUNTRY CODE.

(1) For places in the United States and outlying areas, enter the numeric State code, which can be found in FIPS PUB 55-2 or FIPS PUB 5-2, Codes for the Identification of the States, the District of Columbia and the Outlying Areas of the United States and Associated Areas.

(2) For places outside the United States and outlying areas, enter the alpha country code from FIPS PUB 10-3, Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions.

(C) BLOCK B6C, CITY OR PLACE AND STATE OR COUNTRY NAME.

Enter the name of the principal place of performance. Do not leave Block B6C blank.

(7) BLOCK B7, TYPE OBLIGATION.

Enter one of two codes.

(i) *Code 1—Obligation.* Enter code 1 if the contracting action obligates funds.

(ii) *Code 2—Deobligation.* Enter code 2 if the contracting action deobligates funds.

(8) BLOCK B8, TOTAL DOLLARS.

Enter the net amount of funds (whole dollars only) obligated or deobligated by the contracting action. Do not leave Block B8 blank.

(9) BLOCK B9, FOREIGN MILITARY SALE.

Enter one of the two codes. If only part of the contracting action is foreign military sale, separately report the parts (see 204.670-6(c)).

(i) *Code Y—Yes.* Enter code Y when the contracting action is under a foreign military sales arrangement, or under any other arrangement where a foreign country or international organization is bearing the cost of the acquisition.

(ii) *Code N—No.* Enter code N when code Y does not apply.

(10) BLOCK B10, MULTIYEAR CONTRACT.

Enter one of the two codes.

(i) *Code Y—Yes.* Enter code Y when the contracting action is a multiyear contract under FAR Subpart 17.1.

(ii) *Code N—No.* Enter code N when code Y does not apply.

(11) BLOCK B11, TOTAL MULTIYEAR VALUE.

(i) Complete Block B11 if the contracting action is—

(A) A multiyear contract (B10 is coded Y); and

(B) Either a new letter contract or a new definitive contract (Block B13 is coded 1 or 3). Otherwise, leave Block B11 blank.

(ii) Enter the estimated multiyear contract value (whole dollars only).

(12) BLOCK B12, PRINCIPAL PRODUCT OR SERVICE.

B12 contains five parts. Do not leave any blocks blank.

(i) BLOCK B12A, FSC or SVC CODE.

Enter the 4-character federal stock class or service code that describes the contract effort. To find the code, look in Section 1 of the Department of Defense (DoD) Procurement Coding Manual (MN02). There are three categories of codes to choose from. In some cases, use a 4-character code from a list of 4-character codes; in other cases, construct a code using the instructions in the Manual. If more than one category or code applies to the contract action, enter the one that best identifies the product or service representing the largest dollar value.

(A) *Supplies.* If the contracting action is for the purchase (not lease or rental) of supplies, enter a federal supply classification (FSC) code in Block B12A. FSC codes are all numeric. Look in Section 1, Part C, of the DoD Procurement Coding Manual (MN02). The Department of Defense Federal Supply Classification Cataloging Handbooks H2-1, H2-2, and H2-3 may also help with the correct 4-character code.

(B) *Services.* If the contracting action is for services (except research, development, test, and evaluation), construction, or lease or rental of equipment or facilities, enter a service code in Block B12A.

(C) *Research, Development, Test and Evaluation (RDT&E).* If the contracting action is for RDT&E (as defined in FAR 35.001 and 235.001), enter an RDT&E code in Block B12A. Look in Section 1, Part A of the DoD Procurement Coding Manual (MN02). All RDT&E codes should begin with the letter "A". Do not use an RDT&E code for—

(1) Purchase, lease, or rental of equipment, supplies, or services separately purchased in support of RDT&E work, even if RDT&E funds are cited. Instead, use an FSC or Service code under the instructions in paragraphs (i)(A) or (B).

(2) Orders under Federal supply schedule contracts. Instead use an FSC or Service code under the instructions in paragraphs (i)(A) or (B).

## (ii) BLOCK B12B, DOD CLAIMANT PROGRAM CODE.

Enter a code that identifies the commodity described in Block B12E. These codes are in Section III of the DoD Procurement Coding Manual (MN02). If more than one code applies to the contracting action, enter the one that best identifies the product or service representing the largest dollar value. If the description in Block B12E is for—

(A) Research and development (R&D), enter the code that best represents the objective of the R&D. For example, if the objective of the research and development is a guided missile, enter code A20. If the R&D cannot be identified to any particular objective, enter code S10.

(B) Ship repair, inspect and repair as necessary (IRAN), modification of aircraft, overhaul of engines, or similar maintenance, repair or modification services, enter the code that best identifies the program.

(C) Equipment rental (including rental of automated data processing equipment), enter code S10.

(D) Utility services, enter code S10.

(E) Services that cannot be identified to any listed program, enter code S10.

(F) Supplies or equipment that cannot be identified to any listed program, enter code C9E.

## (iii) BLOCK B12C, PROGRAM, SYSTEM, OR EQUIPMENT CODE.

(A) Enter a code that describes the program, weapons system, or equipment. These codes are in Section II of the DoD Procurement Coding Manual (MN02). If there is no code that applies to the contracting action, enter three zeros. If more than one code applies to the action, enter the one that best identifies the product or service representing the largest dollar value.

(B) If the contracting action is funded by the Ballistic Missile Defense Organization, enter code CAA.

(C) If the contracting action supports environmental cleanup programs, enter one of the codes listed in Section II of the DoD Procurement Coding Manual (MN02) under the heading "Description and Use of Program Codes—Environmental Cleanup Programs."

(D) Defense Logistics Agency activities must use the code assigned by the sponsoring Service.

## (iv) BLOCK B12D, SIC CODE.

Enter the standard industrial classification (SIC) code for the acquisition (as opposed to the SIC of the manufacturer or dealer). Use the SIC code in effect at the time of award.

These codes are in the OMB Standard Industrial Classification Manual. If more than one code applies to the contracting action, enter the one that best identifies

the product or service representing the largest dollar value.

## (v) BLOCK B12E, NAME DESCRIPTION.

Enter the name or brief description of the commodity or service. If the description is classified, enter only the word "Classified." Do not, however, use "Classified" when a code name (e.g., Minuteman, Polaris, Trident, Pershing, etc.) or an identifying program number (e.g., WS-107A) can be used.

## (13) BLOCK B13, KIND OF CONTRACTING ACTION.

Enter one of the 16 codes.

## (i) Code 1—Initial Letter Contract.

Enter code 1 when the contracting action is a new letter contract. Do not use code 1 for a letter modification to an existing contract—use code A instead.

(ii) Code 2—Definitive Contract Superseding Letter Contract. Enter code 2 when the contracting action is the definitization of a letter contract. Do not use code 2 for an action which is a definitization of a letter modification—use code A instead.

(iii) Code 3—Definitive Contract. Enter code 3 when the contracting action is the first binding document containing all the terms and conditions. Code 3 also includes—

(A) Definitive contract awards under the Small Business Administration 8(a) program;

(B) Orders from the Procurement List with qualified nonprofit agencies employing people who are blind or severely disabled;

(C) Notices of award;

(D) Funding actions which are initial obligations (but see Code C—Funding Action); and

(E) Lease or loan agreements.

## (iv) Code 4—Order Under a BOA.

Enter code 4 when the contracting action is an order or definitization of an order (not a modification of an order). Examples include orders under a basic ordering agreement, priced exhibit, or production list entered into by a DoD component (see code 3 for actions which are not orders or modifications of orders). Enter code 9 if the action is an order under a blanket purchase agreement.

(v) Code 5—Order Under DoD Contract. Enter code 5 when the contracting action is—

(A) An order (not a modification or definitization of an order) against an indefinite delivery type contract;

(B) A job order, task order, or the like where firm obligations are created by issuance of the order against a contract awarded by a DoD component (not a modification or definitization of an order); or

(C) An order (not a modification of an order) placed against DoD contracts with the Small Business Administration under the 8(a) program.

(vi) Code 6—Order/Modification Under Federal Schedule. Do not use for GSA area contracts for utility services, use code 7 instead. Enter code 6 if the contracting action is an order, or a modification of an order, under—

(A) Federal supply schedule, e.g., GSA, VA, or OPM, contract (FAR 8.401); or

(B) GSA ADP schedule contract.

(vii) Code 7—Order Under Another Agency's Contract. Enter code 7 if the contracting action is an order, or a modification of an order other than those in code 6, under a contract awarded by another Federal agency or Government corporation. Include GSA area contracts for utility services (FAR 8.301). Do not use code 7 if the Federal agency or Government corporation is the contractor (i.e., is doing the work)—use code 8 instead.

(viii) Code 8—Action With Another Federal Agency. Enter code 8 if the contracting action is an action, or a modification of an action, placed directly with another Federal agency or Government corporation (e.g., Government Printing Office, Federal Printing Office, Federal Prison Industries (UNICOR), Tennessee Valley Authority, or the Department of Treasury, Agriculture or Energy) where the Federal agency or Government corporation is acting as the contractor (i.e., doing the work).

(ix) Code 9—Purchase/Modification Using Simplified Acquisition Procedures. Enter code 9 if the contracting action, including actions in a designated industry group under the Small Business Competitiveness Demonstration Program (FAR subpart 19.10), is an award or a modification of an award pursuant to FAR part 13.

(x) Code A—Additional Work (new agreement). Enter code A when the contracting action is a bilateral supplemental agreement which—

(A) Adds work to an existing contract (including a letter contract); and

(B) Requires a justification and approval (J&A), except see FAR 6.302-4(c) and 6.302-5(c)(2)(ii).

(xi) Code B—Additional Work (other). Enter code B when the contracting action is a modification of an existing contract (including a letter contract) which is not covered by code A or by codes C through F. Code B includes actions which—

(A) Exercise an option;

(B) Initiate an incremental yearly buy under a multiyear contract; and

(C) Amend a letter or other contract to add work that does not require a J&A.

(xii) *Code C—Funding Action.* Enter code C when the contracting action is a modification (to a letter or other contract) for the sole purpose of obligating or deobligating funds.

(A) This includes—

(1) Incremental funding (other than incremental yearly buys under multiyear contracts which are code B);

(2) Increases to the estimated cost on cost-reimbursement contracts;

(3) Repricing actions covering incentive price revisions; and

(4) Economic price adjustments.

(B) This does not include modifications that have the initial citation and obligation of funds for a contract or modification awarded in one fiscal year but not effective until a subsequent fiscal year. Code these—

(1) 3—definitive contract, if they are the initial obligation for the acquisition, or

(2) A or B—additional work, if they are the initial obligation for the modification.

(xiii) *Code D—Change Order.* Enter code D when the contracting action is a change order issued under the “Changes,” “Differing Site Conditions,” or other similar clauses in existing contracts.

(xiv) *Code E—Termination for Default.* Enter code E if the contracting action is a modification which terminates all or part of the contract for default.

(xv) *Code F—Termination for Convenience.* Enter code F if the contracting action is a modification which terminates all or part of the contract for convenience.

(xvi) *Code G—Cancellation.* Enter code G if the contracting action is a modification which cancels the contract. Do not use code G to cancel a prior DD Form 350—see Block A1.

(c) *Part C of the DD Form 350.*

(1) Part C gathers data concerning contracting procedures, use of competition, financing, and statutory requirements other than socioeconomic (which are in Part D).

(2) Do not complete Part C if the contracting action is—

(i) A foreign military sale, i.e., Block B9 (Foreign Military Sale) is coded Y (Yes); or

(ii) An action with another Federal agency, i.e., Block B13 (Kind of Contracting Action) is coded 8 (Action With Another Federal Agency).

(3) In completing Part C, the codes to be used describe either the contracting action being reported or the original contract, depending on the codes reported for “Kind of Contracting

Action” in Block B13. The following chart provides overall instructions.

There are some exceptions for various Part C blocks. These are listed at the beginning of the instructions for the block.

If block B13 is		Then code the blocks in part C with reference to
Code	Title	
1 .....	Initial Letter Contract.	Action being reported.
2 .....	Definitive Contract Superseding Letter Contract.	Action being reported.
3 .....	Definitive Contract.	Action being reported.
4 .....	Order Under DoD Agreement.	Action being reported.
5 .....	Order Under DoD Contract.	Original contract. <sup>1</sup>
6 .....	Order/Modification Under Federal Supply Schedule.	Action being reported (but see Blocks C3, C6, C7, C11, and C13).
7 .....	Order Under Another Agency's Contract.	Original contract (information provided by other agency) (but see Blocks C4, C6, C11, C12, and C13).
8 .....	Action With Another Federal Agency.	Leave all of Part C blank.
9 .....	Purchase/Modification Using Simplified Acquisition Procedures.	Action being reported.
A .....	Additional Work (new agreement).	Action being reported.
B .....	Additional Work (other).	Original contract (but see Blocks C6 and C7). <sup>1</sup>
C .....	Funding Action.	Original contract (but see Blocks C6 and C7). <sup>1</sup>
D .....	Change Order.	Original contract (but see Blocks C6 and C7). <sup>1</sup>

If block B13 is		Then code the blocks in part C with reference to
Code	Title	
E .....	Termination for Default.	Original contract (but see Blocks C6 and C7). <sup>1</sup>
F .....	Termination for Convenience.	Original contract (but see Blocks C6 and C7). <sup>1</sup>
G .....	Cancellation .	Original contract (but see Blocks C6 and C7). <sup>1</sup>

<sup>1</sup> If there are no codes for the original contract because a DD Form 350 was not required at the time, the original action is no longer available, the definition of the original code has changed, or a data element has been added to the system after the original contract report, then use codes that best describe the original contracting action.

(4) Complete Part C blocks as follows—

(i) BLOCK C1, SYNOPSIS.

Enter one of the two codes.

(A) *Code Y—Yes.* Enter code Y if a synopsis of the proposed action was prepared and transmitted to the Commerce Business Daily in accordance with FAR Subpart 5.2.

(B) *Code N—No.* Enter code N if a synopsis was not prepared.

(ii) BLOCK C2, REASON NOT SYNOPSISIZED.

Enter one of the two codes if Block C1 is “N.” Otherwise, leave Block C2 blank.

(A) *Code A—Urgency.* Enter code A if the action was not synopsisized due to urgency (see FAR 6.302-2).

(B) *Code B—Other than Urgency.*

Enter code B if the action was not synopsisized due to some other reason.

(iii) BLOCK C3, EXTENT COMPETED.

Enter one of the four codes. As an exception to the chart in paragraph (c)(3) of this subsection, when Block B13 is coded 6, enter code A in Block C3.

(A) *Code A—Competed Action.* Enter code A when—

(1) The contracting action is an action under a Federal supply schedule contract (Block B13 is coded 6).

(2) Competitive procedures were used to fulfill the requirement for full and open competition (FAR subpart 6.1).

(3) Full and open competition procedures after exclusion of sources were used in order to establish/maintain alternative sources, to set aside an acquisition for small business, or to compete Section 8(a) awards (FAR subpart 6.2).

(4) Statutory authorities for other than full and open competition were used

(FAR subpart 6.3) and more than one offer was received (if only one offer was received, use code D).

(5) Contracting action resulted from a contract awarded prior to the Competition in Contracting Act that used two-step sealed bidding or other sealed bidding, or that was negotiated competitively.

(6) Simplified acquisition procedures were used and competition was obtained.

(B) *Code B—Not Available for Competition.* Enter code B for—

(1) Awards for utilities or utility systems, excluding long distance telecommunications services, when only one supplier can furnish the service (FAR 6.302-1(b)(3)).

(2) Brand name commercial products for authorized resale.

(3) Acquisitions authorized or required by statute to be awarded to a specific source pursuant to FAR 6.302-5(b) (2) or (4), e.g., qualified nonprofit agencies employing people who are blind or severely disabled (FAR subpart 8.7) or 8(a) program (FAR subpart 19.8).

(4) International agreements.

(5) Other contract actions where the Director of Defense Procurement has determined that there is no opportunity for competition.

(Note: Even though Part C is not completed for foreign military sales or actions with another Federal agency, the database will automatically include these actions in the category of not available for competition.)

(C) *Code C—Follow-on to Competed Action.* Enter code C when the action pertains to an acquisition placed with a particular contractor to continue or augment a specific competed program where such placement was necessitated by prior acquisition decisions.

(D) *Code D—Not Competed.* Enter code D when codes A, B, or C do not apply.

(iv) **BLOCK C4, SEA TRANSPORTATION.**

Enter one of the three codes. As an exception to the chart in paragraph (c)(3) of this subsection, when Block B13 is coded 7, leave Block C4 blank.

(A) *Code Y—Yes—Positive Response to 252.247-7022.* Enter code Y when the contractor's response to the provision at 252.247-7022, Representation of Extent of Transportation by Sea, or 252.212-7000(c)(2), Offeror Representations and Certifications—Commercial Items, indicates the contractor anticipates that some of the supplies being provided may be transported by sea.

(B) *Code N—No—Negative Response to 252.247-7022 or 252.212-7000(c)(2).* Enter code N when the contractor's response to the provision at 252.247-

7022 or 252.212-7000(c)(2) indicates that the contractor anticipates that none of the supplies being provided will be transported by sea.

(C) *Code U—Unknown—No Response or Provision Not Included in Solicitation.* Enter code U when the contractor did not complete the representation at 252.247-7022 or 252.212-7000(c)(2) or the solicitation did not include it.

(v) **BLOCK C5, TYPE OF CONTRACT.**

(A) If the action is a letter contract, including modifications and amendments to letter contracts, enter the code that describes the anticipated type of contract the letter contract will become when it is definitized.

(B) If there is more than one type of contract involved in the contracting action, enter the code that matches the type with the most dollars. If the type with the least dollars exceeds \$500,000, fill out separate DD Forms 350 (with different report numbers) for each type.

(C) Enter one of the 11 codes—

(1) *Code A—Fixed Price*

*Redetermination.*

(2) *Code J—Firm Fixed Price.*

(3) *Code K—Fixed Price Economic Price Adjustment.*

(4) *Code L—Fixed Price Incentive.*

(5) *Code R—Cost Plus Award Fee.*

(6) *Code S—Cost Contract.*

(7) *Code T—Cost Sharing.*

(8) *Code U—Cost Plus Fixed Fee.*

(9) *Code V—Cost Plus Incentive Fee.*

(10) *Code Y—Time and Materials.*

(11) *Code Z—Labor Hour.*

(vi) **BLOCK C6, NUMBER OF OFFERORS SOLICITED.**

Leave Block C6 blank if the original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act). As an exception to the chart in paragraph (c)(3) of this subsection—

If block B13 is coded	Then
6 .....	Enter code 2 in Block C6.
7 .....	Leave Block C6 blank.

If not an exception, enter,

(A) *Code 1—One.* Enter code 1 if only one offeror was solicited.

(B) *Code 2—More than one.* Enter code 2 if more than one offeror was solicited.

(vii) **BLOCK C7, NUMBER OF OFFERS RECEIVED.**

Leave Block C7 blank if the original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act). As an exception to the

chart in paragraph (c)(3) of this subsection—

If block B13 is coded	Then
6 .....	Enter code 2 in Block C7.

If not an exception, enter—

(A) *Code 1—One.* Enter code 1 if only one offer was received.

(B) *Code 2—More than one.* Enter code 2 if more than one offer was received. If code 2 is entered, complete Block E4.

(viii) **BLOCK C8, SOLICITATION PROCEDURES.**

(A) Leave Block C8 blank if—

(1) The original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act); or

(2) The action is pursuant to simplified acquisition procedures (Block B13 is coded 9).

(B) If the action is an order/ modification under a Federal Supply Schedule (Block B13 is coded 6), use code B for single award schedules and code F for multiple award schedules.

(C) Otherwise, enter one of the following codes—

(1) *Code A—Full and Open Competition—Sealed Bid.* Enter code A if the action resulted from an award pursuant to FAR 6.102(a).

(2) *Code B—Full and Open Competition—Competitive Proposal.* Enter code B if the action resulted from an award pursuant to FAR 6.102(b).

(3) *Code C—Full and Open Competition—Combination.* Enter code C if the action resulted from an award using a combination of competitive procedures (e.g., two-step sealed bidding) pursuant to FAR 6.102(c).

(4) *Code D—Architect-Engineer.* Enter code D if the action resulted from selection of sources for architect-engineer contracts pursuant to FAR 6.102(d)(1).

(5) *Code E—Basic Research.* Enter code E if the action resulted from competitive selection of basic research proposals pursuant to FAR 6.102(d)(2).

(6) *Code F—Multiple Award Schedule.* Enter code F if the action is an award of a multiple award schedule pursuant to FAR 6.102(d)(3) or an order against such a schedule.

(7) *Code G—Alternative Sources.* Enter code G if the action resulted from use of competitive procedures but excluded a particular source pursuant to FAR 6.202(a).

(8) *Code K—Set Aside.* Enter code K if the action resulted from any—

(i) Set-aside for small business concerns (see FAR 6.203) including

small business innovation research (SBIR) actions and awards to qualified nonprofit agencies employing people who are blind or severely disabled which were participating in a set-aside for small business concerns (see FAR 19.501(h)).

(ii) Set-aside for small disadvantaged business concerns (see 206.203).

(iii) Total or partial set-asides (including portions of broad agency announcements (BAAs)) for historically black colleges and universities or minority institutions (see 206.203 and 235.016).

(iv) Competition among section 8(a) firms under FAR 19.805 (report noncompetitive 8(a) awards as code N).

(9) *Code M—Otherwise Authorized by Statute.* Enter code M if using contracting procedures that are expressly authorized by statute and not addressed in FAR 6.302-5 (see FAR 6.001(b)). Do not use code M for statutes addressed in FAR 6.302-5; instead use code N and enter code 5A in Block C9.

(10) *Code N—Other Than Full and Open Competition.* Enter code N if the action resulted from use of other than full and open competition pursuant to FAR subpart 6.3. This includes awards to qualified nonprofit agencies employing people who are blind or severely disabled (see FAR subpart 8.7) or noncompetitive awards to the Small Business Administration under Section 8(a) of the Small Business Act (see FAR 6.302-5(b)).

(ix) BLOCK C9, AUTHORITY FOR OTHER THAN FULL AND OPEN COMPETITION.

(A) Leave Block C9 blank if the original contract resulted from a solicitation issued before April 1, 1985 (i.e., before the effective date of the Competition in Contracting Act).

(B) Enter one of the following codes if Block C8 is coded "N." Otherwise, leave Block C9 blank.

(1) *Code 1A—Unique Source.* Enter code 1A if the action was justified pursuant to FAR 6.302-1(b)(1).

(2) *Code 1B—Follow-on Contract.* Enter code 1B if the action was justified pursuant to FAR 6.302-1(a)(2) (ii) or (iii).

(3) *Code 1C—Unsolicited Research Prop.* Enter code 1C if the action was justified pursuant to FAR 6.302-1(a)(2)(i).

(4) *Code 1D—Patent/Data Rights.* Enter code 1D if action was justified pursuant to FAR 6.302-1(b)(2).

(5) *Code 1E—Utilities.* Enter code 1E if action was justified pursuant to FAR 6.302-1(b)(3).

(6) *Code 1F—Standardization.* Enter code 1F if action was justified pursuant to FAR 6.302-1(b)(4).

(7) *Code 1G—Only One Source—Other.* Enter code 1G if the action was justified pursuant to FAR 6.302-1 in a situation other than the examples cited in code 1A through 1F.

(8) *Code 2A—Urgency.* Enter code 2A if action was justified pursuant to FAR 6.302-2.

(9) *Code 3A—Particular Sources.* Enter code 3A if action was justified pursuant to FAR 6.302-3(a)(2)(i).

(10) *Code 4A—International Agreement.* Enter code 4A if action was justified pursuant to FAR 6.302-4.

(11) *Code 5A—Authorized by Statute.* Enter code 5A if action was justified pursuant to FAR 6.302-5(a)(2)(i).

(12) *Code 5B—Authorized Resale.* Enter code 5B if action was justified pursuant to FAR 6.302-5(a)(2)(ii).

(13) *Code 6A—National Security.* Enter code 6A if action was justified pursuant to FAR 6.302-6.

(14) *Code 7A—Public Interest.* Enter code 7A if action was taken pursuant to FAR 6.302-7.

(x) BLOCK C10, SUBJECT TO LABOR STANDARDS STATUTES.

Enter one of the following codes. As an exception to the chart in paragraph (c)(3) of this subsection, when Block B13 is coded 6, leave Block C10 blank.

(A) *Code A—Walsh-Healey Act.* Enter code A when the contracting action is subject to the provisions of FAR subpart 22.6.

(B) *Code C—Service Contract Act.* Enter code C when the contracting action is subject to the provisions of the Service Contract Act (see FAR part 37).

(C) *Code D—Davis-Bacon Act.* Enter code D when the contracting action is subject to the Davis-Bacon Act (see FAR 22.403-1).

(D) *Code Z—Not Subject to Above.* Enter code Z when the contracting action is not subject to any of the statutory requirements in paragraphs (A) through (C).

(xi) BLOCK C11, CERTIFIED COST OF PRICING DATA.

Enter one of the three codes. As an exception to the chart in paragraph (c)(3) of this subsection, when Block B13 is coded 6 or 7, leave Block C11 blank.

(A) *Code Y—Yes—Obtained.* Enter code Y when certified cost or pricing data were obtained for the contracting action (see FAR 15.804-2).

(B) *Code N—No—Not Obtained.* Enter code N when certified cost or pricing data were not obtained because data were not required (see FAR 15.804-2) or an exemption was granted (see FAR 15.804-3(a)-(g)).

(C) *Code W—Not Obtained—Waived.* Enter code W when certified cost or pricing data were not obtained because

the requirement was waived (See FAR 15.804-3(i) and DFARS 215.804-3(i)).

(xii) BLOCK C12, CONTRACT FINANCING.

Enter one of the five codes identifying whether or not progress payments (PP) or advance payments (AP) were used.

As an exception to the chart in paragraph (c)(3) of this subsection, when Block B13 is coded 7, enter the code for the action being reported.

(A) *Code A—FAR Clause 52.232-16.* Enter code A if the contracting action contains the clause at FAR 52.232-16, Progress Payments.

(B) *Code B—DFARS Clause 252.232-7003.* Enter code B if the contracting action contains the clause at 252.232-7003, Flexible Progress Payments.

(C) *Code C—Percentage of Completion PP.* Enter code C if the contracting action provides for progress payments based on percentage or stage of completion, which is only permitted on contracts for construction, for shipbuilding, or for ship conversion, alteration, or repair (see 232.102(e)(2)).

(D) *Code D—Unusual PP or AP.* Enter code D if the action provides unusual progress payments or advance payments (see FAR Subpart 32.4 and 32.501-2).

(E) *Code Z—None of the Above.* Enter code Z if codes A through D do not apply.

(xiii) BLOCK C13, FOREIGN TRADE DATA.

(A) The term "United States" (U.S.), as used in Block C13 excludes the Trust Territory of Palau (see 204.670-1 for definition of United States and outlying areas).

(B) As an exception to the chart in paragraph (c)(3) of this subsection

If block B13 is coded	Then
6 .....	Enter the code for the action being reported but leave Block C13C blank
7 .....	Enter the code for the original contract, but leave Block C13C blank.

(C) BLOCK C13A, NUMBER OF OFFERORS.

Enter the number of offers of foreign end products as defined in FAR Part 25 or services performed by foreign concerns. If zero, enter 0; if 9 or greater than 9, enter 9.

(D) BLOCK C13B, BUY AMERICAN ACT PERCENT DIFFERENCE.

(1) If the contracting action is with a firm offering a domestic end product, and award to the firm resulted from use of the evaluation factor under the Buy American Act (225.105-70), enter the percent difference between the award

price and the lowest price for a foreign end product. Compute the percent as follows:

The award price (AP) minus the lowest price for a foreign end product (LPFEP) divided by the lowest price for a foreign end product (LPFEP) times 100 equals the Buy American Act percent difference (BAAPD); or expressed mathematically:

$$\frac{(AP - LPFEP)}{LPFEP} \times 100 = BAAPD$$

(2) Enter the percentage as a two position whole number (e.g., for 5%, enter 05; for 11%, enter 11).

(3) Enter two zeroes (00) if the evaluation factor was not used.

(E) BLOCK C13C, PLACE OF MANUFACTURE.

Complete Block C13C only if the contracting action is for a foreign end product or a service provided by a foreign concern. Otherwise, leave Block C13C blank.

(1) Code A—U.S. Enter code A if the contracting action is for—

(i) A foreign end product that is manufactured in the United States but still determined to be foreign because 50 percent or more of the cost of its components is not mined, produced, or manufactured inside the United States or inside qualifying countries; or  
(ii) Services performed in the United States by a foreign concern.

(2) Code B—Foreign. Enter code B if the contracting action is for—

(i) Any other foreign end product; or  
(ii) Services performed outside the United States by a foreign concern.

(F) BLOCK C13D, COUNTRY OF ORIGIN CODE.

(1) Complete Block C13D only if Block C13C is coded A or B. Otherwise, leave Block C13D blank.

(2) Enter the code for FIPS PUB 10-3 (Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions) that identifies the country where the foreign product is coming from or the foreign company providing the services is located. If more than one foreign country is involved, enter the code of the foreign country with the largest dollar value.

(d) Part D of the DD Form 350.

(1) Part D gathers data on the various socioeconomic programs that apply to defense acquisitions.

(2) Do NOT complete Part D if the contracting action is a:

(i) Foreign military sale, i.e., Block B9 (Foreign Military Sale) is coded Y (Yes);

(ii) Order/modification under a Federal supply schedule, i.e., Item B13 (Kind of Contracting Action) is coded 6 (Order/Modification Under Federal Supply Schedule); or

(iii) Action with another Federal agency, i.e., Item B13 (Kind of Contracting Action) is coded 8 (Action With Another Federal Agency).

(3) Determine the status of the concern (e.g., size and ownership), by referring to FAR part 19/DFARS part 219.

(4) In completing Part D, the codes to be used describe either the contracting action being reported or the original contract depending on the codes reported in B13 (Kind of Contracting Action). The following chart provides overall instructions. There are some exceptions for various Part D Blocks. The exceptions are listed at the beginning of the instructions for the individual blocks.

If block B13 is		Then use the block D for the
Code	Title	
1 .....	Initial Letter Contract.	Action being reported.
2 .....	Definitive Contract Superseding Letter Contract.	Action being reported.
3 .....	Definitive Contract.	Action being reported.
4 .....	Order Under DoD Agreement.	Action being reported.
5 .....	Order Under DoD Contract.	Original contract. <sup>1</sup>
6 .....	Order/Modification Under Federal Supply Schedule.	Leave all of Part D blank.
7 .....	Order Under Another Agency's Contract.	Original contract (obtain from other agency, but see Blocks D2, D3, D4, D7, and D9). <sup>1</sup>
8 .....	Action With Another Federal Agency.	Leave all of Part D blank.
9 .....	Purchase/Modification Using Simplified Acquisition Procedures.	Action being reported.
A .....	Additional Work (new agreement).	Action being reported.
B .....	Additional Work (other).	Original contract (but see Block D9). <sup>1</sup>
C .....	Funding Action.	Original contract (but see Block D). <sup>1</sup>

If block B13 is		Then use the block D for the
Code	Title	
D .....	Change Order.	Original contract (but see Block D9). <sup>1</sup>
E .....	Termination for Default.	Original contract (but see Block D9). <sup>1</sup>
F .....	Termination for Convenience.	Original contract (but see Block D9). <sup>1</sup>
G .....	Cancellation	Original contract (but see Block D9). <sup>1</sup>

<sup>1</sup> If there are no codes for the original contract because a DD Form 350 was not required at the time, the original action is no longer available, the definition of the original code has changed, or a data element has been added to the system after the original contract report, then use codes that best describe the original contracting action.

(5) Complete Part D blocks as follows—

(i) BLOCK D1, TYPE OF BUSINESS. Enter one of the ten codes.

(A) Code A—Small Disadvantaged Business Performing in U.S. Enter code A if the contractor is an SDB concern as defined in 219.001 and the place of performance is within the United States and outlying areas.

(B) Code B—Other Small Business Performing in U.S. Enter code B if the contractor is a small business concern as defined in FAR 19.001, other than a small disadvantaged business concern, and the place of performance is within the United States and outlying areas.

(C) Code C—Large Business Performing in U.S. Enter code C if the contractor is a domestic large business concern, and the place of performance is within the United States and outlying areas.

(D) Code D—Nonprofit Agency Employing People Who Are Blind or Severely Disabled. Enter code D if the contractor is a qualified nonprofit agency employing people who are blind or severely disabled (FAR 8.701), and the place of performance is within the United States and outlying areas.

(E) Code F—Hospital. Enter code F if the contractor is a hospital, and the place of performance is within the United States and outlying areas.

(F) Code L—Foreign Concern/Entity. Enter code L if the contractor is a foreign concern, the Canadian Commercial Corporation, or a non-U.S. chartered nonprofit institution.

(G) Code M—Domestic Firm Performing Outside U.S. Enter code M if the contractor is a domestic concern or

a domestic nonprofit institution and the place of performance is outside the United States and outlying areas.

(H) *Code N—Historically Black Colleges and Universities or Minority Institutions (HBCU/MI)*. Enter code N if the contractor is an HBCU/MI as defined at 252.226-7000 and the place of performance is within the United States and outlying areas.

(I) *Code P—Other Educational*. Enter code P if the contractor is an educational institution which does not qualify as an HBCU/MI, and the place of performance is within the United States and outlying areas.

(J) *Code Z—Other Nonprofit*. Enter code Z if the contractor is a nonprofit institution (defined in FAR 31.701) which does not meet any of the criteria in codes A through I and the place of performance is in the United States and outlying areas.

(ii) BLOCK D2, REASON NOT AWARDED TO SMALL DISADVANTAGED BUSINESS (SDB).

Enter one of the five codes when Block D1 is coded B or C. Otherwise leave D2 blank. As an exception to the chart in paragraph (d)(4) of this subsection, when Block B13 is coded 7, enter code Z in Block D2.

(A) *Code A—No Known SDB Source*. Enter code A when applicable.

(B) *Code B—SDB Not Solicited*. Enter code B when there was a known SDB source but it was not solicited.

(C) *Code C—SDB Solicited No Offer*. Enter code C when an SDB was solicited but it did not submit an offer or its offer was not sufficient to cover the total quantity requirement so it received a separate award for the quantity offered.

(D) *Code D—SDB Solicited Offer Not Low*. Enter code D when an SDB offer was not the low offer or an SDB was not willing to accept award of a partial small business set-aside portion of an action at the price offered.

(E) *Code Z—Other Reason*. Enter code Z when an SDB did not receive the award for any other reason.

(iii) BLOCK D3, REASON NOT AWARDED TO SMALL BUSINESS (SB).

Enter one of the five codes when Block D1 is coded C. Otherwise leave D3 blank. (The term "Small Business" includes small disadvantaged businesses.) As an exception to the chart in paragraph (d)(4) of this subsection, when Block B13 is coded 7, enter code Z in Block D3.

(A) *Code A—No Known SB Source*. Enter code A when applicable.

(B) *Code B—SB Not Solicited*. Enter code B when there was a known small business source but it was not solicited.

(C) *Code C—SB Solicited No Offer*. Enter code C when a small business concern

was solicited but it did not submit an offer or its offer was not sufficient to cover the total quantity requirement so it received a separate award for the quantity offered.

(D) *Code D—SB Solicited Offer Not Low*. Enter code D when a small business offer was not the low or most advantageous offer or a small business concern was not willing to accept award of a set-aside portion of an action at the price offered by the Government.

(E) *Code Z—Other Reason*. Enter code Z when a small business did not receive the award for any other reason.

(iv) BLOCK D4, PREFERENCE PROGRAM.

As an exception to the chart in paragraph (d)(4) of this subsection, when Block B13 is coded 7, enter the code describing the action being reported for Block D4C; and leave Block D4E blank.

(A) BLOCK D4A, TYPE OF SB SET-ASIDE.

Enter one of the six available codes.

(1) *Code A—None*. Enter code A if there was no small business set-aside (FAR 19.502). Note that set-asides for historically black colleges and universities and minority institutions (HBCUs/MIs) are not small business set-asides. Use code A for HBCU/MI set-asides and complete Block D4C.

(2) *Code B—Total SB Set-Aside*. Enter code B if the action was a total set-aside for small business (FAR 19.502-2), including actions reserved exclusively for small business concerns pursuant to FAR 13.105, or if the action resulted from the Small Business Innovation Research Program.

(3) *Code C—Partial SB Set-Aside*. Enter code C if the action was a partial set-aside for small business (219.502-3).

(4) *Code D—Reserved*.

(5) *Code E—Total SDB Set-Aside*. Enter code E if the action was a total set-aside for small disadvantaged businesses (219.502-2-70).

(6) *Code Y—Small Emerging Business Set-Aside*. Enter code Y if the action is an emerging small business set-aside within a designated industry group under the Small Business Competitiveness Demonstration Program (see FAR subparts 19.10 and 204.670-9).

(7) *Code Z—Small Business Set-Aside Using Simplified Acquisition Procedures*. Enter code Z if the action is reserved exclusively for small business concerns pursuant to FAR 13.105 and is in a designated industry group under the Small Business Competitiveness Demonstration Program (204.670-9).

(B) BLOCK D4B, TYPE OF SDB SET-ASIDE/SDB PREFERENCE.

Enter one of the five codes, even if Block D4A is coded E.

(1) *Code A—None*. Enter code A if no SDB preference was given or award was not to an SDB.

(2) *Code B—Section 8(a)*. Enter code B if the contract was awarded to the Small Business Administration (SBA) under Section 8(a) of the Small Business Act (FAR 19.8).

(3) *Code C—Total SDB Set-Aside*. Enter code C if the action was an SDB set-aside (219.502-2-70) and award was to an SDB.

(4) *Code D—SDB Evaluation Preference—Unrestricted*. Enter code D if the action was unrestricted but an SDB received an award as a result of an evaluation preference (219.70).

(5) *Code E—SDB Preferential Consideration—Partial SB Set-Aside*. Enter code E if the action was a partial set-aside for small business and preferential consideration resulted in an award to an SDB (219.502-3).

(C) BLOCK D4C, HBCU/MI SET-ASIDE.

Enter one of the three codes.

(1) *Code A—None*. Enter code A if the action was not set-aside for HBCUs or MIs.

(2) *Code B—HBCU or MI—Total Set-Aside*. Enter code B if the action was a total set-aside for HBCUs and MIs (226.7003).

*Code C—HBCU or MI—Partial Set-Aside*. Enter code C if the action was a partial set-aside for HBCUs or MIs under a broad agency announcement (235.016).

(D) BLOCK D4D, OTHER PREFERENCE PROGRAM.

Enter either code A or B.

(1) *Code A—None*. Enter code A if no other preference program applied.

(2) *Code B—Directed to NIB/NISH*. Enter code B for an action with a qualified nonprofit agency employing people who are blind or severely disabled for an item on the Procurement List which was awarded under FAR subpart 8.7.

(E) BLOCK D4E, PREMIUM PERCENT.

(1) Complete Block D4E if Block D4B is coded C, D, or E, or Block D4C is coded B or C.

(2) Calculate the premium percentage per 219.202-5 and enter it as a three-digit number rounded to the nearest tenth, e.g., enter 7.55% as 076. If no premium was paid, enter three zeros (000).

(3) Otherwise leave blank.

(v) BLOCK D5, ETHNIC GROUP.

(A) Complete Block D5 if the action is with an SDB. Otherwise leave it blank.

(B) Enter the code from the following list which corresponds to the ethnic

group marked by the contractor in the solicitation provision at 252.219-7000 (Small Disadvantaged Business Concern Representation (DoD Contracts)).

- (1) Code A—Asian-Indian American.
- (2) Code B—Asian-Pacific American.
- (3) Code C—Black American.
- (4) Code D—Hispanic American.
- (5) Code E—Native American.
- (6) Code F—Other SDB certified/determined by SBA.
- (7) Code Z—No representation.

(vi) BLOCK D6, WOMEN-OWNED BUSINESS.

Enter one of the following codes.

(A) *Code Y—Yes*. Enter code Y if the response to FAR 52.204-5 or 52.212-3(c) (Women-Owned Business Representation) indicates that it is a women-owned business.

(B) *Code N—No*. Enter code N if the contractor's response to FAR 52.204-5 or 52.212-3(c) indicates that it is not a women-owned business.

(C) *Code U—Uncertified*. Enter code U if the information is not available because the contractor did not complete the representation under FAR 52.204-5 or 52.212-3(c).

(vii) BLOCK D7, SMALL BUSINESS INNOVATION RESEARCH (SBIR) PROGRAM.

Enter one of the three codes. As an exception to the chart in paragraph (d)(4) of this subsection, when Block B13 is coded 7, leave Block D7 blank.

(A) *Code A—Not a SBIR Phase I-II*. Enter code A if the action is not in support of a Phase I or II SBIR Program.

(B) *Code B—SBIR Program Phase I Action*. Enter code B if the action is related to a Phase I contract in support of the SBIR Program.

(C) *Code C—SBIR Program Phase II Action*. Enter code C if the action is related to a Phase II contract in support of the SBIR Program.

(viii) BLOCK D8, SUBCONTRACTING PLAN—SB, SDB, OR HBCU/MI.

Enter one of the four codes.

(A) *Code A—Plan Not Included*. No Subcontracting Possibilities. Enter code A if a subcontracting plan was not included in the contract because subcontracting possibilities do not exist (FAR 19.705-2(c)).

(B) *Code B—Plan Not Required*. Enter code B if no subcontracting plan was required (because the action did not meet the dollar thresholds in FAR 19.702(b)).

(C) *Code C—Plan Required, Incentive Not Included*. Enter code C if the action includes a subcontracting plan, but does not include additional incentives (FAR 19.708(c)).

(D) *Code D—Plan Required, Incentive Included*. Enter code D if the action includes a subcontracting plan and also

includes additional incentives (FAR 19.708(c), 219.708(c)).

(ix) BLOCK D9, DEMONSTRATION TEST PROGRAM.

Enter one of the two codes. As exceptions to the chart in paragraph (d)(4) of this subsection, when Block B13 is coded 5, B, C, D, E, F, or G and the original action was awarded before the program began, enter code N in Block D9. When Block B13 is coded 7, enter code N in Block D9.

(A) *Code Y—Yes*. Enter code Y if this is an action with a U.S. business concern, in either the four designated industry groups or the ten targeted industry categories under the Small Business Competitiveness Demonstration Program (FAR 19.10 and 219.10), where the principal place of performance is in the United States or outlying areas.

(B) *Code N—No*. Enter code N if code Y does not apply.

(x) BLOCK D10, SIZE OF SMALL BUSINESS.

(A) Complete Block D10 only when Block D9 is coded "Y" and the contractor is a small business (Block D1 is coded A or B). Otherwise, leave Block D10 blank.

(B) Enter one of fourteen codes of the size of the business as represented by the contractor in the solicitation provision at FAR 52.219-19, Small Business Concern Representation for the Small Business Competitiveness Demonstration Program.

(xi) BLOCK D11, EMERGING SMALL BUSINESS.

(A) Complete this block only if Block D9 is coded "Y" and the contracting action is in one of the four designated industry groups, not one of the targeted industry categories. Otherwise, leave Block D11 blank.

(B) Enter one of the two codes.

(1) *Code Y—Yes*. Enter code Y if the contractor represents in the provision at FAR 52.219-19, Small Business Concern Representation for the Small Business Competitiveness Demonstration Program, that is an emerging small business concern.

(2) *Code N—No*. Enter code N if code Y does not apply.

(e) *Part E of the DD Form 350*.

Part E gathers data on specialized items that may not become permanent reporting elements.

(1) BLOCK E1, CONTRACTED ADVISORY AND ASSISTANCE SERVICES.

Enter one of the two codes.

(i) *Code Y—Yes*. Enter code Y if the action includes any contracted advisory and assistance services (CAAS) as defined in FAR 37.2.

(ii) *Code N—No*. Enter code N if code Y does not apply.

(2) BLOCK E2, SET-ASIDE VALUE.

(i) Complete Block E2 only if the contracting action is with a qualified nonprofit agency employing people who are blind or severely disabled and was awarded as a result of the agency's participation in a total of partial small business set-aside (FAR 19.501(h)). Otherwise, leave Block E2 blank.

(ii) Enter the dollar amount (i.e., contract face value) of the set-aside portion of the award. Use whole dollars.

(3) BLOCK E3, NEXT LOW OFFER.

(i) Complete Block E3 only if Block E2 is completed. Otherwise, leave Block E3 blank.

(ii) Enter the offered price from the small business firm that would have been the low offeror if qualified nonprofit agencies employing people who are blind or severely disabled had not participated in the acquisition. Enter the amount in whole dollars.

(4) BLOCK E4, SPECIFIC NUMBER OF OFFERS RECEIVED.

Enter the specific number of offers received (maximum 999) if Block C7 is coded 2. Otherwise, leave Block E4 blank.

(5) BLOCK E5, TASK/DELIVERY ORDER.

(i) Enter one of the following codes.

(A) *Code T—Task Order*. Enter code T if the contracting action is a task order as defined in FAR 16.501-1.

(B) *Code D—Delivery Order*. Enter code D if the contracting action is a delivery order as defined in FAR 16.501-1.

(C) *Code N—Not Applicable*. Enter code N if the contracting action is neither a task nor a delivery order.

(6) BLOCK E6, TYPE OF INDEFINITE DELIVERY CONTRACT AWARD.

When Block E5 is coded T or D, enter one of the following codes.

(i) *Code M—Multiple Award*. Enter code M if the contracting action is a task or delivery order under a multiple award indefinite delivery contract.

(ii) *Code S—Single Award*. Enter code S if the contracting action is a task or delivery order under a single award indefinite delivery contract.

(7) BLOCK E7, COMMERCIAL ITEMS.

Enter one of the following codes.

(i) *Code Y—Yes*. Enter code Y if the contract contains the clause at FAR 52.212-4, Contract Terms and Conditions—Commercial Items.

(ii) *Code N—No*. Enter code N if code Y does not apply.

(f) *Part F of the DD Form 350*.

Part F identifies the reporting official.

(1) BLOCK F1, NAME OF CONTRACTING OFFICER OR REPRESENTATIVE.

Enter the name (Last, First, Middle Initial) of the contracting officer of representative.

(2) BLOCK F2, SIGNATURE.  
The person identified in Block F1 must sign.

(3) BLOCK F3, TELEPHONE NUMBER.  
Enter the telephone number (with area code) for the individual in Block F1. Installations with Defense Switched Network (DSN) must enter the DSN number.

4. BLOCK F4, DATE.  
Enter date (YYMMDD) that the DD Form 350 Report is submitted. Use two digits for each segment; use 01 through 12 for January through December. For example, enter January 2, 1999 as 990102.

(g) *Special Instructions for DD Forms 350 on Actions of \$25,000 or Less Under the Small Business Competitiveness Demonstration Program.*

(1) Policy on when a DD Form 350 is required on actions of \$25,000 or less under the Small Business Competitiveness Demonstration Program is in 204.670-9.

(2) In general, complete these DD Forms 350 using the "regular" instructions in paragraphs (a) through (f) of this subsection. However, there are special instructions for certain blocks. The following matrix tells which apply.

DD350 block	Regular instructions	Leave blank	Special instructions
PART A	X		
B1	X		
B2	X		
B3	X		
B4		X	
B5A	X		
B5B		X	
B5C	X		
B5D	X		
B5E		X	
B5F		X	
B5G		X	
B6	X		
B6A	X		
B6B	X		
B6C	X		
B7	X		
B8	X		
B9	X		
B10		X	
B11		X	
B12A	X		
B12B		X	
B12C		X	
B12D	X		
B12E	X		
B13	X		Use Code 9 if simplified acquisition procedures were used.
C1	X		
C2	X		
C3	X		
C4		X	

DD350 block	Regular instructions	Leave blank	Special instructions
C5	X		
C6		X	
C7	X		
C8	X		Leave blank if simplified acquisition procedures were used.
C9	X		Leave blank if simplified acquisition procedures were used.
C10	X		
C11		X	
C12		X	
C13A	X		
C13B	X		
C13C	X		
C13D	X		
D1	X		
D2		X	
D3		X	
D4A	X		If simplified acquisition procedures were used, use only codes Y or Z.
D4B	X		
D4C	X		
D4D	X		
D4E		X	
D5		X	
D6	X		
D7		X	
D8		X	
D9	X		
D10	X		
D11	X		
E1		X	
E2		X	
E3		X	
E4-8	X		
PART F	X		

154. Section 253.204-71 is revised to read as follows:

**253.204-71 DD Form 1057, Monthly Contracting Summary of Actions \$25,000 or Less.**

(a) *Scope of subsection.*  
Policy on use of a DD Form 1057 is in 204.670. This subsection 253.204-71 contains instructions on completion of the DD Form 1057.

(1) Report actions in the month they are awarded, issued, executed, or placed, except—

(i) When the price of an order or call cannot be determined when it is placed, count the action and its dollars when it is paid.

(ii) Count the following actions when the voucher is paid (count each voucher as one action)—

(A) Meals and lodging.

(B) Automatic deliveries, e.g., bread, milk, and ice cream.

(iii) The Navy Facilities Engineering Command shall use departmental procedures to report vouchers it processes on Naval shore establishment contracts for electricity and gas.

(2) Enter all dollar amounts in whole dollars only. Do not enter cents. If the net amount is a decrease, enter a minus sign (–) immediately preceding the amount to indicate a credit entry. Do not enter parentheses.

(3) Include actions over \$25,000 but not in excess of \$200,000 in support of a contingency on the DD Form 1057, as follows—

(i) Section A, complete fully.

(ii) Section B, complete only lines 5, 5a, 7, and 7a.

(iii) Section C, complete only lines 1 and 1c, 2 and 2c, or 3 and 3c, as applicable.

(iv) Sections D, E, and F, leave blank.

(v) Section G, complete fully.

(b) *Definitions.*  
For purposes of this subsection—  
*Delivery Orders—GSA Federal Supply Schedules* means only orders, and modifications of such orders, under Federal supply schedules awarded by GSA.  
*Delivery Orders—Other Federal Supply Schedules* means only orders, and modifications of such orders, under Federal supply schedules awarded by an agency other than GSA, e.g., awarded by VA or OPM.  
*Delivery Orders—All Others* means orders, and modifications of such orders, under basic ordering agreements (BOAs) or indefinite delivery contracts.  
*Other Contracting Actions* means all actions that do not meet the definitions in this paragraph (b) of a delivery order.  
*Simplified Acquisition Procedures* is defined in FAR part 13. It includes purchase orders and orders under blanket purchase agreements (BPAs) and modifications to awards made using simplified acquisition procedures.

(c) *Section A, General Information.*  
(1) BLOCK A1, REPORT FOR MONTH ENDING.  
Enter the last day of the month in which the report is submitted. Enter it as year, month, and day, using a two-digit number for each segment and 01 through 12 for January through December. For example, for the month ending April 30, 1999, enter 990430.

(2) BLOCK A2, CONTRACTING OFFICE.  
Enter sufficient detail to establish the identity of the contracting office submitting the report in Blocks 2a and b.

(3) BLOCK A3, REPORTING OFFICE CODE.

Enter the code assigned to the contracting office by the departmental data collection point in 204.670-8.

(d) *Section B, Contracting Actions.*

(1) BLOCK B1, TARIFF OR REGULATED ACQUISITIONS.

Enter the number and dollar value of contracting actions (including modifications that will also be reported in Block B8) with tariff or regulated industries (industries with sole source and service rates which are fixed or adjusted by a Federal, State, or other public regulatory body).

(2) BLOCK B2, FOREIGN/INTERAGENCY.

(i) Enter the total number and dollar value of contracting actions (including modifications that will also be reported in Block B8)—

(A) For foreign military sales (FMS) or other arrangement where the foreign government or international organization is paying all or part of the cost of the action.

(B) Placed directly with foreign governments under the terms of an international agreement, e.g., base maintenance performed with the foreign government acting as the contractor (any other actions directly with foreign governments go in Block B5).

(C) With another Federal agency or Government corporation, e.g., Federal Prison Industries.

(ii) Enter the subtotals in Blocks B2a and b for the number and dollar value of contracting actions, including modifications that will also be reported in Block B8 for—

(A) Block B2a, FMS/International Agreements. Enter subtotals for paragraphs (d)(2)(i)(A) and (B) of this subsection.

(B) Block B2b, Action with Another Federal Agency. Enter subtotal for paragraph (d)(2)(i)(C) of this subsection.

(3) BLOCK B3, SMALL BUSINESS.

(i) Enter the total number and total dollar value of contracting actions (including modifications which will also be reported in Block B8) where the—

(A) Contractor is a small business concern; and

(B) Place of performance is in the United States and outlying areas (see 204.670-1).

(ii) Enter the subtotals for the number and dollar value of contracting actions (including modifications that will also be reported in Block B8) for—

(A) Block B3a, Simplified Acquisition Procedures.

(B) Block B3b, Delivery Orders—GSA FSS.

(C) Block B3c, Delivery Orders—Other FSS.

(D) Block B3d, Delivery Orders—Other.

(E) Block B3e, Other Contracting Actions.

(4) BLOCK B4, LARGE BUSINESS.

(i) Enter the total number and dollar value of contracting actions (including modifications which will also be reported in Block B8) where the—

(A) Contractor is a large business concern; and

(B) Place of performance is in the United States and outlying areas.

(ii) Enter the subtotals for the number and dollar value of contracting actions (including modifications that will also be reported in Block B8) for—

(A) Block B4a, Simplified Acquisition Procedures.

(B) Block B4b, Delivery Orders—GSA FSS.

(C) Block B4c, Delivery Orders—Other FSS.

(D) Block B4d, Delivery Orders—Other.

(E) Block B4e, Other Contracting Actions.

(5) BLOCK B5, DOMESTIC OR FOREIGN ENTITIES PERFORMING OUTSIDE THE UNITED STATES.

(i) Enter the total number and dollar value of contracting actions (including modifications that will also be reported in Block B8) where the place of performance is outside the United States and outlying areas (see 204.670-1(c)). This includes actions placed directly with a foreign government that are not under international agreements (see paragraph (d)(2)(i)(B) of this subsection). It does not matter whether the contractor is domestic or foreign.

(ii) Enter the subtotals for the number and dollar value of actions (including modifications that will also be reported in Block B8) for—

(A) Block B5a, Simplified Acquisition Procedures.

(B) Block B5b, Delivery Orders—GSA FSS.

(C) Block B5c, Delivery Orders—Other FSS.

(D) Block B5d, Delivery Orders—Other.

(E) Block B5e, Other Contracting Actions.

(6) BLOCK B6, EDUCATIONAL, NONPROFIT & OTHER.

(i) Enter the total number and dollar value of contracting actions (including modifications that will also be reported in Block B8) with—

(A) Educational institutions;

(B) Not-for-profit and nonprofit institutions (defined in FAR 31.107);

(C) Qualified nonprofit agencies employing people who are blind or severely disabled; and

(D) Any other entities not listed in Blocks B1 through B5.

(ii) Enter the subtotals for the number and dollar value of contracting actions

(including modifications that will also be reported in B) for—

(A) Block B6a, Simplified Acquisition Procedures.

(B) Block B6b, Delivery Orders—GSA FSS.

(C) Block B6c, Delivery Orders—Other FSS.

(D) Block B6d, Delivery Orders—Other.

(E) Block B6e, Other Contracting Actions.

Use this B6e to report actions with qualified nonprofit agencies employing people who are blind or severely disabled.

(7) BLOCK B7, TOTAL CONTRACTING ACTIONS.

(i) Add Blocks B1 through B6 and enter the totals in Block B7.

(ii) If directed by data collection point procedures, also enter the subtotals for the number and dollar value of contracting actions for—

(A) Block B7a, Simplified Acquisition Procedures, sum of sub-blocks 3a+4a+5a+6a.

(B) Block B7b, Delivery Orders—GSA FSS, sum of sub-blocks 3b+4b+5b+6b.

(C) Block B7c, Delivery Orders—Other FSS, sum of sub-blocks 3c+4c+5c+6c.

(D) Block B7d, Delivery Orders—Other, sum of sub-blocks 3d+4d+5d+6d.

(E) Block B7e, Other Contracting Actions, sum of sub-blocks 3e+4e+5e+6e.

(8) BLOCK B8, TOTAL MODIFICATIONS EXCLUDING SIMPLIFIED ACQUISITION PROCEDURES.

Enter the total number of actions and dollar value of contracting actions which are modification actions. This includes modifications to delivery orders or other contracting actions which also may be counted in other blocks in section B.

(e) *Section C, Extent Competed.*

(1) BLOCK C1, COMPETED.

(i) Enter the total number and dollar value of contracting actions which were competed.

(A) Include in Block C1—

(1) Actions not subject to Competition in Contract Act (CICA) (see FAR 6.001) where at least two quotations or offers were received;

(2) Actions where competitive procedures were used to fulfill the requirement for full and open competition (FAR subpart 6.1);

(3) Actions where full and open competition was provided for after exclusion of sources, in order to establish/maintain alternative sources or to set aside an acquisition exceeding the micro-purchase threshold for small business (FAR subpart 6.2);

(4) Actions where statutory authorities for other than full and open

competition (FAR subpart 6.3) were used and more than one offer was received, except as provided in paragraphs (B)(2) and (3).

(5) Actions resulting from a contract awarded competitively before CICA (including two-step formal advertising);

(6) Delivery orders/modifications under a Federal supply schedule; and  
(7) Section 8(a) awards competed under FAR 6.204.

(B) Do not include—

(1) Actions that meet the criteria for Section C, Block C2;

(2) Actions awarded under the authority of FAR 6.302-5(b)(2) or (4), authorized or required by statute (report these in Section C, Block C2);

(3) Actions reported in Section B, Blocks B1 and B2, including actions with the Federal Prison Industries.

These actions are treated as not available for competition in published competition reports.

(ii) Enter the subtotals for the number and dollar value of contracting actions for—

(A) Block C1a, Small Business Concerns.

(B) Block C1b, Large Business Concerns.

(C) Block C1c, Domestic or Foreign Entities Performing Outside the United States and Outlying Areas.

(D) Block C1d, Educational, Nonprofit & Other.

(2) BLOCK C2, NOT AVAILABLE FOR COMPETITION.

(i) Enter the total number and dollar value of contracting actions which were not available for competition.

(A) Include in Block C2—

(1) Actions for brand name commercial products for authorized resale;

(2) Actions authorized or required by statute to be awarded to a specific source or through another agency in accordance with FAR 6.302-5(b)(2) or (4); e.g., actions with qualified nonprofit agencies employing people who are blind or severely disabled and noncompetitive 8(a) actions;

(3) Actions (including modifications) at or below the micro-purchase threshold at FAR 13.101;

(4) Other contract actions where the Director of Defense Procurement has determined that there is no opportunity for competition.

(B) Do not include any actions reported in Section B, Blocks B1 or B2 (e.g., actions with regulated monopolies, actions under foreign military sales or international agreements, and actions with another Federal agency or Government corporation). These actions are treated as not available for competition in published competition reports.

(ii) Enter the subtotals for the number and dollar value of contracting actions for—

(A) Block C2a, Small Business Concerns.

(B) Block C2b, Large Business Concerns.

(C) Block C2c, Domestic or Foreign Entities Performing Outside the United States.

(D) Block C2d, Educational, Nonprofit and Other.

(3) BLOCK C3, NOT COMPLETED.

(i) Enter the total number and dollar value of contracting actions which were not competed, i.e., any actions not reported in Blocks B1 or B2. Do not include actions reported in Section B, Blocks B1 or B2. These actions are treated as not available for competition in published competition reports.

(ii) Enter the subtotals for the number and dollar value of actions for—

(A) Block C3a, Small Business Concerns.

(B) Block C3b, Large Business Concerns.

(C) Block C3c, Domestic or Foreign Entities Performing Outside the United States and Outlying Areas.

(D) Block C3d, Educational, Nonprofit & Other.

(f) *Section D, Research, Development, Test, & Evaluation Actions.*

Do not include actions for supplies or services in support of RDT&E work that do not require the contractor to perform RDT&E.

(f) BLOCK D1, SMALL BUSINESS.

Enter the total number and dollar values of RDT&E actions with small business concerns.

(2) BLOCK D2, LARGE BUSINESS.

Enter the total number and dollar value of RDT&E actions with large business concerns.

(3) BLOCK D3, DOMESTIC OR FOREIGN ENTITIES PERFORMING OUTSIDE THE UNITED STATES AND OUTLYING AREAS.

Enter the total number and dollar value of RDT&E actions where the principal place of performance is outside the United States or outlying areas (see 204.670-1).

(4) BLOCK D4, HISTORICALLY BLACK COLLEGES & UNIVERSITIES OR MINORITY INSTITUTIONS (HBCU/MI).

Enter the total number and dollar value of RDT&E actions with HBCUs or MIs.

(5) BLOCK D5, OTHER ENTITIES.

Enter the total number and dollar value of RDT&E actions that were not reported in Blocks D1 through D4.

(g) *Section E, Selected Socioeconomic Statistics.*

(1) BLOCK E1, SMALL BUSINESS (SB) SET-ASIDE.

(i) Enter the total number and dollar value of contracting actions which were small business set-aside actions pursuant to FAR 19.502, including awards to SDBs reported in Block E2d.

(ii) If the action is an emerging small business set-aside (FAR 19.1002), use Block E1b.

(iii) Leave Block E1 a blank. Enter in Block E1b the number and total dollar value of actions for small business set-asides pursuant to FAR 19.502, including awards to SDBs reported in Block E2d.

(2) BLOCK E2, SMALL DISADVANTAGED BUSINESS (SDB) ACTIONS.

(i) Enter the total number and dollar value of actions which were small disadvantaged business actions.

(ii) Enter the subtotals for the number and dollar value for—

(A) Block E2a, Through SBA—Section 8(a).

Enter actions with the Small Business Administration pursuant to Section 8(a) of the Small Business Act (FAR 19.8).

(B) Block E2b, SDB Set-Aside/SDB Preference.

Enter actions resulting from—

(1) A set-aside for small disadvantaged business (SDB) (219.502-2-70);

(2) Application of an SDB evaluation preference (219.70); or

(3) SDB preferential consideration (219.502-3).

(C) Block E2c. Leave blank.

(D) Block E2d, SB Set-Aside.

Enter actions under FAR 19.502 where award is to an SDB, but a preference was not applied nor was preferential consideration given.

(E) Block E2e, Other.

Enter awards to SDB concerns where award is to an SDB not reported in Blocks E2a through E2d.

(3) BLOCK E3, WOMEN-OWNED SMALL BUSINESS.

Enter total number and dollar value of contracting actions with women-owned small businesses.

(4) BLOCK E4, HBCU/MI.

Enter the total number and dollar value of contracting actions with HBCU/MIs pursuant to Subpart 226.70.

(5) BLOCK E5, NIB/NISH.

Enter the total number and dollar value of contracting actions with qualified nonprofit agencies employing people who are blind or severely disabled for supplies or services from the Procurement List pursuant to FAR subpart 8.7.

(h) *Section F, Simplified Acquisition Procedures—Dollar Value Ranges.*

Enter in each of the dollar ranges the total number and dollar value of contracting actions which used

simplified acquisition procedures (FAR part 13). The total of Section F is normally the sum of Blocks B3a, B4a, B5a, and B6a.

(i) *Section G, Remarks and Authentication.*

(1) Block G1, Remarks.  
Enter any remarks applicable to this report.

(2) Block G2, Contracting Officer.  
(i) Block G2a, Typed Name.  
Enter the name (last, first, middle initial) of the contracting officer or representative.

(ii) Block G2b, Signature.  
The person identified in Block G2a must sign.

(iii) Block G2c, Telephone Number.  
Enter the telephone number (with area code) of the person identified in Block G2a. Installations with Defense Switched Network (DSN) must enter their DSN number.

(3) Block G3, Date Report Submitted.  
Enter the date (YYMMDD) that the DD Form 1057 is submitted. Use two digits for each segment; use 01 through 12 for January through December. For example, enter January 2, 1999 as 990102.

*Appendix C to Chapter 2 [Amended]*

155. In Appendix C to Chapter 2, Part 2, Section C-204.3, Special clauses (II3), paragraphs (f)(1) and (f)(2) are revised to read as follows:

APPENDIX C—CONTRACTOR PURCHASING SYSTEM REVIEWS

\* \* \* \* \*

PART 2—ANALYTICAL PROCEDURES

\* \* \* \* \*

C-204.3 Special clauses (IID3).

\* \* \* \* \*

(f) \* \* \*

(1) FAR 52.214-26, Audit and Records—Sealed Bidding;

(2) \* \* \*

(3) FAR 52.215-2, Audit and Records—Negotiation;

\* \* \* \* \*

*Appendix F to Chapter 2 [Amended]*

156. In Appendix F to Chapter 2, Part 4, Table 2 of F-401 Distribution, the entry for the Army is revised to read as follows:

APPENDIX F—MATERIAL INSPECTION AND RECEIVING REPORT

\* \* \* \* \*

PART 4—DISTRIBUTION OF DD FORM 250 AND DD FORM 250C

F-401—Distribution.

\* \* \* \* \*

TABLE 2.—SPECIAL DISTRIBUTION

As required	Address	No. of copies
* * * *		*
Army:		
Foreign	Commander, US	
Military	Army, Security	
Sales.	Asst. Center,	
	ATTN: AMSAC—	
	OL—LS—CS, 3rd	
	Street and “M”	
	Avenue, New	
	Cumberland Army	
	Depot, New Cum-	
	berland, PA	
	17070-5096.	
* * * *		*

*Appendix G to Chapter 2 [Amended]*

157. Appendix G to Chapter 2 is amended by revising Part 2, entitled “Army Activity Address Numbers” to read as follows:

PART 2—ARMY ACTIVITY ADDRESS NUMBERS

DAAA03

B1

Pine Bluff Arsenal, ATTN: SMCPB-PO, 10020 Kabrich Circle, Pine Bluff, AR 71602-9500

DAAA08

B7

Rock Island Arsenal, ATTN: SMCRI-CT, Rock Island, IL 61299-5000

DAAA09

BA

U.S. Army Armament, Munitions, and Chemical Command, ATTN: AMSMC-PAM, Rock Island, IL 61299-6000

DAAA22

BV

Watervliet Arsenal, ATTN: SMCWV-PPA, Watervliet, NY 12189-4050

DAAA31

GJ

McAlester Army Ammunition Plant, ATTN: SMCMC-PC, McAlester, OK 74501-5000

DAAA32

OP

Crane Army Ammunition Activity, ATTN: SMCCN-CT, 300 Highway 361, Crane, IN 47522-5099

DAAB07

BG

USA Communications—Electronics Command, C3I Acquisition Center, ATTN: AMSEL-ACSP-BM, Fort Monmouth, NJ 07703-5008

DAAB08

2V

USA Communications—Electronics Command, C3I Acquisition Center, ATTN: AMSEL-ACSB-C, (Facility ADP Branch), Fort Monmouth, NJ 07703-5008

DAAB10

ZP

USA CECOM C31 Acquisition Center, Vint Hill Farms Station, ATTN: AMSEL-

ACVF-A-AA (Stop 42), Building 160, Warrenton, VA 22186-5172

DAAB11

D0

USA CECOM C31 Acquisition Center, Vint Hill Farms Station, ATTN: AMSEL-AC-VHA-HB Base OPS (Stop 42), Warrenton, VA 22186-5172

DAAB12

E1

USA Communications—Electronics Command, C4IEW-AC, VECMPS Branch, ATTN: AMSEL-ACVH-D, 10109 Gridley Road, Suite 200, Fort Belvoir, VA 22060-5845

DAAC01

BH

Anniston Army Depot, ATTN: SDSAN-DOC, Anniston, AL 36201-5003

DAAC02

ZT

Blue Grass Army Depot, Procurement Office, ATTN: SDS-BG-BM-P, Lexington, KY 40511-5001

DAAC07

ZM

Sierra Army Depot, ATTN: SDSSI-CONT, Herlong, CA 96113-5009

DAAC67

ZN

Letterkenny Army Depot, ATTN: SDSLE-P, Chambersburg, PA 17201-4152

DAAC71

ZS

Tobyhanna Army Depot, ATTN: SDSTO-K, Tobyhanna, PA 18446-5100

DAAC79

D7

Red River Army Depot, ATTN: SDSRR-P, Texarkana, TX 75507-5000

DAAC83

BJ

Corpus Christi Army Depot, ATTN: SDSCC-C, Corpus Christi, TX 78419-6170

DAAC89

BK

Tooele Army Depot, ATTN: SDSTE-DCBO, Tooele, UT 84074-0839

DAAD01

B5

USA Yuma Proving Ground, Directorate of Contracting, ATTN: ATEYP-CR, Yuma, AZ 85365-9106

DAAD03

B6

USA Jefferson Proving Ground, ATTN: STEJP-EH-C, Madison, IN 47250-5100

DAAD05

BM

USA Aberdeen Proving Ground Support Activity, ATTN: STEAP-PR/M, Ryan Building, Aberdeen Proving Ground, MD 21005-5001

DAAD07

BN

USA White Sands Missile Range, Directorate of Contracting, ATTN: STEWS-PR, White Sands, NM 88002-5201

DAAD09

BP

USA Dugway Proving Ground, Directorate of Contracting, ATTN: STEDP-DOC, Dugway, UT 84022-0538

DAAE07

BR

USA Tank—Automotive Command, ATTN: AMSTRA-IDAS, Warren, MI 48397-5000  
DAAE20  
Armament and Chemical Acquisition and Logistics Activity (ACALA), ATTN: Acquisition Center, Rock Island, IL 61299-6000  
DAAE30  
U.S. Army Armament RD&E Center (ARDEC), ATTN: SMCAR-PCM-O, Building 9, Picatinny Arsenal, NJ07806-5000  
DAAG60  
G8  
USA Military Academy, Purchasing & Contracting Division, ATTN: MAPC, Building 667A, West Point, NY 10996-1594  
DAAG99  
ZY  
USA Program Manager-SANG, ATTN: AMCMPM-NGA, Unit 61304, APO AE 09803-1304  
DAAH01  
CC  
USA Missile Command, ATTN: AMSMI-AC, Redstone Arsenal, AL 35898-5280  
DAAH03  
D8  
USA Missile Command, ATTN: AMSMI-AC, Redstone Arsenal, AL 35898-5280  
DAAH04  
YU  
U.S. Army Research Office, ATTN: AMXRO-PR, P.O. Box 12211, Research Triangle Park, NC 27709-2211  
DAAJ02  
D9  
Aviation Applied Technology Directorate, U.S. Army Aviation and Troop Command, ATTN: AMSAT-R-TC, Building 401, Fort Eustis, VA 23604-5577  
DAAJ04  
0V  
USA Charles Melvin Price Support Center, ATTN: SATAS-P, Granite City, IL 62040-1801  
DAAJ05  
ZF  
USA Aviation and Troop Command, ATTN: IAS21WG, Building 404, Fort Eustis, VA 23604-5577  
DAAJ09  
BS  
USA Aviation and Troop Command, ATTN: AMSAT-A-AD, 4300 Goodfellow Boulevard, St. Louis, MO 63120-1798  
DAAK01  
BB  
USA Aviation and Troop Command, ATTN: AMSAT-A-AD, 4300 Goodfellow Boulevard, St. Louis, MO 63120-1798  
DAAK60  
C5  
Soldier Systems Command Acquisition Center, ATTN: SATNC-PP (Procurement Support Division), Natick, MA 01760-5011  
DAAL01  
1Y  
U.S. Army Research Laboratory, ATTN: AMSLC-PR, 2800 Powder Mill Road, Adelphi, MD 20783-1145  
DAAM01  
ZU  
U.S. Army Chemical and Biological Defense Command, ATTN: AMSCB-PC, Building E4455, Aberdeen Proving Ground, MD 21010-5423  
DAAM02  
B2  
Program Manager, Rocky Mountain Arsenal, ATTN: AMXRM-PM, Building 111, Commerce City, CO 80022-1748  
DABT01  
F6  
U.S. Army Aviation Center, Contracting Office, ATTN: ATZQ-C, Building T-00116, Fort Rucker, AL 36362-5000  
DABT02  
2A  
U.S. Army Chemical and Military Police Centers and Fort McClellan, ATTN: ATZN-DOC, Building 241-C, Transportation Road, Fort McClellan, AL 36205-5000  
DABT10  
2B  
U.S. Army Infantry Center and Fort Benning, ATTN: ATZB-KT, Building 6, P.O. Box 5-5179, Fort Benning, GA 31905-5179  
DABT11  
2C  
U.S. Army Signal Center and Fort Gordon, ATTN: ATZI-CT, Building 2050B, Fort Gordon, GA 30905-5110  
DABT15  
F9  
U.S. Army Soldier Support Center and Fort Benjamin Harrison, ATTN: ATZI-CT, Fort Benjamin Harrison, IN 46216-5230  
DABT19  
2D  
U.S. Army Combined Arms Center and Fort Leavenworth, ATTN: ATZL-GCC, Pope & Thomas Avenues, Fort Leavenworth, KS 66027-5031  
DABT23  
2E  
U.S. Army Armor Center and Fort Knox, ATTN: ATZK-DC, Building 4022, Fort Knox, KY 40121-5000  
DABT31  
2F  
U.S. Army Engineer Center and Fort Leonard Wood, ATTN: ATZT-DOC, Fort Leonard Wood, MO 65473-5000  
DABT39  
2H  
U.S. Army Field Artillery Center and Fort Sill, ATTN: ATZR-Q, Building 1803, P.O. Box 3501, Fort Sill, OK 73503-0501  
DABT43  
2J  
Carisle Barracks, ATTN: ATZE-DOC-C, Building 46, Carlisle Barracks, PA 17013-5002  
DABT47  
2K  
U.S. Army Training Center and Fort Jackson, ATTN: ATZJ-DOC, Building 4340, Magruder Street, Fort Jackson, SC 29207-5420  
DABT51  
2L  
U.S. Army Air Defense Artillery Center & Fort Bliss, ATTN: ATZC-DOC, Building 2021, P.O. Box 6078, Fort Bliss, TX 79916-0058  
DABT57  
2N  
Directorate of Peninsula Contracting, ATTN: ATZF-DPC, Building 2746, Harrison Loop, Fort Eustis, VA 23604-5293  
DABT58  
2P  
Fort Monroe, ATTN: ATZG-C #62, Building T-195, Fort Monroe, VA 23651-6000  
DABT59  
2Q  
U.S. Army Combined Arms Support Command and Fort Lee, ATTN: ATZM-DOC, Building T-7124, 19th & Quartermaster Road, Fort Lee, VA 23801-5172  
DABT60  
1L  
TRADOC Contracting Agency, ATTN: ATCA, Building 1748, Fort Eustis, VA 23604-5538  
DABT61  
BF  
The Judge Advocate General's School, USA, University of Virginia, ATTN: JAGS-SSL-B, 600 Massie Road, Charlottesville, VA 22903-1781  
DABT63  
BL  
U.S. Army Intelligence Center, ATTN: ATZS-DKS, P.O. Box 748, Fort Huachuca, AZ 85613-0748  
DABT65  
B0  
Mission Contracting Activity at Fort Leavenworth, ATTN: ATOB-AL, 614 Custer Road, Fort Leavenworth, KS 66027-7203  
DABT67  
0Q  
Directorate of Contracting, ATTN: AFZW-DOC, P.O. Box 27, Fort Ord, CA 93941-0027  
DACA01  
DACW01  
CK  
USA Engineer District, Mobile, ATTN: CESAM-CT, P.O. Box 2288, Mobile, AL 36628-0001  
DACA03  
DACW03  
CL  
USA Engineer District, Little Rock, ATTN: CESWL-CT, P.O. Box 867, Little Rock, AR 72203-0867  
DACA05  
DACW05  
CM  
USA Engineer District, Sacramento, ATTN: CESPK-CT, 1325 J Street, Sacramento, CA 95814-2922  
DACA07  
DACW07  
CP  
USA Engineer District, San Francisco, ATTN: CESPN-CT, 211 Main Street, San Francisco, CA 94105-1905  
DACA09  
DACW09  
CQ  
USA Engineer District, Los Angeles, ATTN: CESPL-CT, P.O. Box 2711, Los Angeles, CA 90053-2325  
DACA17  
DACW17  
CS

USA Engineer District, Jacksonville, ATTN: CESAJ-CT, P.O. Box 4970, Jacksonville, FL 32232-0019	601 East 12th Street, Kansas City, MO 64106-2896	USA Engineer District, Nashville, ATTN: CEORN-CT, P.O. Box 1070, Nashville, TN 37202-1070
DACA21	DACA43	DACA63
DACW21	DACW43	DACW63
CV	DJ	DY
USA Engineer District, Savannah, ATTN: CESAS-CT, P.O. Box 889, Savannah, GA 31402-0889	USA Engineer District, St. Louis, ATTN: CELS-CT, 1222 Spruce Street, St. Louis, MO 63101-2833	USA Engineer District, Fort Worth, ATTN: CESWF-CT, P.O. Box 17300, Fort Worth, TX 76102-0300
DACA23	DACA45	DACA64
DACW23	DACW45	DACW64
CX	DK	DZ
USA Engineer District, Chicago, ATTN: CENCR-CT, 111 North Canal Street, Chicago, IL 60606-7206	USA Engineer District, Omaha, ATTN: CEMRO-CT, 215 North 17th Street, Omaha, NE 68102-4978	USA Engineer District, Galveston, ATTN: CESWG-CT, P.O. Box 1229, Galveston, TX 77553
DACA25	DACA47	DACA65
DACW25	DACW47	DACW65
CD	DM	EA
USA Engineer District, Rock Island Clock Tower Building, ATTN: CENCR-CT, P.O. Box 2004, Rock Island, IL 61202-2004	USA Engineer District, Albuquerque, ATTN: CESWA-CT, P.O. Box 1580, Albuquerque, NM 87103-1580	USA Engineer District, Norfolk, Contracting Division, ATTN: CENAO- CT, 803 Front Street, Norfolk, VA 23510- 1096
DACA27	DACA49	DACA66
DACW27	DACW49	DACW66
CY	DN	EB
USA Engineer District, Louisville, ATTN: CEORL-CT, P.O. Box 59, Louisville, KY 40201-0059	USA Engineer District, Buffalo, ATTN: CENCB-CT (Contracting Division), 1776 Niagara Street, Buffalo, NY 14207-3199	USA Engineer District, Memphis, ATTN: CEIMM-CT, B-202 Clifford Davis Federal Building, Memphis, TN 38103- 1894
DACA29	DACA51	DACA67
DACW29	DACW51	DACW67
CZ	CE	EC
USA Engineer District, New Orleans, ATTN: CELMN-CT, P.O. Box 60267, New Orleans, LA 70160-0267	USA Engineering District, New York, Contracting Division, ATTN: CENAN- CT, 26 Federal Plaza, New York, NY 10028-0090	USA Engineer District, Seattle, ATTN: CENPS-CT, P.O. Box C-3755, Seattle, WA 98124-2255
DACA31	DACA54	DACA68
DACW31	DACW54	DACW68
DA	DQ	YW
USA Engineer District, Baltimore Contracting Division, ATTN: CENAB- CT, P.O. Box 1715, Baltimore, MD 21203-1715	USA Engineer District, Wilmington, ATTN: CESAW-CT, P.O. Box 1890, Wilmington, NC 28402-1890	USA Engineer District, Walla Walla, ATTN: CENPW-CT, Building 602, City- County Airport, Walla Walla, WA 99362-9265
DACA33	DACA56	DACA69
DACW33	DACW56	DACW69
DB	DS	CG
USA Engineer District, New England, ATTN: CENED-CT, 424 Trapelo Road, Waltham, MA 02254-9149	USA Engineer District, Tulsa, ATTN: CESWT-CT, P.O. Box 61, Tulsa, OK 74121-0061	USA Engineer District, Huntington, ATTN: CEORH-CT, 502 8th Street, Huntington, WV 25701-2070
DACA35	DACA57	DACA72
DACW35	DACW57	DACW72
DC	DT	ZA
USA Engineer District, Detroit, ATTN: CENCE-CT, P.O. Box 1027, Detroit, MI 48231-1027	USA Engineer District, Portland, ATTN: CENPP-CT, P.O. Box 2946, Portland, OR 97208-2946	USA Humphreys Engineer Center Support Activity, ATTN: CEHEC-CT, Kingman Building, Fort Belvoir, VA 22060-5580
DACA37	DACA59	DACA75
DACW37	DACW59	DACW75
DD	DV	ZC
USA Engineer District, St. Paul, ATTN: CENCS-CT, 190 Fifth Street East, St. Paul, MN 55101-1638	USA Engineer District, Pittsburgh, ATTN: CEORP-CT-SADBUS, 1000 Liberty Avenue, Pittsburgh, PA 15222-4186	USA Engineer Ordnance Program Division, ATTN: CETAD-OP-C, APO AE 09803- 1303
DACA38	DACA60	DACA76
DACW38	DACW60	DACW76
DE	DW	ZD
USA Engineer District, Vicksburg, ATTN: CELMK-CT, 3515 I-20 Frontage Road, Vicksburg, MS 39180-5191	USA Engineer District, Charleston, ATTN: CESAC-CT, P.O. Box 919, Charleston, SC 29402-0919	USA Engineer Topographic Laboratories, ATTN: CETEC-CT, Cude Building #2592, Fort Belvoir, VA 22060-5546
DACA39	DACA61	DACA78
DACW39	DACW61	DACW78
DF	CF	9V
USA Engineer, Waterways Experiment Station, ATTN: CEWES-CT-Z (Contracting Division), 3909 Halls Ferry Road, Vicksburg, MS 39180-6199	USA Engineer District, Philadelphia, ATTN: CENAP-CT, Contracting Division, 110 Penn Square East, Wanamaker Building, Philadelphia, PA 19107-3390	USA Engineer Transatlantic Division, ATTN: CETAD-CT-P, 201 Prince Frederick Drive, Winchester, VA 22602
DACA41	DACA62	DACA79
DACW41	DACW62	DACW79
DH	DX	2R
USA Engineer District, Kansas City, 700 Federal Building, ATTN: CEMRK-CT,		

USA Engineer District Japan, ATTN:  
CEPOJ-CT, Unit 45010, APO AP 96343-0061  
DACA81  
DACW81  
USA Engineer District, Far East, APO AP 96205-0610  
DACA83  
DACW83  
ZH  
USA Engineer Division—Pacific Ocean, ATTN: CEPOD-CT, Building 230, Fort Shafter, HI 96858-5540  
DACA85  
DACW85  
ZI  
USA Engineer District, Alaska, P.O. Box 898, Anchorage, AK 99506-0898  
DACA87  
DACW87  
ZW  
USA Engineer Division, Huntsville, ATTN: CEHND-CT, P.O. Box 1600, Huntsville, AL 35807-4301  
DACA88  
DACW88  
OS  
USA Construction Engineering Research Laboratory, ATTN: CECER-CT, P.O. Box 4005, Champaign, IL 61820-1305  
DACA89  
DACW89  
IZ  
USA Cold Regions Research and Engineering Laboratory, ATTN: CECRL-LM-CT, 72 Lyme Road, Hanover, NH 03755-1290  
DACA90  
DACW90  
USA Engineer District, Europe, ATTN: CETAE-CT, Unit 25727, APO AE 09242-5301  
DADA03  
8W  
Fitzsimons Army Medical Center, Directorate of Contracting, ATTN: HSHG-DC, Building 205, 10th Street & McCloskey Avenue, Aurora, CO 80045-5001  
DADA08  
BT  
Dwight David Eisenhower Medical Center, Contracting Office, ATTN: HSAA-D, Building 39706, 40 A Street, Fort Gordon, GA 30905-5650  
DADA09  
YY  
William Beaumont Army Medical Center, ATTN: HSAA-W, Building 7777, Piedras Street, Room 4J18, El Paso, TX 79920-5001  
DADA10  
ZQ  
U.S. Army Health Services Command, Central Contracting Office, ATTN: HSAA-C, Building 2015, Beebe Loop, Fort Sam Houston, TX 78234-6000  
DADA13  
OW  
Madigan Army Medical Center, Contracting Office, ATTN: HSAA-M, Building 9933-A, Johnson Street, Tacoma, WA 98431-5100  
DADA15  
OX  
Walter Reed Army Medical Center, Directorate of Contracting, ATTN:  
HSHL-ZC, Building T-20, 1st Floor, Washington, DC 20307-5001  
DADA16  
OY  
Tripler Army Medical Center, Contracting Office, ATTN: HSAA-T, Building 160, Krukowski Street, Tripler AMC, HI 96859-5000  
DADA18  
1R  
Directorate of Contracting, ATTN: AFZG-DOC, Building 4201, Fort Sam Houston, TX 78234-5000  
DAEA08  
E4  
U.S. Army Information Systems Command, Office of Acquisition, ATTN: ASPC-RA, 134 Malbrouk Street, Fort Ritchie, MD 21719-4020  
DAEA16  
E7  
Headquarters, 5th Signal Command, DCSLOG, Contract Management Division, ATTN: ASQE-LG-C, CMR 421, APO AE 09056-3104  
DAEA20  
E8  
Commander, 1st Signal Brigade (USAISC), Office of Acquisition Management, ATTN: ASQK-AM, Unit #15271, APO AP 96205-0044  
DAEA32  
Y6  
U.S. Army Information Systems Command, Contracting Office (USAISCCO), ATTN: ASPC-T, Building 61801, Room 2408, Fort Huachuca, AZ 85613-5000  
DAHA01  
9B  
USPFO for Alabama, P.O. Box 3715, Montgomery, AL 36193-4801  
DAHA02  
0G  
USPFO for Arizona, 5644 East Moreland Street, Phoenix, AZ 85008-3442  
DAHA03  
9D  
USPFO for Arkansas, Camp Robinson, North Little Rock, AR 72118-2200  
DAHA04  
9N  
USPFO for California, P.O. Box 8104, San Luis Obispo, CA 93403-8104  
DAHA05  
Z0  
USPFO for Colorado, Camp George West, Golden, CO 80401-3997  
DAHA06  
1S  
USPFO for Connecticut, State Armory, ATTN: Contracting Officer, 360 Broad Street, Hartford, CT 06105-3795  
DAHA07  
9A  
USPFO for Delaware, Grier Building, 1161 River Road, New Castle, DE 19720-5199  
DAHA08  
2W  
USPFO for Florida, P.O. Box 1008, St. Augustine, FL 32085-1008  
DAHA09  
C0  
USPFO for Georgia, P.O. Box 17882, Atlanta, GA 30316-0882  
DAHA10  
CU  
USPFO for Idaho, P.O. Box 45, Boise, ID 83707-4501  
DAHA11  
9E  
USPFO for Illinois, 1301 North McArthur Boulevard, Springfield, IL 62702-2399  
DAHA12  
4E  
USPFO for Indiana, P.O. Box 41346, Indianapolis, IN 46241-0346  
DAHA13  
9L  
USPFO for Iowa, Camp Dodge, 7700 NW Beaver Drive, Johnston, IA 50131-1902  
DAHA14  
4Z  
USPFO for Kansas, 2737 South Kansas Avenue, Topeka, KS 66611-1170  
DAHA15  
6P  
USPFO for Kentucky, Boone National Guard Center, Frankfort, KY 40601-6192  
DAHA16  
0A  
USPFO for Louisiana, Jackson Barracks, New Orleans, LA 70146-0330  
DAHA17  
0B  
USPFO for Maine, Camp Keys, Augusta, ME 04333-0032  
DAHA18  
0C  
USPFO for Maryland, State Mil Reservation, 301 Old Bay Lane, Havre de Grace, MD 21078-4094  
DAHA19  
0D  
USPFO for Massachusetts, ATTN: Contracting Officer, 143 Speen Street, Natick, MA 01760-2599  
DAHA20  
9F  
USPFO for Michigan, 3111 West St. Joseph Street, Lansing, MI 48913-5102  
DAHA21  
9K  
USPFO for Minnesota, Camp Ripley, P.O. Box 288, Little Falls, MN 56345-0288  
DAHA22  
CW  
USPFO for Mississippi, 144 Military Drive, Jackson, MS 39208-8880  
DAHA23  
9H  
USPFO for Missouri, 1715 Industrial Avenue, Jefferson City, MO 65101-1468  
DAHA24  
9P  
USPFO for Montana, P.O. Box 1157, Helena, MT 59624-1157  
DAHA25  
USPFO for Nebraska, 1234 Military Road, Lincoln, NE 68508-1092  
DAHA26  
USPFO for Nevada, 2601 South Carson Street, Carson City, NV 89701-5596  
DAHA27  
USPFO for New Hampshire, P.O. Box 2003, Concord, NH 03301-2003  
DAHA28  
ZK  
USPFO for New Jersey, 131 Eggert Crossing Road, Lawrenceville, NJ 08648-2805  
DAHA29

- USPFO for New Mexico, ATTN:  
Contracting Officer, P.O. Box 4277, Santa  
Fe, NM 87502-4277
- DAHA30  
D2  
USPFO for New York, 330 Old Niskayuna  
Road, Latham, NY 12110-2224
- DAHA31  
D3  
USPFO for North Carolina, 4201 Reedy  
Creek Road, Raleigh, NC 27607-6412
- DAHA32  
D6  
USPFO for North Dakota, P.O. Box 5511,  
Bismarck, ND 58502-5511
- DAHA33  
9M  
USPFO for Ohio, 2811 West Granville  
Road, Columbus, OH 43235-2712
- DAHA34  
9J  
USPFO for Oklahoma, 3501 Military Circle,  
N.E., Oklahoma City, OK 73111-4398
- DAHA35  
1X  
USPFO for Oregon, ATTN: USPFO-P, P.O.  
Box 14840, Salem, OR 97309-5008
- DAHA36  
DL  
USPFO for Pennsylvania, Department of  
Military Affairs, ATTN: Contracting  
Officer, Annville, PA 17003-5003
- DAHA37  
USPFO for Rhode Island, 330 Camp Street,  
Providence, RI 02906-1954
- DAHA38  
DU  
USPFO for South Carolina, 9 National  
Guard Road, Columbia, SC 29201-4766
- DAHA39  
VQ  
USPFO for South Dakota, Camp Rapid,  
Rapid City, SD 57702-8186
- DAHA40  
YX  
USPFO for Tennessee, Powell Avenue,  
P.O. Box 40748, Nashville, TN 37204-  
0748
- DAHA41  
9C  
USPFO for Texas, ATTN: Contracting  
Officer, P.O. Box 5218, Austin, TX  
78563-5218
- DAHA42  
USPFO for Utah, P.O. Box 2000, Draper,  
UT 84020-2000
- DAHA43  
USPFO for Vermont, Camp Johnson,  
Building #3, P.O. Box 2000, Colchester,  
VT 05446-3004
- DAHA44  
ZR  
USPFO for Virginia, 501 East Franklin  
Street, Richmond, VA 23219-2317
- DAHA45  
ZX  
USPFO for Washington, Camp Murray,  
Tacoma, WA 98430-5000
- DAHA46  
USPFO for West Virginia, 50 Armory Road,  
Buckhannon, WV 26201-2396
- DAHA47  
9G  
USPFO for Wisconsin, Camp Douglas, WI  
54618-9002
- DAHA48
- USPFO for Wyoming, P.O. Box 1709,  
Cheyenne, WY 82003-1709
- DAHA49  
USPFO for the District of Columbia,  
Anacostia Naval Air Station, Building  
350, Washington, DC 20315-0001
- DAHA50  
USPFO for Hawaii, 3949 Diamond Head  
Road, Honolulu, HI 96816-4495
- DAHA51  
2Z  
USPFO for Alaska, ATTN: P&C Division,  
Camp Denali, P.O. Box B, Fort  
Richardson, AK 99505-5000
- DAHA70  
USPFO for Puerto Rico, P.O. Box 3786, San  
Juan, PR 00904-3786
- DAHA72  
USPFO for Virgin Islands, #9 Estate  
Diamond, Frederiksted, St. Croix, VI  
00840
- DAHA74  
USPFO for Guam, PSC456 Box 56, FPO AP  
96539-1256
- DAHA90  
2Y  
National Guard Bureau, Contracting  
Support, 5109 Leesburg Pike, Suite 401-  
B, Falls Church, VA 22041-3201
- DAHC21  
G3  
MTMC Eastern Area, Acquisition Division,  
ATTN: MTEA-LOA, Building 427,  
Military Ocean Terminal, Bayonne, NJ  
07002-5302
- DAHC22  
DP  
HQ MTMC, Acquisition Division, ATTN:  
MTAQ-AT, Room B24-L, 5611  
Columbia Pike, Falls Church, VA 22041-  
5050
- DAHC23  
G4  
MTMC, Western Area, Oakland Army Base,  
ATTN: MTWA-LOA, Building 1, Alaska  
Street, Room 2336, Oakland, CA 94026-  
5000
- DAHC24  
1B  
HQ MTMC, Acquisition Division, ATTN:  
MTAQ-AS, Room 725, 5611 Columbia  
Pike, Falls Church, VA 22041-5050
- DAHC25  
1W  
HQ MTMC, Directorate of Personal  
Property, ATTN: MTPP, 5611 Columbia  
Pike, Falls Church, VA 22041-5050
- DAHC26  
0E  
HQ MTMC, Program Support Division,  
ATTN: MTAQ-AF, Stop 898, Fort  
Belvoir, VA 22060-5898
- DAHC30  
0F  
U.S. Army Military District of Washington,  
Directorate of Contracting, ATTN:  
ANOC-Z, Building 15, Cameron Station,  
Alexandria, VA 22304-5050
- DAHC32  
0M  
National Defense University, Contracting  
Office, ATTN: NDU-LG-P, Building 62,  
Fort Leslie J. McNair, Washington, DC  
20319
- DAHC35  
2M
- USA Garrison Fort Belvoir, Directorate of  
Contracting, ATTN: ANFB-OC, 9410  
Jackson Loop, Suite 101, Fort Belvoir,  
VA 22060-5134
- DAHC36  
1J  
Fort Meade Directorate of Contracting,  
ATTN: ANME-OC, Building 2234, Fort  
George G. Meade, MD 20755-5081
- DAHC38  
2S  
Fort Ritchie Directorate of Contracting, Fort  
Ritchie, MD 21719
- DAHC75  
0U  
U.S. Army, Pacific, Office of the ACSAM,  
ATTN: APAM, Building T115, Palm  
Circle Drive, Fort Shafter, HI 96858-5100
- DAHC76  
8U  
U.S. Army Garrison, Alaska, Directorate of  
Contracting, ATTN: APVR-DOC, P.O.  
Box 5-525, Fort Richardson, AK 99505-  
0525
- DAHC77  
CJ  
U.S. Army Support Command, Hawaii,  
Directorate of Contracting, ATTN:  
APVG-GK, Building 520, Pierce Street,  
Fort Shafter, HI 96858-5025
- DAHC90  
YJ  
U.S. Army Intelligence and Security  
Command, ATTN: IAPARC, Building  
2444 (Stop 370), Fort Belvoir, VA 22060-  
5368
- DAHC92  
1V  
U.S. Army Garrison, Panama, Directorate of  
Contracting, ATTN: SOCO-CO, Unit  
7116, APO AA 34002-5000
- DAHC94  
BD  
U.S. Army Info Sys Sel & Acq Activity,  
ATTN: ISSA-PP, 2461 Eisenhower  
Avenue, Alexandria, VA 22331-0700
- DAJA01  
9Q  
RCO Vicenza, ATTN: AEUCC-I, Unit  
31401, Box 33, APO AE 09630
- DAJA02  
G5  
RCO Seckenheim, ATTN: AEUCC-S, Unit  
29331, APO AE 09266
- DAJA04  
9R  
RCO Fuerth, ATTN: AEUCC-FU, Unit  
28130, APO AE 09222
- DAJA16  
8X  
RCO Grafenwoehr, ATTN: AEUCC-G, Unit  
28130, APO AE 09114
- DAJA22  
G6  
Wiesbaden Regional Contracting Center,  
ATTN: AEUCC-C, CMR 410, Box 741,  
APO AE, 09096
- DAJA61  
9Z  
RCO Benelux, ATTN: AEUCC-B, PSC 79,  
Box 003, APO AE 09724
- DAJA89  
F0

- RCO Wuerzburg, Suboffice of Fuerth,  
ATTN: AEUCC-W, River Building, 3rd  
Floor, APO AE 09244
- DAJA90  
OT  
RCO Bad Kreuznach, ATTN: AEUCC-BK,  
Unit 24307, APO AE 09252
- DAJB03  
F4  
HQ, EUSA, Asst Cofs Acquisition Mgt,  
ATTN: EAAQ (PARC), Unit 15236, APO  
AP 96205-0009
- DAKF04  
ZE  
Directorate of Contracting, ATTN: AFZJ-  
DC, P.O. Box 10039, Fort Irwin, CA  
92310-5000
- DAKF06  
1C  
Directorate of Contracting, ATTN: AFZC-  
DOC, Building 6222, Fort Carson, CO  
80913-5022
- DAKF10  
1D  
Directorate of Contracting, ATTN: AFZP-  
DC, Building 622, 2nd Floor, Fort  
Stewart, GA 31314-5189
- DAKF11  
1E  
Directorate of Contracting, ATTN: AFZK-  
DOC, Building 184, Fort McPherson, GA  
30330-5000
- DAKF12  
BC  
FORSCOM Central Contracting Office,  
ATTN: FCJ4-PRC, Building 130, Fort  
McPherson, GA 30330-6000
- DAKF19  
1G  
Directorate of Contracting, ATTN: AFZN-  
DOC, P.O. Box 2248, Fort Riley, KS  
66442-0248
- DAKF23  
1H  
Directorate of Contracting, ATTN: AFZB-  
DOC, Building 2174, Street 13A, Fort  
Campbell, KY 42223-1100
- DAKF24  
G1  
Directorate of Contracting, ATTN: AFZX-  
DOC, P.O. Drawer 3918, Fort Polk, LA  
71459-5000
- DAKF29  
2G  
Directorate of Contracting, ATTN: AFZI-  
DOC, Building 5418, South Scott Plaza,  
Fort Dix, NJ 08640-6150
- DAKF31  
1K  
Directorate of Contracting, ATTN: AFZD-  
DOC, Building 227, Fort Devens, MA  
01433-5340
- DAKF36  
1M  
Directorate of Contracting, ATTN: AFZS-  
DOC, West Street, Building T-45, Fort  
Drum, NY 13602-5220
- DAKF40  
1N  
Directorate of Contracting, ATTN: AFZA-  
DC, Drawer 70120, Fort Bragg, NC  
28307-0120
- DAKF48  
1Q  
Headquarters, III Corps and Fort Hood,  
Directorate of Contracting, ATTN:
- AFZF-DOC, Building 1001 (Room  
W103), Fort Hood, TX 76544-5059
- DAKF57  
1T  
Directorate of Contracting, ATTN: AFZH-  
DOC, Rainer Drive, Building 9504, Fort  
Lewis, WA 98433-5000
- DAKF61  
1U  
Directorate of Contracting, ATTN: AFZR-  
DOC, Building 2103, Fort McCoy, WI  
54656-5000
- DAMD17  
B3  
U.S. Army Medical Research Acquisition  
Activity, ATTN: SGRD-RMA, Building  
820, Chandler Street, Frederick, MD  
21702-5014
- DASA01  
G0  
Commander, ARCENT HQ SWA, ATTN:  
DOC, APO AE 09808
- DASA02  
Commander, ARTAS-K, ATTN: AFRD-  
KU-KO, APO AE 09889
- DASA03  
Commander, ARCENT Contracting  
Division, ATTN: AFRD-PARC, Building  
363, Fort McPherson, GA 30330-6000
- DASG60  
CB  
USA Strategic Defense Command, Deputy  
Commander, ATTN: CSSD-CM-AC, P.O.  
Box 1500, Huntsville, AL 35807-3801
- DASG62  
CH  
U.S. Army Space Command, ATTN:  
MOSC-SC, 1670 North Newport Road,  
Suite 211, Colorado Springs, CO 80916-  
2749
- DASW01  
F7  
Defense Supply Service—Washington,  
ATTN: Policy and Compliance, 5200  
Army Pentagon, Room 1D245,  
Washington, DC 20310-5200
- DATM01  
OR  
U.S. Army OPTEC Contracting Activity,  
ATTN: CSTE-ZOC, P.O. Box Y, Fort  
Hood, TX 76544-5065
158. Appendix G to Chapter 2 is  
amended by revising Part 5, entitled  
“Air Force Activity Address Numbers”  
to read as follows:
- PART 5—AIR FORCE ACTIVITY  
ADDRESS NUMBERS**
- F01600  
5A  
42 CONS/CC, 50 Lemay Plaza S, Bldg 804,  
Maxwell AFB, AL 36112-6334
- F01620  
6K  
SSC/PK, 375 Libby Street, MAFB-Gunter  
Annex, AL 36114-6343
- F02601  
5C  
355 CONS/CC, 3180 S. Craycroft Road,  
Davis-Monthan AFB, AZ 85707-3522
- F02604  
5D  
56 CONS/CC, 14100 West Eagle St, Luke  
AFB, AZ 85309-1217
- F03602  
5F  
314 CONS/CC, 642 Thomas Avenue, Little  
Rock AFB, AR 72099-5019
- F04604  
5G  
93 CONS/CC, F St Bldg 708, Castle AFB,  
CA 95340-5320
- F04605  
5H  
722 CONS, 1485 Graeber St, Ste 21, March  
AFB, CA 92518-1729
- F04606  
SM  
SM-ALC/PK, Bldg 200, 3237 Peacekeeper  
Way, Ste 17, McClellan AFB, CA 95652-  
1060
- F04611  
QQ  
AFFTC/PK, Bldg 2800, 5 S Wolfe Ave,  
Edwards AFB, CA 93524-1185
- F04626  
5M  
60 CONS/LGC, 350 Hangar Avenue, Bldg  
549, Travis AFB, CA 94535-2632
- F04666  
5N  
9 CONS/CC, 6500 B St, Ste 101, Beale AFB,  
CA 95903-1712
- F04684  
QW  
30 CONS/LGC, 806 13th St, Ste D, Bldg  
7015 Sect 2c, Vandenberg AFB, CA  
93437-5226
- F04689  
RN  
750 LSS/LGC, 1080 Lockheed Way, Box  
039, Onizuka AFB, CA 94089-1234
- F04690  
RF  
Det 2, SMC/PK, 1080 Lockheed Way Box  
043, Onizuka AFB, CA 94089-1235
- F04693  
MG  
SMC/PKD, 400 N Douglas Blvd Ste 212E,  
Los Angeles, CA 90245-4640
- F04699  
Q5  
SM-ALC/PK, Bldg 200 3227 Peacekeeper  
Way Ste 17, McClellan AFB, CA 95652-  
1060
- F04700  
Q2  
AFFTC/PA, 5 S Wolfe Ave, Building  
2800, Edwards AFB, CA 93524-1185
- F04071  
TB  
SMC/PK, 155 Discovery Blvd Ste 1516, Los  
Angeles, CA 90245-4692
- F04704  
R9  
Det 10 SMC/PK, Bldg 951, 1111 E. Mill St  
Rm 104, San Bernardino, CA 92408-  
1621
- F05603  
HQ AFSPC/LGC, 150 Vandenberg Street  
Ste 1105, Peterson AFB, CO 80914-4350
- F05604  
SX  
21 CONS/LGC, 700 Suffolk Street, Peterson  
AFB, CO 80914-1200
- F05611  
5Q

F07603 5R 10 ABW/LGC, 8110 Industrial Drive Ste 200, USAF Academy, CO 80840-2315	F11626 HQ AMC/DOKR, 402 Scott Dr Unit 3A1, Scott AFB, IL 62225-5302	PL/PK, Bldg 499, 3651 Lowry Ave SE Rm 222, Phillips Laboratory, Kirtland AFB, NM 87117-5777
F08602 5S 436 CONS/LGC, 639 Atlantic Street Ste 243, Dover AFB, DE 19902-5639	F12617 6D 434 LSS/LGC, 2 Kittyhawk St, Grissom ARB, IN 46971-5320	F29605 6W 27 CONS/CC, 100 North Torch Blvd, Cannon AFB, NM 88103-5320
F08620 5T 56 CONS/CC, 3014 Zemke Avenue, MacDill AFB, FL 33621-5000	F14614 6E 22 CONS/LGC, 53147 Kansas St Ste 102, McConnell AFB, KS 67221-3606	F29650 R3 PL/PKO, 3651 Lowry Ave SE Rm 117, Kirtland AFB, NM 87117-5777
F08626 QU 16 CONS/LGC, P.O. Box 9190, 350 Tully Street, Hurlburt Field, FL 32544-5825	F16602 6G 2 CONS/CC, 841 Fairchild Ave., Barksdale AFB, LA 71110	F29651 6X 49 CONS/CC, PO Drawer S, Holloman AFB, NM 88330-1601
F08630 S1 OL/PK ASC/PK, 205 West D Ave, Ste 433, Bldg 350, Eglin AFB, FL 32542-6864	F19617 R5 439 LSS/LGC, 100 Logistics Dr, 2nd Floor Ste 200, Westover ARB, MA 01022-1531	F30602 RX RL/PK, Bldg 106, 26 Electronic Pky, Griffiss AFB, NY 13441-4514
F08635 RH OL-MNK ASC/MNK, 101 W Eglin Blvd, Ste 337, Bldg 13, Eglin AFB, FL 32542- 6810	F19628 RS ESC/PK, Bldg 1520, 104 Barksdale Street, Hanscom AFB, MA 01731-1806	F30617 6Y 914 AW/LGC, 2720 Kirkbridge Drive, Niagara Falls IAP-ARS, NY 14304-5320
F08637 5V AFDTC/PK, Bldg 350, 205 West D Avenue Ste 433, Eglin AFB, FL 32542-6864	F19650 SH ESC/PKO, Bldg 1520, 104 Barksdale Street, Hanscom AFB, MA 01731-2816	F30635 S3 416 CONS/CC, 375 Brooks Road, Griffiss AFB, NY 13440
F08650 TJ 325 CONS/CC, 501 Illinois Ave Ste 5, Tyndall AFB, FL 32403-5526	F20613 6L ESC/PKO, Bldg 1520, 104 Barksdale Street, Hanscom AFB, MA 01731-2816	F30636 6Z 380 CONS/LGC, 11 Ohio Avenue, Plattsburgh AFB, NY 12903-3506
F08651 Q3 45 CONS/PKESM, 1201 Minuteman Street, Patrick AFB, FL 32925-5432	F21611 6N 410 CONS/CC, 417 A Ave Ste 112, Sawyer AFB, MI 49843-3299	F31601 BU 23 CONS/CC, 1443 Reilly Rd Ste C, Pope AFB, NC 28308-2896
F09603 RJ, RR AFDTC/PKO, 205 West D Ave Ste 541, Eglin AFB, FL 32542-6862	F22600 RC 934 LG/LGC, 760 Military Hwy, Minneapolis, MN 55450	F31610 BW 4 CONS/CC, 1695 Wright Ave, Seymour Johnson AFB, NY 27531-2459
F09604 RU WR-ALC/PK, Bldg 300, 215 Byron Street, Robins AFB, GA 31098-1611	F22608 6Q 81 CONS/CC, 200 Fifth St Ste 101, Keesler AFB, MS 39534-2102	F32604 BX 5 CONS/CC, 211 Missile Ave, Minot AFB, ND 58705-5027
F09607 5W Det 8, 2762 LS(SP)/PK, 750 3rd St, Bldg 350, Robins AFB, GA 31098-2122	F23606 6R 14 CONS/CC, 555 Seventh Street Ste 113, Columbus AFB, MS 39701-1006	F32605 BY 319 CONS/CC, 575 6th Ave, Grand Forks AFB, ND 58205-6436
F09609 5X 347 CONS/CC, 4380B Alabama Rd, Moody AFB, GA 31699-1793	F24604 6T 509 CONS/CC, 850 Arnold Ave Bldg 705, Whiteman AFB, MO 65305-5021	F33600 RZ ASC/PKW, 1940 Allbrook Dr Ste 3, Bldg 1, Wright Patterson AFB, OH 45433-5309
F09634 5Y 94 LG/LGC, 1538 Atlanta Ave Ste 104, Dobbins AFB, GA 30069-4824	F25600 6U 341 CONS/LGC, 7015 Goddard Dr, Malmstrom AFB, MT 59402-6863	F33601 Q7 ASC/PKWO, 1940 Allbrook Dr Ste 3, Bldg 1, Wright Patterson AFB, OH 45433- 5309
F09650 Q6 HQ AFRES/LGC, 155 2nd St, Robins AFB, GA 31098-1638	F26600 S4 55 CONS/CC, MBB 09 106 Peacekeeper Dr Ste 2N3, Offutt AFB, NE 68113-5320	F33615 SG WL/PK, Bldg 7, 2530 C Street, Wright Patterson AFB, OH 45433-7607
F10603 5Z WR-ALC/PKO, Bldg 300, 215 Byron Street, Robins AFB, GA 31098-1803	F28609 6V 554 CONS/CC 5865 Swabb Blvd, Nellis AFB, NV 89191-7063	F33630 C1 910 AW/LGC, 3976 King Graves Rd, Youngstown-Warren Rgl Arpt, Youngstown ARP, OH 44473-0910
F11603 6B 366 CONS/CC, 366 Gunfighter Ave Ste 498, Mountain Home AFB, ID 83648-4037	F28620 M1 305 CONS/LGC, 3563 Lancaster Ave, McGuire AFB, NJ 08641-2712	F33657 SC ASD/PK, Bldg 14, 1865 Fourth St Ste 6, Wright Patterson AFB, OH 45433-7120
F11623 6C 928 AW/LGC, 6626 N. Patton Rd Ste 94, Chicago O'Hare IAP, IL 60666-5023	F28620 S8 65 CONS/CC, APO AE 09720-7775	F33659 Q8 AGMC/PK, Bldg 2, 813 Irving Wick Dr West, Newark AFB, OH 43055-0027
F11624 X4 375 CONS/LGC, 102 E Martin Street Ste 216, Scott AFB, IL 62225-5015	F29601 RW 65 CONS/O1-A, PO Box 837, Wrightstown, NJ 05862-0837	F33660 TA

AGMC/PKY, Bldg 2, 813 Irving Wick Drive/W, Newark AFB, OH 43057-0027	HSC/PK, Bldg 626, 8005 9th St, Brooks AFB, TX 78235-5353	11 CONS/LGC, 3534 Ohio Dr, Andrews AFB, MD 20331-5152
F34600	F41636	F61101
C2	ZV	T1
71 FTW/CVC, 246 Brown Pkwy Ste 228, Vance AFB, OK 73705-5037	37 CONS/CC, 1655 Selfridge Avenue, Lackland AFB, TX 78236-5253	Det 1, 21 CONS/CC, APO AE 09710-5000
F34601	F41650	F61211
SD	YA	N9
OC-ALC/PK, 3001 Staff Dr Ste 1AG76A, Tinker AFB, OK 73145-3015	SA-ALC/PKO, Bldg 1598, 1288 Growden Rd, Kelly AFB, TX 78251-5318	31 FW/LGC, Unit 6102, Box 140, Aviano AB APO AE 09601-2140
F34608	F41652	F61354
TF	E5	W8
CSC/PK, 4009 Hilltop Rd, Ste 103, Tinker AFB, OK 73145-2713	7 CONS/CC, 381 3rd St, Dyess AFB, TX 79607-5320	741 ABS/LGC, Unit 6870, Box 85, Izmir AB APO AE 09821-7085
F34612	F41685	F61358
C3	E6	W9
97 CONS/CC, 205 South 6th St Bldg 318, Altus AFB, OK 73523-5147	47 CONS/CC, 171 Alabama Ave, Laughlin AFB, TX 78843-5102	39 CONS/LGC, Unit 730, Box 285, Incirlik AB APO AE 09824-0285
F34650	F41689	F61503
Q9	SK	UC
OC-ALC/PKO, Bldg 3 7858 Fifth St Ste 1, Tinker AFB, OK 73145-3015	AETC CONS/CC, 550 D Street Ste 07, Randolph AFB, TX 78150-4434	435 AW/LGC, Unit 7420 Box 115, Rhein Main AB APO AE 09097-0115
F36629	F41691	F61517
C7	Y0	UF
911 AW/LGC, 316 Defense Ave Ste 101, Corapolis, PA, Pittsburgh IAP-ARS PA 15108-4403	12 CONS/CC, 395 B Street West Ste 02, Randolph AFB, TX 78150-4525	52 CON FLT/LGC, Unit 3910, Bldg 2001, Spangdahlem AB APO AE 09137-3910
F36700	F42600	F61521
C8	QP	UH, UJ
913 AW/LGC, 1051 Fairchild Street, Willow Grove ARS, PA 19090-5203	OO-ALC/PK, Bldg 1289, 6038 Aspen Ave, Hill AFB, UT 84056-5805	USAFE CONS/LGC, Unit 3115, Ramstein AB AE 09094-3115
F38601	F42610	F61708
C9	QP	UK
20 CONS/CC, 305 Blue Jay St, Shaw AFB, SC 29152-5320	OO-ALC/LMK, Bldg 1258, 6014 Dogwood Ave, Hill AFB, UT 84056-5821	603 CS/CON, Unit 5500, Bldg 202, RAF Croughton APO AE 09494-5500
F38604	F42620	F61730
T3	QP	UQ
USCENTAF, Bldg 1132, Shaw AFB, SC 29152	OO-ALC/LAK, Bldg 1233, 6072 Fir Avenue, Hill AFB, UT 84056-5820	OL-C 10 LG/LGC, Unit 5720, RAF Upwood APO AE 09470-5720
F38610	F42630	F61775
CR	QP	UV
437 CONS/LGC, 102 Long Street, Charleston AFB, SC 29404-4829	OO-ALC/LIK, Bldg 1215, 6050 Gum Lane, Hill AFB, UT 84056-5825	48 CONS/LGC, Unit 5070, Box 270, RAF Feltwell APO AE 09461-0270
F39601	F42650	F61815
CT	R2	UW
28 CONS/CC, 2704 George Dr, Ellsworth AFB, SD 57706-5320	OO-ALC/PKO, Bldg 1289 NE 6038 Aspen Ave, Hill AFB, UT 84056-5805	496 ABS/LGC, Unit 6585, Moron AB APO AE 09643-6585
F40600	F44600	F62032
Q4	F3	4D
AEDC/PK, Bldg 100, 100 Kindel Dr Ste 1335, Arnold AFB, TN 37389-1335	1 CONS/CC, 74 Nealy Ave Ste 109, Langley AFB, VA 23665-2088	USMTM, Unit 61300 Box 2, APO AE 05862-0837
F40650	F44650	F62321
D1	Q1	RA
AEDC/PAK, Bldg 100, 100 Kindel Dr Ste 1332, Arnold AFB, TN 37389-1332	ACC CONS, 227 Harding Ave Ste 302, Langley AFB, VA 23665	18 CONS/LGC, Unit 5199, Kadena AB APO AP 96368-5199
F41608	F45603	F62509
SA	F5	QZ
SA-ALC/PK, Bldg 43, 143 Billy Mitchell Rd, Kelly AFB, TX 78241-6014	62 CONS/LGC, 100 Main Street Ste 1049, McChord AFB, WA 98438-1109	35 CONS, Unit 5201, Misawa AB APO AP 96319-5201
F41612	F45613	F62562
D4	F8	SW
82 CONS/CC, 136 K Avenue Ste 2, Sheppard AFB, TX 76311-2739	92 CONS/LGC, 110 W Ent St Ste 200, Fairchild AFB, WA 99011-9403	374 CONS/LGC, Unit 5228, Yokota AB AP 96328-5228
F41614	F47606	F64133
E2	G7	S9
17 CONS/CC, 210 Scherz Boulevard, Goodfellow AFB, TX 76908-4705	440 AW/LGC, 300 East College Avenue, Gen. Mitchell IAP-ARS, WI 53207-6299	36 CONS/CC, Unit 14040, Anderson AFB APO AP 96543-4040
F41620	F48608	F64605
E3	G9	TN
64 CONS/CC, 300 Reese Blvd Ste 7, Reese AFB, TX 79489-5032	90 CONS/LGC, 7505 Marne Loop, F.E. Warren AFB, WY 82005-2860	15 CONS/LGC, 90 G Street, Hickam AFB, HI 96853-5230
F41622	F49620	F65501
QY	SE	WF
HSC/PKO, Bldg 625, 8005 9th St, Brooks AFB, TX 78235-5353	AFOSR/PK, Bldg 410, 110 Duncan Ave Ste B115, Bolling AFB, DC 20332-0001	3 CONS/CC, 6920 12th Street Ste 242, Elmendorf AFB, AK 99506-2570
F41624	F49642	F65503
TG	J1	WH

354 CONS/LGC, 3112 Broadway Avenue  
Ste 3, Eielson AFB, AK 99702-1850  
F66501  
R7  
24 CONS/CC, Unit 0550, Howard AFB  
APO AA 34001-0550  
FA0021  
HQ AFSOC/LGCX, 100 Bartley St, Hurlburt  
Field, FL 32544-5273  
FA2550  
50 LSS/LGC, 300 O'Malley Avenue, Suite  
30, Falcom AFB, CO 80912-3030  
FA4416  
5J  
89 CONS/LGC, 1419 Menoher Dr, Andrews  
AFB, MD 20331-5000  
FA4452  
RL  
AMCCONF/LGCF, 102 E. Martin St., Rm  
216, Scott AFB, IL 62225-5015  
FA6648  
5U  
482 LSSQ/LGC, 360 Coral Sea Blvd Rm  
112, Homestead ARB, FL 33039-1299  
FA6652  
E9  
924 FW/LGC, PO Box 1460, Del Valle, TX  
78617-1460  
FA6675  
D5  
301 LG/LGC, 1710 Burke Ave., NAS Joint  
Reserve Base, Fort Worth, TX 76127-  
6200

159. Appendix G to Chapter 2 is  
amended by revising Part 6, entitled  
"Defense Logistics Agency Activity  
Address Numbers" to read as follows:

**PART 6—DEFENSE LOGISTICS  
AGENCY ACTIVITY ADDRESS  
NUMBERS**

SP0100  
TW  
Defense Personnel Support Center,  
Directorate of Clothing and Textiles,  
2800 South 20th Street, Philadelphia, PA  
19109-8419  
SP0103  
W7  
Defense Personnel Support Center,  
Installation Support, 2800 South 20th  
Street, Philadelphia, PA 19109-8419  
SP0200  
TX  
Defense Personnel Support Center,  
Directorate of Medical Materiel, 2800  
South 20th Street, Philadelphia, PA  
19101-8419  
SP0300  
UE  
Defense Personnel Support Center,  
Directorate of Subsistence, 2800 South  
20th Street, Philadelphia, PA 19101-  
8419  
SP0302  
W6  
Defense Subsistence Region Pacific, ATTN:  
DSR-Pacific, 2155 Mariner Square Loop,  
Alameda, CA 94501-1022  
SP0303  
U6  
Defense Subsistence Region Europe, DSR  
Europe, APO AE 09052  
SP0400  
TY

Defense General Supply Center, Business  
Operations, 8000 Jefferson Davis  
Highway, Richmond, VA 23297-5770  
SP0410  
XH  
Defense General Supply Center, Base Spt  
Div, Dir of Spec Proc, 8000 Jefferson  
Davis Highway, Richmond, VA 23297-  
5312  
SP0411  
TY  
Defense General Supply Center, Proc Br  
(ESOC), Customer Asst Ctr, 8000  
Jefferson Davis Highway, Richmond, VA  
23297-5871  
SP0413  
TY  
Defense General Supply Center, Spec  
Purchase Br, Prod Ctr Spt Div, 8000  
Jefferson Davis Highway, Richmond, VA  
23297-5864  
SP0414  
TY  
Defense General Supply Center, SASPS  
Phase I Br, Prod Ctr Spt Div, 8000  
Jefferson Davis Highway, Richmond, VA  
23297-5863  
SP0420  
XK  
Defense General Supply Center, DODDS  
Div., Dir Of Spec Proc, 8000 Jefferson  
Davis Highway, Richmond, VA 23297-  
5313  
SP0430  
TY  
Defense General Supply Center, Proc Br,  
Product Center 5, 8000 Jefferson Davis  
Highway, Richmond, VA 23297-5813  
SP0440  
TY  
Defense General Supply Center, Proc Br,  
Product Center 7, 8000 Jefferson Davis  
Highway, Richmond, VA 23297-5834  
SP0441  
TY  
Defense General Supply Center, Proc Br,  
Product Center 6, 8000 Jefferson Davis  
Highway, Richmond, VA 23297-5822  
SP0450  
TY  
Defense General Supply Center, Proc Br,  
Product Center 4, 8000 Jefferson Davis  
Highway, Richmond, VA 23297-5800  
SP0451  
TY  
Defense General Supply Center, Proc Br,  
Product Center 2, 8000 Jefferson Davis  
Highway, Richmond, VA 23297-5772  
SP0460  
TY  
Defense General Supply Center, Proc Br,  
Product Center 1, 8000 Jefferson Davis  
Highway, Richmond, VA 23297-5772  
SP0461  
TY  
Defense General Supply Center, Special  
Purchase Branch (SPUR), 8000 Jefferson  
Davis Highway, Richmond, VA 23297-  
5864  
SP0490  
TY  
Defense General Supply Center, Proc Br,  
Product Center 1, 8000 Jefferson Davis  
Highway, Richmond, VA 23297-5846  
SP0499

Defense General Supply Center—FCIM,  
8000 Jefferson Davis Highway,  
Richmond, VA 23297-5000  
SP0500  
TZ  
Defense Industrial Supply Center, 700  
Robbins Avenue, Philadelphia, PA  
19111-5096  
SP0510  
W2  
Defense Industrial Supply Center, Base  
Operating Support System, 700 Robbins  
Avenue, Philadelphia, PA 19111-5096  
SP0520  
Defense Industrial Supply Center, Product  
Verification Testing Acquisition, 700  
Robbins Avenue, Philadelphia, PA  
19111-5096  
SP0599  
Defense Industrial Supply Center—FCIM,  
700 Robbins Avenue, Philadelphia, PA  
19111-5096  
SP0600  
UA  
Defense Fuel Supply Center, 8725 John J.  
Kingman Road, Suite 2533, Fort Belvoir,  
VA 22304-6160  
SP0700  
UB  
Defense Construction Supply Center, P.O.  
Box 3990, Columbus, OH 43216-3990  
SP0701  
Defense Construction Supply Center,  
Directorate of Contracting and  
Production, ATTN: DDCO TTC, Bldg  
122, Columbus, OH 43216-5000  
SP0710  
YL  
Defense Construction Supply Center,  
Commercial Activities and Service  
Branch, P.O. Box 16704, Columbus, OH  
43216-5010  
SP0720  
YM  
Defense Construction Supply Center, Wood  
Products Branch, P.O. Box 16704,  
Columbus, OH 43216-5010  
SP0730  
WZ  
Defense Construction Supply Center,  
Military Interdepartmental PR MIPR  
Division, P.O. Box 3990, Columbus, OH  
43216-5000  
SP0740  
XJ  
Defense Construction Supply Center, High  
Demand Group (MINI-ICP), P.O. Box  
3990, Columbus, OH 43216-5000  
SP0750  
UB  
Defense Construction Supply Center,  
Contracts Division I, P.O. Box 16704,  
Columbus, OH 43216-5010  
SP0760  
UB  
Defense Construction Supply Center,  
Contracts Division II, P.O. Box 16704,  
Columbus, OH 43216-5010  
SP0770  
UB  
Defense Construction Supply Center,  
Contracts Division III, P.O. Box 16704,  
Columbus, OH 43216-5010  
SP0780  
Defense Construction Supply Center,  
Government Furnished Property Acct,

P.O. Box 16704, Columbus, OH 43216-5000  
 SP0799 Defense Construction Supply Center—FCIM, P.O. Box 3990, Columbus, OH 43216-5000  
 SP0833 VS Defense National Stockpile Center, 8725 John J. Kingman Road, Suite 3339, Fort Belvoir, VA 22060-6223  
 SP0834 VT Defense National Stockpile Center, Zone 1—Management Office, Room 19-116, 26 Federal Plaza, New York, NY 10278-5000  
 SP0835 VU Defense National Stockpile Center, Zone 2—Management Office, 3200 Sheffield Avenue, Hammond, IN 46327-5000  
 SP0836 VY Defense National Stockpile Center, Zone 3—Management Office, 819 Taylor Street, Fort Worth, TX 76102-5000  
 SP0900 UD Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, OH 45444-5000  
 SP0905 Defense Electronics Supply Center, Passive Devices Division, 1507 Wilmington Pike, Dayton, OH 45444-5198  
 SP0910 U7 Defense Electronics Supply Center, Base Contracting Section, 1507 Wilmington Pike, Dayton, OH 45444-5000  
 SP0920 W4 Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, OH 45444-5198  
 SP0930 Defense Electronics Supply Center, Switches Division, 1507 Wilmington Pike, Dayton, OH 45444-5198  
 SP0935 Defense Electronics Supply Center, Connectors Division, 1507 Wilmington Pike, Dayton, OH 45444-5198  
 SP0960 Defense Electronics Supply Center, Active Devices Division, 1507 Wilmington Pike, Dayton, OH 45444-5198  
 SP0970 Defense Electronics Supply Center, ADP/Communications Division, Dayton, OH 45444-5198  
 SP0980 Defense Electronics Supply Center, Tailored Logistics Acquisitions, 1507 Wilmington Pike, Dayton, OH 45444-5198  
 SP0999 Defense Electronics Supply Center—FCIM, 1507 Wilmington Pike, Dayton, OH 45444-5160  
 SP3100 WX Defense Distribution Region East (DDRE), Office of Contracting, New Cumberland, PA 17070-5001  
 SP3200 TV Defense Distribution Region West (DDRW), Office of Contracting, Building S-4, Lathrop, CA 95330-5000  
 SP3500 UN Defense Distribution Region East (DDRE), Office of Contracting, New Cumberland, PA 17070-5001  
 SP4400 X1 Defense Reutilization Marketing Service, Federal Center, 74 Washington Avenue North, Battle Creek, MI 49017-3092  
 SP4410 X1 Defense Reutilization Marketing Service, Special Contracts Division, ATTN: DRMS-PP, Federal Center, 74 Washington Avenue North, Battle Creek, MI 49017-3092  
 SP4700 YK Defense Logistics Agency, ADP Telecommunications Contracting Office, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221  
 SP4800 Defense Logistics Agency, Office of Small and Disadvantaged Business Utilization, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060-6221  
 SBL00A MJ DCMAO Brussels/Emb, PSC 82, Box 002, APO AE 09724  
 SCN01A WV DCMAO Canada, 275 Bank Street, Suite 200, Ottawa, ON Canada K2P  
 SGR18A DCMAO Frankfurt, CMR 410, Box 761, APO AP 09096  
 SJP10A Y9 DCMAO 6TSUGI Japan, PSC 477, Box 39, APO AP 96306-2739  
 SKR08A R1 DCMAO Korea, Unit 2000, APO AE 96214-5000  
 SM104A XC DCMAO Kuala Lumpur, American Embassy, APO AP 96535-5000  
 SPH07A DCMAOR Manila, APO CA, San Francisco, CA 96440  
 SPR01A QF DCMAO Puerto Rico, P.O. Box DLA (NSGA), FPO AA 34053-0007  
 SPR02A DCMAOR Alverca, Alverca Portugal, APO PO 09726  
 SSR01A YE DCMAO Israel, Unit 228, APO AE 09830-7228  
 STR02A TQ DCMAO Ankara, Unit 9050, APO AE 09822-9050  
 SUK12A VN DCMAO United Kingdom, Unit 4790, APO AE 09449-4790  
 S0102A WA DPRO Pemco Aeroplex, Inc., P.O. Box 12447, Birmingham, AL 35202-2447  
 S0302A WY DCMAO Phoenix, The Monroe School, 215 North 7th Street, Phoenix, AZ 85034-1012  
 S0304A TR DPRO McDonnell Douglas Helicopter, 5000 East McDowell Road, Mesa, AZ 85025-9797  
 S0305A SR DPRO Hughes, Tucson, P.O. Box 1137 M/S E-4, Tucson, AZ 85734-1337  
 S0506A WL DCMD West, 222 North Sepulveda Boulevard, El Segundo, CA 90245-4320  
 S0507A XR DCMAO San Francisco, 1250 Bayhill Drive, San Bruno, CA 94066-3070  
 S0512A YC DCMAO Van Nuys, 6230 Van Nuys Boulevard, Van Nuys, CA 91401-2713  
 S0513A UG DCMAO Santa Ana, 34 Civic Center Plaza, P.O. Box C 12700, Santa Ana, CA 92712-2700  
 S0514A VH DCMAO San Diego, 7675 Dagget Street, Suite 200, San Diego, CA 92111-2241  
 S0520A VR DPRO United Defense, California, 1125 Coleman Avenue, P.O. Box 367, San Jose, CA 95103-0367  
 S0523A YG DPRO Westinghouse, 401 East Hendy Avenue, P.O. Box 3499, M/S 11-7, Sunnyvale, CA 94088-3499  
 S0530A X9 DPRO McDonnell Douglas, Space Systems Company, 5301 Bolsa Avenue, Huntington Beach, CA 92647-2048  
 S0533A XG DPRO Hughes, Fullerton, 1901 West Malvern Street, P.O. Box 3310, Fullerton, CA 92634-3310  
 S0539A QT DPRO Hughes, Los Angeles, P.O. Box 92463, Los Angeles, CA 90009-2463  
 S0540A RB DPRO Rockwell, Anaheim, 3370 Miraloma Avenue, M/S AB02A, Anaheim, CA 92803-3110  
 S0542A RY

DPRO Rockwell, Canoga Park, 6633 Canoga Avenue, Canoga Park, CA 91303-2790  
S0543A  
QX  
DPRO Lockheed, Sunnyvale, P.O. Box 3504, Sunnyvale, CA 94088-3504  
S0544A  
TC  
DPRO Douglas, Long Beach, 3855 Lakewood Boulevard, Long Beach, CA 90846-0001  
S0545A  
S6  
DPRO TRW, Redondo Beach, One Space Park, Redondo Beach, CA 90278-1078  
S0546A  
QR  
DPRO Northrop, Hawthorne, One Northrop Avenue, Hawthorne, CA 90250-3296  
S0602A  
VK  
DCMAO Denver, Orchard Place 2, Suite 200, 5975 Greenwood Plaza Boulevard, Englewood, CO 80111-4715  
S0605A  
RE  
DPRO Martin Marietta, Denver, P.O. Box 179, Denver, CO 80201-0179  
S0701A  
WB  
DCMAO Hartford, 130 Darlin Street, East Hartford, CT 06108-3234  
S0702A  
UP  
DCMAO Stratford, 555 Main Street, Stratford, CT 06497-7593  
S0703A  
XT  
DPRO Hamilton Standard, 1 Hamilton Road, Windsor Locks, CT 06096-0463  
S0707A  
LF  
DPRO UTC Sikorsky Aircraft Division, Stratford, CT 06497-7553  
S0708A  
T5  
DPRO Pratt & Whitney, East Hartford, 400 Main Street, East Hartford, CT 06108-0969  
S1002A  
WW  
DCMAO Orlando, 3555 Maguire Boulevard, Orlando, FL 32803-3726  
S1005A  
XL  
DPRO Martin Marietta, Orlando, 5600 Sand Lake Road, MP49, Orlando, FL 32819-8907  
S1009A  
V1  
DPRO Harris, Melbourne, 1425 Troutman Boulevard, NE, Palm Bay, FL 32905-4102  
S1011A  
T2  
DPRO Pratt & Whitney, West Palm Beach, P.O. Box 109600, West Palm Beach, FL 33410-9600  
S1102A  
UL  
DCMD South, 805 Walker Street, Marietta, GA 30060-2789  
S1103A  
Y1  
DCMAO Atlanta, 805 Walker Street, Marietta, GA 30060-2789  
S1109A  
Z4  
DCMAO Clearwater, 1100 Cleveland Street, Suite 200, Clearwater, FL 34615-4822  
S1110A  
Z5  
DPRO Grumman, St. Augustine, 5000 US Highway 1, North, P.O. Drawer 3447, St. Augustine, FL 32085-3447  
S1111A  
RK  
DPRO Lockheed Aeronautical Systems Co.—Georgia, 86 South Cobb Drive, Bldg B-2, Marietta, GA 30063-0260  
S1201A  
Z9  
DCMAO Residency, Honolulu, Box 64110, Camp HM Smith, Honolulu, HI 96861-4110  
S1211A  
U8  
DCMC Aircraft Program Management Office, 805 Walker Street, Marietta, GA 30060-2789  
S1221A  
X5  
DPRO Grumman, P.O. Box 9650, Melbourne, FL 32902-9650  
S1403A  
YP  
DCMAO Chicago, O'Hare International Airport, P.O. Box 66911, Chicago, IL 60666-0911  
S1501A  
WG  
DCMAO Indianapolis, Building 1, Fort Benjamin Harris, IN 46249-5701  
S1505A  
X2  
DPRO Magnavox, 1616 Directors Row, Fort Wayne, IN 46808-1286  
S1701A  
YD  
DCMAO Wichita, U.S. Courthouse, Suite B-34, 401 North Market, Wichita, KS 67202-2095  
S1702A  
RP  
DPRO Boeing Military Airplanes, P.O. Box 7723, Wichita, KS 67277-7723  
S1903A  
DPRO Michoud, 13800 Old Gentilly Hwy, Building 350, P.O. Box 29503, New Orleans, LA 70189-0503  
S2102A  
7H  
Defense Contract Management Residency, 895 Oceanic Drive, P.O. Box 1488, Annapolis, MD 21401-1488  
S2103A  
S2  
DPRO Westinghouse Electric—Baltimore, P.O. Box 1693, M/S 1265, Baltimore, MD 21203-1693  
S2202A  
UT  
DCMD Northeast, 495 Summer Street, Boston, MA 02210-2184  
S2203A  
XX  
DPRO GTE Government Systems Corp, 200 First Avenue, Needham, MA 02194-9123  
S2205A  
XF  
DPRO Raytheon, Spencer Laboratory, Wayside Avenue, Burlington, MA 01803-0901  
S2206A  
Y3  
DCMAO Boston, 495 Summer Street, Boston, MA 02210-2138  
S2207A  
7Q  
DPRO GE Aircraft Engines, Lynn, 1000 Western Avenue, Lynn, MA 01910-0445  
S2208A  
NJ  
DPRO Martin Marietta Defense Systems, 100 Plastics Avenue, Pittsfield, MA 01201-3696  
S2209A  
SQ  
DPRO Textron Defense Systems, 201 Lowell Street, Wilmington, MA 01887-2941  
S2303A  
VW  
DCMAO Grand Rapids, Riverview Center Building, 678 Front Street, NW, Grand Rapids, MI 49504-5352  
S2305A  
Y7  
DCMAO Detroit, McNamara Federal Building, 477 Michigan Avenue, Detroit, MI 48226-2579  
S2401A  
WQ  
DCMAO Twin Cities, 2305 Ford Parkway, St. Paul, MN 55116-1893  
S2402A  
WD  
DPRO Honeywell/Alliant Techsystems, Honeywell Plaza, 2701 4th Avenue, South Minneapolis, MN 55408-1792  
S2404A  
UR  
DCMAO Baltimore, 200 Towsontown Boulevard, West, Towson, MD 21204-5299  
S2603A  
XS  
DCMAO St Louis, 1222 Spruce Street, St. Louis, MO 63103-2811  
S2606A  
JZ  
DPRO McDonnell Douglas, St. Louis, P.O. Box 516, St. Louis, MO 63166-0516  
S3001A  
YS  
DPRO Lockheed Sanders, Inc., Daniel Webster Highway, South, P.O. Box 868, Nashua, NH 03061-0868  
S3101A  
WT  
DCMAO Springfield, 955 South Springfield Avenue, Springfield, NJ 07081-3170  
S3102A  
UU  
DPRO Allied Signal, Route 46, Teterboro, NJ 07608-1173  
S3109A  
WC  
DPRO GEC/Kearfott, 164 Totowa Road, MS 11A30, Wayne, NJ 07474-0975  
S3110A  
X7  
DPRO GE Aerospace, Marne Highway and Borton Landing Road, Moorestown, NJ 08057-3095  
S3304A  
XQ

DPRO Link Flight Simulation, Kirkwood Plant, P.O. Box 1237, Binghamton, NY 13902-1237

S3306A

XU

DCMAO Syracuse, 615 Erie Boulevard West, Syracuse, NY 13204-2408

S3309A

VX

DCMAO Garden City, 605 Stewart Avenue, Garden City, NY 11530-4761

S3314A

YN

DPRO Harris, 6801 Jericho Turnpike, Syosset, NY 11791-4465

S3315A

YR

DPRO IBM, Route 17C, Owego, NY 13827-1298

S3316A

KK

DPRO Grumman Aerospace, Bethpage, Bethpage, NY 11714-3593

S3317A

NH

DPRO Unisys, Great Neck, Long Island, Great Neck, NY 11020-7001

S3602A

SB

DPRO GE Aircraft Engines, Evendale, Mail Drop N-1, Cincinnati, OH 45215-6303

S3603A

VB

DCMAO Cleveland, A J Celebrezze Federal Building, 1240 East Ninth Street, Cleveland, OH 44199-2063

S3605A

VL

DCMAO Dayton, Gentile Station, 1001 Hamilton Street, Dayton, OH 45444-5300

S3613A

YB

DPRO Westinghouse, Cleveland, 18901 Euclid Avenue, Cleveland, OH 44117-1388

S3615A

YH

DPRO Williams International, c/o Williams International Corporation, 2280 West Maple Road, Walled Lake, MI 48088-0200

S3616A

X6

DPRO Loral, 1210 Massillon Road, Akron, OH 44315-0001

S3618A

YF

DPRO General Dynamics, Lima, 1155 Buckeye Road, Lima, OH 45804-1898

S3620A

VA

Defense Contract Management Command, International Contracts Division, 2000 Hamilton Street, Dayton, OH 45444-5410

S3910A

XA

DCMD Mid-Atlantic, P.O. Box 7478, Philadelphia, PA 19101-7478

S3911A

XD

DCMAO Pittsburgh, 1612 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222-4190

S3912A

XM

DCMAO Reading, 45 South Front Street, Reading, PA 19602-1094

S3915A

X3

DCMAO Philadelphia, P.O. Box 7699, Philadelphia, PA 19101-7699

S3916A

TU

DPRO Boeing Helicopters, P.O. Box 16859, Philadelphia, PA 19142-0859

S4201A

XY

DPRO United Defense L.P., P.O. Box 15512, York, PA 17405-1512

S4402A

Z7

DCMAO Dallas, 1200 Main Street, Dallas, TX 75202-4399

S4404A

XN

DCMAO San Antonio, 615 East Houston, P.O. Box 1040, San Antonio, TX 78294-1040

S4407A

WN

DPRO E-Systems, Inc., P.O. Box 6379, Greenville, TX 75403-6379

S4408A

XZ

DPRO Texas Instruments, Inc., P.O. Box 660246, MS 256, Dallas, TX 75266-0246

S4418A

W1

DPRO Bell Helicopter Textron, P.O. Box 1605, Fort Worth, TX 76101-1605

S4419A

SL

TH

DPRO Lockheed, Fort Worth, P.O. Box 371, Fort Worth, TX 76101-0371

S4420A

WP

DPRO Loral/Vought Systems, P.O. Box 655907, M/S 4915, Dallas, TX 75265-5907

S4503A

R6

DPRO Thiokol, P.O. Box 524, Mail Stop Z-10, Brigham City, UT 84302-0524

S4801A

XW

DCMAO Seattle, Building 5D, Naval Station Puget Sound, Seattle, WA 98115-5010

S4804A

SP

DPRO Boeing, Seattle, P.O. Box 3707, Seattle, WA 98124-2207

S4807A

WM

DPRO, Stewart and Stevenson, Inc., 5000 Interstate 10 West, P.O. Box 457, Sealy, TX 77474-0457

S4804A

SP

DPRO Boeing, Seattle, P.O. Box 3707, Seattle, WA 98124-2207

S4807A

WM

DPRO, Stewart and Stevenson, Inc., 5000 Interstate 10 West, P.O. Box 457, Sealy, TX 77474-0457

S4804A

SP

160. Appendix G to Chapter 2 is amended by revising Part 7, entitled "Defense Information Systems Agency

Activity Address Numbers" to read as follows:

**PART 7—DEFENSE INFORMATION SYSTEMS AGENCY ACTIVITY ADDRESS NUMBERS**

DCA100

VC

Defense Information Systems Agency, Contract Management Division, ATTN: PM, 701 South Courthouse Road, Arlington, VA 22204-2199—(ZD10)

DCA200

VP

Defense Commercial Communications Office, Directorate of Plans and Policy, ATTN: DITCO-RP, 2300 East Drive, Scott AFB, IL 62225-5406—(ZD11)

DCA300

1F

DITCO-PAC/RUS, ATTN: RU, 99-080 Kauhale Street, Building C, Suite 2, Aiea, HI 96701-4104—(ZD13)

DCA400

WK

DECCO—Europe, ATTN: RS, Unit 4235, Sembach Air Base, APO AE 09136—(ZD14)

DCA500

KH

DECCO—Alaska, ATTN: RT, 9864 L Street, Suite 201, Elmendorf AFB, AK 99506-2615—(ZD15)

DCA600

Y5

DISA/DITPRO, Office of Acquisition, ATTN: OA, 148 Redman Street, Fort Ritchie, MD 21719-3201—(ZD16)

161. Appendix G to Chapter 2 is amended by revising Part 8, entitled "Defense Mapping Agency Activity Address Numbers" to read as follows:

**PART 8—DEFENSE MAPPING AGENCY ACTIVITY ADDRESS NUMBERS**

DMA100

BQ

Defense Mapping Agency, Acquisition and Technology Procurement, ATTN: PCA/D-88, 4600 Sangamore Road, Bethesda, MD 20816-5003—(ZM100)

DMA201

Y2

Defense Mapping Agency, Micro Purchasing Operations (East), ATTN: PCC-E/D-6, 4600 Sangamore Road, Bethesda, MD 20816-5003—(ZM21)

DMA202

Z2

Defense Mapping Agency, Micro Purchasing Operations (West), ATTN: PCC-W/L-13, 3200 South Second Street, St. Louis, MO 63118-3399—(ZM22)

DMA301

V2

Defense Mapping Agency, Operations Group Procurement (East), ATTN: PCG-E/D-5, 4600 Sangamore Road, Bethesda, MD 20816-5003—(ZM31)

DMA302

YQ

Defense Mapping Agency, Operations Group Procurement (West), ATTN: PCG-

W/L-13, 3200 South Second Street, St. Louis, MO 63118-3399—(ZM32)

DMA401  
BY

Defense Mapping Agency, Installations Procurement (East), ATTN: PCI-E/D-6, 4600 Sangamore Road, Bethesda, MD 20816-5003—(ZM41)

DMA402

Defense Mapping Agency, Installations Procurement (West), ATTN: PCI-W/L-13, 3200 South Second Street, St. Louis, MO 63118-3399—(ZM42)

162. Appendix G to Chapter 2 is amended by revising in Part 9, entitled "Defense Nuclear Agency Activity Address Numbers" the ATTN line and the address in the activity address number "DNA002—0N to read: "ATTN: Acquisition Management Office (FCA), 1680 Texas Street, S.E., Kirtland AFB, NM 87115-5669 (ZD31)."

163. Appendix G to Chapter 2 is amended by revising Part 10, entitled "Miscellaneous Defense Activities Activity Address Numbers" to read as follows:

**PART 10—MISCELLANEOUS  
DEFENSE ACTIVITIES ACTIVITY  
ADDRESS NUMBERS**

MDA112  
EO

T-ASA, Sacramento Contracting Office, 3116 Peacekeeper Way, McClellan AFB, CA 95652-1068—(ZP12)

MDA113  
VE

T-ASA, March Contracting Office, 1363 Z Street, March AFB, GA 92518-2717—(ZP13)

MDA114  
VV

T-ASA, Alexandria Contracting Office, 601 North Fairfax Drive, Suite 311, Alexandria, VA 22314-2007—(ZP14)

MDA410  
DR

DoDDS, ATTN: Procurement Division, 4040 North Fairfax Drive, 8th Floor, Arlington, VA 22203-1635—(ZK10)

MDA412  
9Y

DoDDs, European Procurement Office, Unit 29649, Box 4000, APO AE 09096—(ZK12)

MDA414  
Y4

DoD Education Activity, Education Supplies Procurement Office, ATTN: DGSC-ED, 8000 Richmond Highway, Richmond, VA 23297-5320—(ZK14)

MDA416  
YT

DoD Education Activity, Pacific Procurement Office, PSC 556, Box 796, FPO, AP 96386-0796—(ZK16)

MDA904

Maryland Procurement Office, ATTN: N363, 9800 Savage Road, Fort George G. Meade, MD 20755-6000—(ZD04)

MDA905

B4

Uniformed Services University of the Health Sciences, ATTN: Directorate of Contracting, 4301 Jones Bridge Road, Bethesda, MD 20814-4799—(ZD05)

MDA906

Office for the Civilian Health & Medical Program of the Uniformed Services (CHAMPUS), ATTN: Contract Management Division, Building 222, East Harlow Avenue, FAMC, Aurora, CO 80045-6900—(ZD06)

MDA907

Purchasing and Contracting Office, Menwith Hill Station, APO AE 09210—(ZD07)

MDA908

2X

Virginia Contracting Activity, ATTN: DAP, P.O. Box 46563, Washington, DC 20050-6563—(ZD50)

MDA928

Armed Forces Radiobiology, Research Institute, ATTN: Acquisition Management Office, 8901 Wisconsin Avenue, Bethesda, MD 20889-5603—(ZD28)

MDA946

WHS Contracting Office, Real Estate Facilities Directorate, ATTN: Director, Procurement & Contracts, 1155 Defense Pentagon, Room 1D198, Washington, DC 20301-1155—(ZD46)

MDA972

WS

ARPA Contract Management Office, 3701 North Fairfax Drive, Arlington, VA 22203—(ZD72)

164. Appendix G is to Chapter 2 is amended by adding "Part 14, United States Special Operations Command Activity Address Numbers" to read as follows:

**PART 14—UNITED STATES SPECIAL  
OPERATIONS COMMAND ACTIVITY  
ADDRESS NUMBERS**

USZA22

2U

USSOCOM Headquarters, Directorate of Procurement, 7701 Tampa Point Boulevard, MacDill AFB, FL 33621-5323—(ZA22)

USZA24

USSCOCOM, 24th STS, ATTN: MS-Z, Pope AFB, NC 28308-5000—(ZA24)

USZA90

USSOCOM, JSOC, P.O. Box 70329, Fort Bragg, NC 28307-5000—(ZA90)

USZA91

USSOCOM, SOTF, ATTN: Contracting, P.O. Box 70660, Fort Bragg, NC 28307-5000—(ZA91)

USZA92

1F

USSOCOM, USASOC, ATTN: AOCO, Fort Bragg, NC 28307-5200—(ZA92)

USZA95

1A

USSOCOM, TAKO, Contracting Division, ATTN: AMSAT-D-TK, 4300 Goodfellow Boulevard, St. Louis, MO 63120—(ZA95)

USZA92

1F

US Special Operations Command—USASOC, ATTN: AOCO, Fort Bragg, NC 28307-5200—(ZA92)

USZA95

1A

US Special Operations Command—TAKO, Contracting Division, ATTN: AMSAT-D-TK, 4300 Goodfellow Boulevard, St. Louis, MO 63120—(ZA95)

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Federal Register

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Thursday  
November 30, 1995

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**Part III**

**Department of  
Justice**

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Immigration and Naturalization Service

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8 CFR Part 274a  
Demonstration Project Concerning  
Electronic Options for Processing of  
Forms I-9; Proposed Rule

**DEPARTMENT OF JUSTICE****Immigration and Naturalization Service****8 CFR Part 274a**

[INS No. 1713-95]

RIN 1115-AB73

**Demonstration Project Concerning Electronic Options for Processing of Forms I-9****AGENCY:** Immigration and Naturalization Service, Justice.**ACTION:** Notice inviting submission of applications.

**SUMMARY:** The Commissioner of the Immigration and Naturalization Service (Service) invites applications from businesses, consortium of businesses, other employing entities interested in participating in a demonstration project dealing with the electronic production and/or storage of a Form I-9, Employment Eligibility Verification Form. This notice and proposed demonstration project are the result of numerous inquiries made by members of the business community expressing a desire to electronically produce and/or store the Form I-9. If the project is found to be successful, changes to existing regulations governing the methods of production, completions, storage, and output of the Form I-9 will be promulgated.

**DATES:** Written applications, responding to all of the Application Requirements and Criteria cited in this notice, must be submitted on or before January 29, 1996.

**ADDRESSES:** Please submit an original application and five copies to the Immigration and Naturalization Service, 425 I Street, NW., Room 1000, Washington, DC 20536 Attention: Form I-9 Demonstration Project.

**FOR FURTHER INFORMATION CONTACT:** Robert Atwater, Immigration and Naturalization Service, 425 I Street, NW., Room 1000, Washington, DC 20536, telephone (202) 514-2998.

**SUPPLEMENTARY INFORMATION:****Statutory Authority**

Pursuant to the authority contained in Section 274A(d)(4) of the Immigration and Nationality Act, the Service plans to conduct a demonstration project to test different methods of electronic preparation, completion, storage, and output of the Employment Eligibility Verification Form (Form I-9).

**Purpose**

The purpose of this demonstration project is to investigate and test various technologies which would provide both

the private sector and the Government with electronic alternatives to paper Forms I-9 which will address compliance and enforcement needs under the Immigration and Nationality Act.

**Goals**

- To assess existing technologies for electronic preparation, completion, storage, and/or output of Forms I-9.
- To develop prototype processes.
- To identify specific technological standards for electronic Form I-9 processes.
- To draft legislative and/or regulatory proposals which would allow for implementation of an electronic Form I-9 process on a national scale.

**Application Requirements and Criteria**

No specific application form has been designed for this demonstration project; however, applicants must follow the format prescribed in Section III below.

Applicants may wish to refer to the Federal "Guidelines for Security of Computer Applications," FIPS Publication 73.

**I. Eligibility for Participation**

Any business, consortium of businesses, or other employing entities, may submit an application for participation in the demonstration project provided they, or a client business for which they provide Form I-9 services, meet the following criteria: they have been in operation at least 1 year; have at least 100 employees, either at one or multiple locations; have their headquarters in the United States; have or are able to have available the resources to begin their demonstration project within 3 months of approval; and agree to participate in the an evaluation of the project (through reporting mechanisms as well as on-site reviews).

**II. Project Restrictions**

The Service will not, at this time, entertain approaches which include the use of an electronic identifier, e.g. PIN number, without an associated written signature. Companies proposing to electronically generate or store Forms I-9 and/or related signatures should include samples of computer-generated signatures and associated originals for evaluation by the Service's Forensic Document Lab.

Scanned signatures must be of photographic quality. Handwritten signatures made with black ballpoint pen on white paper forms, scanned at a minimum resolution of 600 horizontal x 1200 vertical dots per inch (DPI) optical resolution (color) with output resolution

of 1200x1200 DPI and produced by a printer at a minimum of 512 lines per inch (LPI) on photographic (dry silver) paper, or 600 DPI on a laser jet printer, may produce a signature acceptable for INS forensic examination as long as magnetic disk (3.5") containing 600x1200 DPI color optical resolution with output resolution of 1200x1200 DPI scanned image is available. Compression of the scanned image on the disk will not be acceptable; image must be in a Tagged-image file format (TIF).

Participants will be required to retain hard copies of the Forms I-9 for a specified term.

**III. Information To Be Included in the Application**

A. A company profile should be provided to include: The company name; headquarters address; listing of additional company locations, if any; number of employees (total and/or number by location); average number of new hires per year; if the data is available, the average number of reverifications per year; and the name and phone number of the company contact for this project.

B. A brief summary of the approach described in the application. Such a summary may be published in the Federal Register notice announcing the implementation of the demonstration project.

C. The company's plan describing, in as much detail as possible, the method to be employed to electronically prepare, complete, store, and/or output Forms I-9. (Your need only address the areas which your company would be interested in pursuing).

1. Describe the process from completion of the Form I-9 by the employee and employer to storage.

2. Indicate measures to be taken to ensure the integrity of the employment verification process as outlined in Title 8 of the Code of Federal Regulations, Part 274a. Include issues such as the provision of the Form I-9 instructions and the listing of acceptable documents to all employees during the verification process.

3. Discuss the scope of the project within your company and clearly indicate whether or not all new hires and reverifications will be included in this process.

4a. Discuss the type of equipment and software which will be used and describe the information flow of the system (i.e., how the new process would work compared to the present manual/paper-based process).

b. Discuss the number of staff resources which will be used to support

the initiatives being proposed. If it will be necessary for your company to acquire additional or specialized equipment and/or staff for the purposes of this initiative, provide the costs and timeframe associated with this effort.

c. Include a process map and/or flow chart of system operation; description of data elements; description and specification of the software to be used; and specifications for all equipment devices (input scanner, storage device, etc.).

5. Describe the specific Form I-9 data which will be capture electronically; where and how it will be stored; procedures for ensuring the integrity of the database; where and how data will be output; what the methods and timeframes will be for electronic record retention and disposal; and what, if any, hardcopy versions of the Form I-9 will be used in the process. If electronic signatures are a component of the proposal, describe how the electronic signature will be linked to a physical signature by the same individual (refer to Section II. Project Restrictions, above).

6. Explain plans for internal assessment of the project's performance throughout the demonstration period.

D. If any provisions of the current regulations will need to be waived for purposes of the demonstration, describe these and also explain how your proposed process would achieve the same purpose as the existing regulations.

E. Describe the electronic access which will be available if your company is proposing to digitally store data.

F. Identify accompanying recordkeeping procedures which would allow the Government to verify the signature and date of the form's preparation, revision, and/or updating.

G. Provide a brief analysis of the cost and benefits associated with the electronic Form I-9 process being proposed.

#### *IV. Criteria to be Used to Evaluate Applications*

A. Eligibility under the requirements set forth in Item I of this notice (10 percent);

B. Comprehensiveness and quality of the application, particularly with respect to the integrity of the verification process and the security of the proposed system (22 percent);

C. Likelihood of the system to gain widespread adoption and acceptance, as reflected in the technology, start-up costs, and cost-benefit analysis (20 percent);

D. Likelihood of the system to facilitate compliance with the verification process and to permit the Government to independently review the employer's compliance with the law, as reflected in the proposed audit trail and methods of providing Government access (22 percent);

E. The company's ability, as described in the application, to: ensure that all activities described in its plan are performed in accordance with the applicant's proposal, be able to implement its proposal within 3 months of approval, and commit to at least 24 months participation in the project (10 percent);

F. The number of new hires/verification transactions per year (3 percent);

G. Achievement of a mix of technologies and procedures (10 percent); and

H. In the event the Service receives a number of equally qualified applications, preference may be given based upon the date the application was received (3 percent).

An applicant's failure to adequately address evaluation criteria A-F may result in denial of the application.

The final review panel will be composed of no fewer than five members with experience in information systems, forensic document examinations, investigations, and legal compliance. They will recommend, to the Commissioner of the Immigration

and Naturalization Service (Commissioner), no more than 20 applicants for participation in the demonstration project. The final decision will be made by the Commissioner. Applications which are not approved for this demonstration project will be retained for possible future consideration.

The Service will endeavor to complete the evaluation process and make final participant selections within 3 months following the close of the application period. Participants will be required to enter into a Memorandum of Understanding with the Service. All participants in the demonstration project will be advised that their involvement in the project will not preclude the Government from conducting compliance audits and any other enforcement actions.

#### *OMB Reporting Burden*

The public reporting burden for this collection of information is estimated to be 23 hours, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Please send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Immigration and Naturalization Service, 425 I Street, NW, HQPDI, Room 5307, Washington, DC 20536. These requirements have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act, and are recorded as OMB Control Number 1115-0198, with an expiration date of 9-30-98.

Dated: November 22, 1995.

Doris Meissner,

*Commissioner, Immigration and Naturalization Service.*

[FR Doc. 95-29128 Filed 11-29-95; 8:45 am]

BILLING CODE 4410-10-M

Federal Register

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Thursday  
November 30, 1995

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**Part IV**

**Department of  
Housing and Urban  
Development**

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**Notice of Request for Cooperative  
Agreement Applications for the  
Community Renaissance Fellows  
Program; Notice**

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

**Office of the Assistant Secretary for  
Policy Development and Research**

[Docket No. FR-3960-N-01]

**Notice of Request for Cooperative  
Agreement Applications for the  
Community Renaissance Fellows  
Program**

**AGENCY:** Office of the Assistant  
Secretary for Policy Development and  
Research, HUD.

**ACTION:** Notice of request for cooperative  
agreement applications.

**SUMMARY:** The Department is seeking  
applications from public and private  
universities in order to provide funding  
to develop and implement the  
educational component of HUD's new  
Community Renaissance Fellows  
Program. The program will place 20  
Fellows in distressed public housing  
developments undergoing conversion,  
for example, to mixed-income or mixed-  
use projects. HUD hopes, with the  
assistance of private foundations, to  
place additional Fellows in comparable  
projects being undertaken by  
community development corporations.

**DATES:** *Application deadline.*  
Applications must be physically  
received at the address shown in the  
ADDRESSES section of this notice by  
4:30 p.m. Eastern Standard Time on  
February 15, 1996. *Applications faxed  
to this address will not be accepted.* The  
above-stated deadline date is *firm* as to  
*date, hour* and *place*. In the interest of  
fairness to all competing applicants, the  
Department will treat as *ineligible for  
consideration* any application that is  
received after the deadline. Applicants  
should take this practice into account  
and make early submission of their  
materials to avoid any risk of loss of  
eligibility brought about by  
unanticipated delays or other delivery-  
related problems.

Application kits may be requested  
from the address listed in the ADDRESSES  
section of this notice.

*Bidder conference date.* HUD will be  
holding a "bidders" conference to  
explain, in more detail, the background  
behind this solicitation and clarify  
application requirements. The  
conference will be held on January 11,  
1996. All interested applicants are  
encouraged to attend this conference.  
For more information about this  
conference, please call Jane Karadbil at  
(202) 708-1537 (this is not a toll free  
number), or for the hearing impaired,  
TDD 1-800-877-TDDY.

**ADDRESSES:** *To obtain application kit.*  
To obtain a copy of the application kit,  
contact: Jane Karadbil, Office of  
University Partnerships in the Office of  
Policy Development and Research, U.S.  
Department of Housing and Urban  
Development, 451 7th Street S.W.,  
Room 8110, Washington, D.C. 20410.  
Requests for application kits must be in  
writing, but requests may be faxed to  
Ms. Karadbil at (202) 708-5536. (This is  
not a toll free number.) Requests for  
application kits must include the  
applicant's name, mailing address  
(including zip code), and telephone  
number (including area code).

*To submit applications.* Applications  
must be physically received by the  
Office of University Partnerships, Office  
of Policy Development and Research,  
U.S. Department of Housing and Urban  
Development, in care of the Division of  
Budget, Contracts, and Program Control,  
in Room 8230 by 4:30 pm. Eastern  
Standard Time on February 15, 1996.  
*Applications faxed to this address will  
not be accepted.*

**FOR FURTHER INFORMATION CONTACT:** Jane  
Karadbil, Office of University  
Partnerships in the Office of Policy  
Development and Research, U.S.  
Department of Housing and Urban  
Development, 451 7th Street, S.W.,  
Room 8110, Washington, DC 20410.  
Telephone number (202) 708-1537  
voice (this is not a toll free number); 1-  
800-877-TDDY (TDD). Ms. Karadbil can  
also be contacted via the Internet at  
Jane K. Karadbil@hud.gov.

**SUPPLEMENTARY INFORMATION:**

I. Paperwork Reduction Act Statement

The information collection  
requirements contained in this notice  
have been approved by the Office of  
Management and Budget (OMB), under  
section 3504(h) of the Paperwork  
Reduction Act of 1980 (44 U.S.C. 3501-  
3520), and assigned OMB Control  
Number 2535-0084.

II. General Information

Today's urban professional graduates  
do not have the education or skills to  
undertake complex, multi-disciplinary  
community building projects—from  
loan packaging, to design skills, to  
community organization to create real  
working partnerships with  
neighborhood residents, to securing the  
necessary social services to promote  
self-sufficiency. And, too often, the  
brightest and the best of America's  
young urban professionals do not view  
local governments, public housing  
agencies, and community-based  
organizations as desirable employers,  
nor distressed neighborhoods as places

to apply their creativity. These  
graduates are knowledgeable in the  
traditional methods of community  
revitalization but need additional skills  
to become visionary community  
builders, and they need an incentive to  
change the trajectory of their career  
paths from "real estate" to community  
building.

At present there are no graduate  
programs or fellowships to promote  
comprehensive community building  
approaches. As the Federal agency  
charged with nurturing and sustaining  
urban neighborhoods, HUD has decided  
to take a catalyzing role in creating  
mechanisms to develop these skills. The  
paucity of these kinds of professionals  
has created a bottleneck in  
implementing important HUD programs.

HUD is creating the Community  
Renaissance Fellowship program to (1)  
meet this pressing need and (2) to  
support a new generation of visionary,  
highly competent community building  
urban professionals. HUD seeks to foster  
a cadre of professionals who can take  
the practical experience gained working  
on community building and  
revitalization in distressed public  
housing projects and urban  
neighborhoods and transfer these skills  
to other complex neighborhood  
development projects. HUD will be  
funding 20 Fellows for two-year  
Fellowships at a cost of \$3 million (from  
technical assistance funding under the  
Public Housing Modernization  
Technical Assistance program  
authorized by the Department's FY 1995  
Appropriations Act, Pub. L. 103-327,  
September 28, 1994) for their stipends  
and other expenses. These Fellows will  
be placed in distressed public housing  
developments undergoing conversion,  
for example, to mixed-income or mixed-  
use projects. HUD has also reached out  
to private foundations with a stake in  
urban neighborhoods to become  
potential partners and hopes to receive  
funding for up to an additional 20  
Fellows. These Fellows will be placed  
in community development  
corporations undertaking similar large-  
scale urban physical and human  
development projects.

Since community building skills are  
evolving, there is a need to ensure that  
the Fellows benefit from up-to-date  
information and thinking on  
revitalization issues. Thus, there will be  
a strong educational component to the  
program. The education the Fellows  
receive will be provided through the  
highest quality courses and most  
respected participating faculty in the  
country. Over the two years, the Fellows  
will receive the equivalent of more than  
one full-time semester of additional

professional education in community-building skills.

Subject to funding availability, HUD will be awarding a cooperative agreement to a nationally known university to design an entirely new path-breaking curriculum for the education component for the Fellows program and offer it to the Fellows.

The university selected must demonstrate that it currently offers graduate courses in real estate and provides interdisciplinary practical experiences for its graduate students.

Dated: November 22, 1995.

Michael A. Stegman,

*Assistant Secretary for Policy Development and Research.*

[FR Doc. 95-29228 Filed 11-29-95; 8:45 am]

**BILLING CODE 4210-62-P**

# 201 Federal Register

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Thursday  
November 30, 1995

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## Part V

# Department of Health and Human Services

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## Food and Drug Administration

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Immediate Release Solid Oral Dosage  
Forms; Scale-Up and Postapproval  
Changes: Chemistry, Manufacturing, and  
Controls; In Vitro Dissolution Testing; In  
Vivo Bioequivalence Documentation;  
Guidance; Notice

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. 95D-0349]

**Immediate Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing; In Vivo Bioequivalence Documentation; Guidance**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is publishing a guidance entitled "Immediate Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing; In Vivo Bioequivalence Documentation." The guidance sets forth application information that should be provided to the Center for Drug Evaluation and Research (CDER) to assure continuing product quality and performance characteristics of immediate release solid oral dose formulations for specified changes. The guidance fulfills a commitment made in the President's National Performance report, "Reinventing Drug and Medical Device Regulations," April 1995, to reduce through guidance the number of manufacturing changes that require preapproval by FDA. The guidance provides recommendations to sponsors of new drug applications (NDA's), abbreviated antibiotic applications (AADA's), and abbreviated new drug applications (ANDA's) who intend, during the postapproval period, to change the components or composition of the drug, site of manufacture, scale-up/scale-down of manufacture, and/or manufacturing process or equipment. The guidance was prepared by the Immediate Release Scale-Up and Postapproval Change Expert Working Group of the Chemistry Manufacturing Controls Coordinating Committee (CMC CC) at CDER.

**DATES:** Written comments may be submitted at any time.

**ADDRESSES:** Submit written requests for single copies of the guidance "Immediate Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing; In Vivo Bioequivalence Documentation" to the Consumer Affairs Branch (HFD-8) (previously the CDER Executive Secretariat Staff),

Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. An electronic version of the guidance document is also available via Internet. Requesting persons should connect to the CDER FTP server (CDVS2.CDER.FDA.GOV) using the FTP protocol. The guidance is available in WordPerfect Versions 5.2 and 6.0. Submit written comments on the guidance to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. A copy of the guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Allen Rudman, Center for Drug Evaluation and Research (HFD-645), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-0375.

**SUPPLEMENTARY INFORMATION:** FDA is publishing a guidance entitled "Immediate Release Solid Oral Dosage Forms; Scale-Up and Postapproval Changes: Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing; In Vivo Bioequivalence Documentation." The guidance specifies application information that sponsors should provide to CDER to assure continuing product quality and performance characteristics of immediate release solid oral dose formulations for changes made in NDA's, AADA's, and ANDA's. The guidance fulfills a commitment made in the President's National Performance report, "Reinventing Drug and Medical Device Regulations," April 1995, to reduce through guidance the number of manufacturing changes that require preapproval by FDA.

The guidance is the result of: (1) A workshop on the scale-up of immediate release drug products conducted by the American Association of Pharmaceutical Scientists in conjunction with the United States Pharmacopoeial Convention and FDA; (2) research conducted by the University of Maryland at Baltimore on the chemistry, manufacturing, and controls of immediate release drug products under the FDA/University of Maryland Manufacturing Research Contract; (3) the drug categorization research

conducted at the University of Michigan and the University of Uppsala on the permeability of drug substances; and (4) the Scale-Up and Post Approval Changes (SUPAC) Task Force which was established by the Center for Drug Evaluation and Research Chemistry, Manufacturing, and Controls Coordinating Committee to develop guidance on scale-up and other postapproval changes.

The guidance describes: (1) The levels of change that may be made in the components or composition of the drug, site of manufacture, scale-up/scale-down of manufacture, and manufacturing process and equipment; (2) the chemistry, manufacturing, and controls tests for each level of change; (3) in vitro dissolution tests and/or in vivo bioequivalence tests for each level of change; and (4) filing documentation.

The regulations in § 314.70(a) (21 CFR 314.70(a)) state that applicants may make changes to an approved application in accordance with a guideline, notice, or regulation published in the Federal Register that provides for a less burdensome notification of the change (for example, by notification at the time a supplement is submitted or in the next annual report). This guidance permits less burdensome notice of certain postapproval changes within the meaning of § 314.70(a).

For postapproval changes for immediate release dosage forms that affect components and composition, scale-up, site change, and manufacturing process or equipment changes, this guidance supersedes the recommendations in section 4.G of the Office of Generic Drugs Policy and Procedure Guide 22-90 (September 11, 1990). For all other dosage forms and changes, this guidance does not affect the recommendations in Guide 22-90.

This guidance is an informal communication under 21 CFR 10.90(b)(9) that reflects the best judgment of CDER employees at this time. It does not create or confer any rights, privileges, or benefits for or on behalf of any person, nor does it operate to bind or obligate FDA in any way. Different approaches may be followed, but the applicant is encouraged to discuss significant variations in advance with FDA review divisions to preclude spending time and effort in preparing a submission that FDA may later determine to be unacceptable.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one

copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the guidance follows:

Immediate Release Solid Oral Dosage Forms; Scale-up and Postapproval Changes; Chemistry, Manufacturing, and Controls; In Vitro Dissolution Testing; In Vivo Bioequivalence Documentation; Guidance

#### I. Purpose of Guidance

This guidance provides recommendations to sponsors of new drug applications (NDA's), abbreviated new drug applications (ANDA's), and abbreviated antibiotic applications (AADA's) who intend, during the postapproval period, to change: (1) The components or composition; (2) the site of manufacture; (3) the scale-up/scale-down of manufacture; and/or (4) the manufacturing (process and equipment) of an immediate release oral dosage formulation.

This guidance is the result of: (1) A workshop on the scale-up of immediate release drug products conducted by the American Association of Pharmaceutical Scientists in conjunction with the United States Pharmacopoeial Convention and the Food and Drug Administration (FDA); (2) research conducted by the University of Maryland at Baltimore on the chemistry, manufacturing, and controls of immediate release drug products under the FDA/University of Maryland Manufacturing Research Contract; (3) the drug categorization research conducted at the University of Michigan and the University of Uppsala on the permeability of drug substances; and (4) the Scale-Up and Post Approval Changes (SUPAC) Task Force which was established by the Center for Drug Evaluation and Research (CDER) Chemistry, Manufacturing, and Controls Coordinating Committee to develop guidance on scale-up and other postapproval changes.

The guidance defines: (1) Levels of change; (2) recommended chemistry, manufacturing, and controls tests for each level of change; (3) in vitro dissolution tests and/or in vivo bioequivalence tests for each level of change; and (4) documentation that should support the change. For those changes filed in a "changes being effected supplement" (§ 314.70(c) (21 CFR 314.70(c))), FDA may, after a review of the supplemental information, decide that the changes are not approvable. This guidance thus sets forth application information that should be provided to CDER to assure continuing product quality and performance characteristics of an immediate release solid oral dose formulation for specified postapproval changes. This guidance does not comment on or otherwise affect compliance/inspection documentation that has been defined by CDER's Office of Compliance or FDA's Office of Regulatory Affairs. This guidance does not affect any postapproval changes other than the ones specified. For changes not addressed in this guidance, or for multiple changes submitted

at one time or over a short period of time, or where the number of batches recommended for stability testing is not specified, sponsors should contact the appropriate CDER review division or consult other CDER guidances/guidelines to obtain information about tests and application documentation.

The regulations in § 314.70(a) state that applicants may make changes to an approved application in accordance with a guideline, notice, or regulation published in the Federal Register that provides for a less burdensome notification of the change (for example, by notification at the time a supplement is submitted or in the next annual report). This guidance permits less burdensome notice of certain postapproval changes within the meaning of § 314.70(a).

For postapproval changes for immediate release dosage forms that affect components and composition, scale-up, site change, and manufacturing process or equipment changes, this guidance supersedes the recommendations in section 4.G of the Office of Generic Drugs Policy and Procedure Guide 22-90 (September 11, 1990). For all other dosage forms and changes, this guidance does not affect the recommendations in Guide 22-90.

#### II. Definition of Terms<sup>1</sup>

##### A. Batch

A specific quantity of a drug or other material produced according to a single manufacturing order during the same cycle of manufacture and intended to have uniform character and quality, within specified limits (21 CFR 210.3(b)(2)).

##### B. Contiguous campus

Continuous or unbroken site or a set of buildings in adjacent city blocks.

##### C. Dissolution testing

Case A: Dissolution of Q = 85 percent in 15 minutes in 900 milliliters (mL) of 0.1N hydrochloride (HCl), using the United States Pharmacopeia (U.S.P.) <711> Apparatus 1 at 100 revolutions per minute (rpm) or Apparatus 2 at 50 rpm.

Case B: Multi-point dissolution profile in the application/compendial medium at 15, 30, 45, 60, and 120 minutes or until an asymptote is reached for the proposed and currently accepted formulation.

Case C: Multi-point dissolution profiles performed in water, 0.1N HCl, and U.S.P. buffer media at pH 4.5, 6.5, and 7.5 (five separate profiles) for the proposed and currently accepted formulations. Adequate sampling should be performed at 15, 30, 45, 60, and 120 minutes until either 90 percent of drug from the drug product is dissolved or an asymptote is reached. A surfactant may be used with appropriate justification.

##### D. Drug product

A drug product is a finished dosage form (e.g., tablet, capsule, or solution) that

contains a drug substance, generally, but not necessarily, in association with one or more other ingredients (21 CFR 314.3(b)). A solid oral dosage form includes tablets, chewable tablets, capsules, and soft gelatin capsules.

##### E. Drug substance

An active ingredient that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of a disease, or to affect the structure of any function of the human body, but does not include intermediates used in the synthesis of such ingredient (21 CFR 314.3(b)).

##### F. Equipment

Automated or non-automated, mechanical or non-mechanical equipment used to produce the drug product, including equipment used to package the drug product.

##### G. Formulation

A listing of the ingredients and composition of the dosage form.

##### H. Justification

Reports containing scientific data and expert professional judgment to substantiate decisions.

##### I. New drug substance

Any substance that, when used in the manufacture, processing, or packing of a drug, causes that drug to be a new drug, but does not include intermediates used in the synthesis of such substance (21 CFR 310.3(g)).

##### J. Operating principle

Rules or concepts governing the operation of the system.

##### K. Pilot scale

The manufacture of either drug substance or drug product by a procedure fully representative of and simulating that used for full manufacturing scale.

For solid oral dosage forms, this is generally taken to be, at a minimum, one-tenth that of full production, or 100,000 tablets or capsules, whichever is larger (see the Federal Register of September 22, 1994, 59 FR 48754-48759).

##### L. Process

A series of operations and/or actions used to produce a desired result.

##### M. Ranges

The extent to which or the limits between which acceptable variation exists.

##### N. Same

Agreeing in kind, amount; unchanged in character or condition.

##### O. Scale-up

The process of increasing the batch size.

##### P. Scale-down

The process of decreasing the batch size.

##### Q. Similar

Having a general likeness.

<sup>1</sup>See Workshop Report: Skelly, et al., "Scale-up of Immediate Release Oral Solid Dosage Forms," *Pharmaceutical Research*, 10(2):313-316; and the Federal Register of September 22, 1994, 59 FR 48754-59.

**R. Significant body of information**

A significant body of information on the stability of the drug product is likely to exist after 5 years of commercial experience for new molecular entities, or 3 years of commercial experience for new dosage forms.

**S. Validation**

Establishing through documented evidence a high degree of assurance that a specific process will consistently produce a product that meets its predetermined specifications and quality attributes. A validated manufacturing process is one that has been proven to do what it purports or is represented to do. The proof of validation is obtained through collection and evaluation of data, preferably beginning from the process development phase and continuing through into the production phase. Validation necessarily includes process qualification (the qualification of materials, equipment, systems, buildings, and personnel), but it also includes the control of the entire processes for repeated batches or runs.

**III. Components and Composition**

This section of the guidance focuses on changes in excipients in the drug product. Changes in the amount of drug substance are not addressed by this guidance. Changes in components or composition that have the effect of adding a new excipient or deleting an excipient are defined at Level 3 (defined below), except as described below.

**A. Level 1 Changes**

**1. Definition of Level**

Level 1 changes are those that are unlikely to have any detectable impact on formulation quality and performance.

Examples:

- a. Deletion or partial deletion of an ingredient intended to affect the color or flavor of the drug product; or change in the ingredient of the printing ink to another approved ingredient.
- b. Changes in excipients, expressed as percentage (w/w) of total formulation, less than or equal to the following percent ranges:

EXCIPIENT	PERCENT EX-CIPIENT (w/w) OUT OF TOTAL TARGET DOSAGE FORM WEIGHT
Filler	±5
Disintegrant	
Starch	±3
Other	±1
Binder	±0.5
Lubricant	
Calcium (Ca) or Magnesium (Mg) Stearate	±0.25
Other	±1
Glidant	
Talc	±1
Other	±0.1
Film Coat	±1

These percentages are based on the assumption that the drug substance in the

drug product is formulated to 100% of label/potency. The total additive effect of all excipient changes should not be more than 5 percent. (Example: In a product consisting of active ingredient A, lactose, microcrystalline cellulose, and magnesium stearate, the lactose and microcrystalline cellulose should not vary by more than an absolute total of 5 percent (e.g., lactose increases 2.5 percent and microcrystalline cellulose decreases by 2.5 percent) relative to the target dosage form weight if it is to stay within the Level 1 range).

The components (active and excipients) in the formulation should have numerical targets that represent the nominal composition of the drug product on which any future changes in the composition of the product are to be based. Allowable changes in the composition should be based on the approved target composition and not on previous Level 1 changes in the composition.

**2. Test Documentation**

- a. Chemistry Documentation  
Application/compendial release requirements and stability testing.  
Stability testing: One batch on long-term stability data reported in annual report.
- b. Dissolution Documentation  
None beyond application/compendial requirements.
- c. In Vivo Bioequivalence Documentation  
None.

**3. Filing Documentation**

Annual report (all information including long-term stability data).

**B. Level 2 Changes**

**1. Definition of Level**

Level 2 changes are those that could have a significant impact on formulation quality and performance. Tests and filing documentation for a Level 2 change vary depending on three factors: Therapeutic range, solubility, and permeability. Therapeutic range is defined as either narrow or non-narrow. A list of narrow therapeutic range drugs is provided in Appendix A. Drug solubility and drug permeability are defined as either low or high. Solubility is calculated based on the minimum concentration of drug (milligram (mg)/mL), in the largest dosage strength, determined in the physiological pH range (pH 1 to 8) and temperature (37±0.5°C). High solubility drugs are those with a dose/solubility volume of less than or equal to 250 mL. (Example: Compound A has as its lowest solubility at 37±0.5 °C, 1.0 mg/mL at pH 7, and is available in 100 mg, 200 mg, and 400 mg strengths. This drug would be considered a low solubility drug as its dose/solubility volume is greater than 250 mL (400 mg/1.0 mg/mL=400 mL). Permeability (P<sub>e</sub>, centimeter per second) is defined as the effective human jejunal wall permeability of a drug and includes an apparent resistance to mass transport to the intestinal membrane. High permeability drugs are generally those with an extent of absorption greater than 90 percent in the absence of documented instability in the gastrointestinal tract, or those whose permeability attributes have been determined experimentally.

Examples:

a. Change in the technical grade of an excipient. (Example: Avicel PH102 versus Avicel PH200.)

b. Changes in excipients, expressed as percent (w/w) of total formulation, greater than those listed above for a Level 1 change but less than or equal to the following percent ranges (which represent a twofold increase over Level 1 changes):

EXCIPIENT	PERCENT EX-CIPIENT (w/w) OUT OF TOTAL TARGET DOSAGE FORM WEIGHT
Filler	±10
Disintegrant	
Starch	±6
Other	±2
Binder	±1
Lubricant	
Ca or Mg Stearate	±0.5
Other	±2
Glidant	
Talc	±2
Other	±0.2
Film Coat	±2

These percentages are based on the assumption that the drug substance in the drug product is formulated to 100 percent of label/potency. The total additive effect of all excipient changes should not change by more than 10 percent.

The components (active and excipients) in the formulation should have numerical targets that represent the nominal composition of the drug product on which any future changes in the composition of the product are to be based. Allowable changes in the composition should be based on the approved target composition and not on the composition based on previous Level 1 or Level 2 changes.

**2. Test Documentation**

- a. Chemistry Documentation  
Application/compendial release requirements and batch records.  
Stability testing: One batch with 3 months accelerated stability data in supplement and 1 batch on long-term stability.
- b. Dissolution Documentation  
Case A: High Permeability, High Solubility Drugs  
Dissolution of 85 percent in 15 minutes in 900 mL of 0.1N HCl. If a drug product fails to meet this description, the applicant should perform the tests described for Case B or Case C (below).  
Case B: Low Permeability, High Solubility Drugs  
Multi-point dissolution profile should be performed in the application/compendial medium at 15, 30, 45, 60, and 120 minutes or until an asymptote is reached. The dissolution profile of the proposed and currently used drug product formulations should be similar.  
Case C: High Permeability, Low Solubility Drugs

Multi-point dissolution profiles should be performed in water, 0.1N HCl, and U.S.P. buffer media at pH 4.5, 6.5, and 7.5 (five separate profiles) for the proposed and currently accepted formulations. Adequate sampling should be performed at 15, 30, 45, 60, and 120 minutes until either 90 percent of drug from the drug product is dissolved or an asymptote is reached. A surfactant may be used, but only with appropriate justification. The dissolution profile of the proposed and currently used drug product formulations should be similar.

c. In Vivo Bioequivalence Documentation  
None: if the situation does not meet the description in Case A, Case B, or Case C, refer to Level 3 changes.

### 3. Filing Documentation

Prior approval supplement (all information including accelerated stability data); annual report (long-term stability data).

### C. Level 3 Changes

#### 1. Definition of Level

Level 3 changes are those that are likely to have a significant impact on formulation quality and performance. Tests and filing documentation vary depending on the following three factors: Therapeutic range, solubility, and permeability.

Examples:

a. Any qualitative and quantitative excipient changes to a narrow therapeutic drug beyond the ranges noted in Section III.A.1.b.

b. All other drugs not meeting the dissolution cases under Section III.B.2.b.

c. Changes in the excipient ranges of low solubility, low permeability drugs beyond those listed in Section III.A.1.b.

d. Changes in the excipient ranges of all drugs beyond those listed in Section III.B.1.b.

#### 2. Test Documentation

a. Chemistry Documentation  
Application/compendial release requirements and batch records.

*Significant body of information available:*  
One batch with 3 months accelerated stability data reported in supplement; one batch on long-term stability data reported in annual report.

*Significant body of information not available:*

Up to three batches with 3 months accelerated stability data reported in supplement; up to three batches on long-term stability data reported in annual report.

b. Dissolution Documentation

Case B dissolution profile as described in Section III.B.2.b.

c. In Vivo Bioequivalence Documentation

*Full bioequivalence study.* The bioequivalence study may be waived when an acceptable in vivo/in vitro correlation has been verified.

#### 3. Filing Documentation

Prior approval supplement (all information including accelerated stability data); annual report (long-term stability data).

### IV. Site Changes

Site changes consist of changes in location of the site of manufacture for both company-owned and contract manufacturing facilities

and do not include any scale-up changes, changes in manufacturing (including process and/or equipment), or changes in components or composition. Scale-up is addressed in Section V of this guidance. New manufacturing locations should have a satisfactory current good manufacturing practice (CGMP) inspection.

#### A. Level 1 Changes

##### 1. Definition of Level

Level 1 changes consist of site changes within a single facility where the same equipment, standard operating procedures (SOP's), environmental conditions (e.g., temperature and humidity) and controls, and personnel common to both manufacturing sites are used, and where no changes are made to the manufacturing batch records, except for administrative information and the location of the facility. Common is defined as employees already working on the campus who have suitable experience with the manufacturing process.

##### 2. Test Documentation

a. Chemistry Documentation  
None beyond application/compendial release requirements.

b. Dissolution Documentation  
None beyond application/compendial release requirements.

c. In Vivo Bioequivalence Documentation  
None.

##### 3. Filing Documentation

Annual report.

#### B. Level 2 Changes

##### 1. Definition of Level

Level 2 changes consist of site changes within a contiguous campus, or between facilities in adjacent city blocks, where the same equipment, SOP's, environmental conditions (e.g., temperature and humidity) and controls, and personnel common to both manufacturing sites are used, and where no changes are made to the manufacturing batch records, except for administrative information and the location of the facility.

##### 2. Test Documentation

a. Chemistry Documentation  
Location of new site and updated batch records. None beyond application/compendial release requirements.

One batch on long-term stability data reported in annual report.

b. Dissolution Documentation  
None beyond application/compendial release requirements.

c. In Vivo Bioequivalence Documentation  
None.

##### 3. Filing Documentation

Changes being effected supplement; annual report (long-term stability test data).

#### C. Level 3 Changes

##### 1. Definition of Level

Level 3 changes consist of a change in manufacturing site to a different campus. A different campus is defined as one that is not on the same original contiguous site or where the facilities are not in adjacent city blocks. To qualify as a Level 3 change, the same equipment, SOP's, environmental conditions,

and controls should be used in the manufacturing process at the new site, and no changes may be made to the manufacturing batch records except for administrative information, location, and language translation, where needed.

##### 2. Test Documentation

a. Chemistry Documentation

Location of new site and updated batch records.

Application/compendial release requirements.

Stability:

*Significant body of information available:*

One batch with 3 months accelerated stability data reported in supplement; one batch on long-term stability data reported in annual report.

*Significant body of information not available:*

Up to three batches with 3 months accelerated stability data reported in supplement; up to three batches on long-term stability data reported in annual report.

b. Dissolution Documentation

Case B: Multi-point dissolution profile should be performed in the application/compendial medium at 15, 30, 45, 60, and 120 minutes or until an asymptote is reached. The dissolution profile of the drug product at the current and proposed site should be similar.

c. In Vivo Bioequivalence Documentation  
None.

##### 3. Filing Documentation

Changes being effected supplement; annual report (long-term stability data).

### V. Changes in Batch Size (Scale-Up/Scale-Down)

Postapproval changes in the size of a batch from the pivotal/pilot scale biobatch material to larger or smaller production batches call for submission of additional information in the application. Scale-down below 100,000 dosage units is not covered by this guidance. All scale-up changes should be properly validated and, where needed, inspected by appropriate agency personnel.

#### A. Level 1 Changes

##### 1. Definition of Level

Change in batch size, up to and including a factor of 10 times the size of the pilot/biobatch, where: (1) The equipment used to produce the test batch(es) is of the same design and operating principles; (2) the batch(es) is (are) manufactured in full compliance with CGMP's; and (3) the same SOP's and controls, as well as the same formulation and manufacturing procedures, are used on the test batch(es) and on the full-scale production batch(es).

##### 2. Test Documentation

a. Chemistry Documentation  
Application/compendial release requirements. Notification of change and submission of updated batch records in annual report.

One batch on long-term stability reported in annual report.

b. Dissolution Documentation

None beyond application/compendial release requirements.

c. In Vivo Bioequivalence  
None.

3. Filing Documentation  
Annual report (long-term stability data).

**B. Level 2 Changes**

1. Definition of Level  
Changes in batch size beyond a factor of 10 times the size of the pilot/biobatch, where:  
(1) The equipment used to produce the test batch(es) is of the same design and operating principles; (2) the batch(es) is (are) manufactured in full compliance with CGMP'S; and (3) the same SOP's and controls as well as the same formulation and manufacturing procedures are used on the test batch(es) and on the full-scale production batch(es).

2. Test Documentation

a. Chemistry Documentation  
Application/compendial release requirements. Notification of change and submission of updated batch records.  
Stability testing: One batch with 3 months accelerated stability data and one batch on long-term stability.

b. Dissolution Documentation  
Case B testing.

c. In Vivo Bioequivalence  
None.

3. Filing Documentation  
Changes being effected supplement; annual report (long-term stability data).

**VI. Manufacturing**  
Manufacturing changes may affect both equipment used in the manufacturing process and the process itself.

**A. Equipment**

1. Level 1 Changes

a. Definition of Change  
This category consists of: (1) Change from nonautomated or nonmechanical equipment to automated or mechanical equipment to move ingredients; and (2) change to alternative equipment of the same design and operating principles of the same or of a different capacity.

b. Test Documentation

i. Chemistry Documentation  
Application/compendial release requirements. Notification of change and submission of updated batch records.  
Stability testing: One batch on long-term stability.

ii. Dissolution Documentation  
None beyond application/compendial release requirements.

iii. In Vivo Bioequivalence Documentation  
None.

c. Filing Documentation  
Annual report (long-term stability data).

2. Level 2 Changes

a. Definition of Level  
Change in equipment to a different design and different operating principles.

b. Test Documentation

i. Chemistry Documentation  
Application/compendial release requirements. Notification of change and submission of updated batch records.  
Stability testing:  
*Significant body of information available:*

One batch with 3 months accelerated stability data reported in supplement; one batch on long-term stability data reported in annual report.  
*Significant body of information not available:*  
Up to three batches with 3 months accelerated stability data reported in supplement; up to three batches on long-term stability data reported in annual report.

ii. Dissolution Documentation  
Case C dissolution profile.

iii. In Vivo Bioequivalence Documentation  
None.

c. Filing Documentation  
Prior approval supplement with justification for change; annual report (long-term stability data).

**B. Process**

1. Level 1 Change

a. Definition of Level  
This category includes process changes including changes such as mixing times and operating speeds within application/validation ranges.

b. Test Documentation

i. Chemistry Documentation  
None beyond application/compendial release requirements.

ii. Dissolution Documentation  
None beyond application/compendial release requirements.

iii. In Vivo Bioequivalence Documentation  
None.

c. Filing Documentation  
Annual report.

2. Level 2 Changes

a. Definition of Level  
This category includes process changes, including changes such as mixing times and operating speeds outside of application/validation ranges.

b. Test Documentation

i. Chemistry Documentation  
Application/compendial release requirements. Notification of change and submission of updated batch records.  
Stability testing: One batch on long-term stability.

ii. Dissolution Documentation  
Case B dissolution profile.

iii. In Vivo Bioequivalence Documentation  
None.

c. Filing Documentation  
Changes being effected supplement; annual report (long-term stability data).

3. Level 3 Changes

a. Definition of Level  
This category includes change in the type of process used in the manufacture of the drug product, such as a change from wet granulation to direct compression of dry powder.

b. Test Documentation

i. Chemistry Documentation  
Application/compendial release requirements. Notification of change and submission of updated batch records.  
Stability testing:  
*Significant body of information available:*  
One batch with 3 months accelerated stability data reported in supplement; one batch on long-term stability data reported in annual report.

*Significant body of information not available:*

Up to three batches with 3 months accelerated stability data reported in supplement; up to three batches on long-term stability data reported in annual report.

ii. Dissolution Documentation  
Case B dissolution.

iii. In Vivo Bioequivalence Documentation  
In vivo bioequivalence study. The bioequivalence study may be waived if a suitable in vivo/in vitro correlation has been verified.

c. Filing Documentation  
Prior approval supplement with justification; annual report (long-term stability data).

#### VII. In Vitro Dissolution

See current United States Pharmacopeia/National Formulary, section <711>, for general dissolution specifications. All profiles should be conducted on at least 12 individual dosage units.

Dissolution profiles may be compared using the following equation that defines a similarity factor ( $f_2$ ):

$$f_2 = 50 \text{ LOG } \{ [1 + 1/n \sum_{t=1}^n (R_t - T_t)^2]^{-0.5} \times 100 \}$$

where  $R_t$  and  $T_t$  are the percent dissolved at each time point. An  $f_2$  value between 50 and 100 suggests the two dissolution profiles are similar.

#### VIII. In Vivo Bioequivalence Studies

Below is a general outline of an in vivo bioequivalence study. It is intended as a guide and the design of the actual study may vary depending on the drug and dosage form.

##### A. Objective:

To compare the rate and extent of absorption of the drug product for which the manufacture has been changed, as defined in this guidance, to the drug product manufactured before the change.

##### B. Design:

The study design should be a single dose, two-treatment, two-period crossover with adequate washout period between the two phases of the study. Equal numbers of subjects should be randomly assigned to each of the two dosing sequences.

##### C. Selection of Subjects:

The number of subjects enrolled in the bioequivalence study should be determined statistically to account for the intrasubject variability and to meet the current bioequivalence interval.

##### D. Procedure:

Each subject should receive the following two treatments:

Treatment 1: Drug product manufactured with the proposed change.

Treatment 2: Drug product manufactured prior to the proposed change.

Following an overnight fast of at least 10 hours, subjects should receive either Treatments 1 or 2 with 240 mL water. Food should not be allowed until 4 hours after dosing. Water may be allowed after the first hour. Subjects should be served standardized meals beginning at 4 hours during the study.

*E. Restrictions:*

Before and during each study phase, water may be allowed *ad libitum* except for 1 hour before and after drug administration. The subject should be served standardized meals and beverages at specified times. No alcohol or xanthine- or caffeine-containing foods and beverages should be consumed for 48 hours before each study period and until after the last blood sample is collected.

*F. Blood Sampling:*

Blood samples should be collected in sufficient volume for analysis of parent drug and active metabolite(s), if any. The sampling times should be such that it should be able to capture the  $C_{max}$  and  $T_{max}$  during the absorption period. Sampling should be carried out for at least three terminal elimination half-lives for both parent drug and active metabolite(s). Whole blood, plasma, or serum, whichever is appropriate for the analytes, should be harvested promptly and samples should be frozen at  $-20^{\circ}\text{C}$  or  $-70^{\circ}\text{C}$  to maintain sample stability.

*G. Analytical Method:*

The assay methodology selected should ensure specificity, accuracy, interday and intraday precision, linearity of standard curves, and adequate sensitivity, recovery, and stability of the samples under the storage and handling conditions associated with the analytical method.

*H. Pharmacokinetic Analysis:*

From the plasma drug concentration-time data,  $AUC_{0-t}$ ,  $AUC_{0-inf}$ ,  $C_{max}$ ,  $T_{max}$ ,  $K_{e1}$  and  $t_{1/2}$  should be estimated.

*I. Statistical Analysis:*

Analysis of variance appropriate for a crossover design on the pharmacokinetic parameters using the general linear models procedures of SAS or an equivalent program should be performed, with examination of period, sequence, and treatment effects. The 90 percent confidence intervals for the estimates of the difference between the test and reference least squares means for the pharmacokinetic parameters ( $AUC_{0-t}$ ,  $AUC_{0-inf}$ ,  $C_{max}$ ) should be calculated, using the two one-sided t-test procedure.

## Appendix A

*Narrow Therapeutic Range Drugs*

Aminophylline Tablets, ER Tablets  
 Carbamazepine Tablets, Oral Suspension  
 Clindamycin Hydrochloride Capsules  
 Clonidine Hydrochloride Tablets  
 Clonidine Transdermal Patches  
 Dyphylline Tablets  
 Disopyramide Phosphate Capsules, ER Capsules  
 Ethinyl Estradiol/Progestin Oral Contraceptive Tablets  
 Guanethidine Sulfate Tablets  
 Isoetharine Mesylate Inhalation Aerosol

Isoproterenol Sulfate Tablets  
 Lithium Carbonate Capsules, Tablets, ER Tablets  
 Metaproterenol Sulfate Tablets  
 Minoxidil Tablets  
 Oxtriphylline Tablets, DR Tablets, ER Tablets  
 Phenytoin, Sodium Capsules (Prompt or Extended), Oral Suspension  
 Prazosin Hydrochloride Capsules  
 Primidone Tablets, Oral Suspension  
 Procainamide Hydrochloride, Capsules, Tablets, ER Tablets  
 Quinidine Sulfate Capsules, Tablets, ER Tablets  
 Quinidine Gluconate Tablets, ER Tablets  
 Theophylline Capsules, ER Capsules, Tablets, ER Tablets  
 Valproic Acid Capsules, Syrup  
 Divalproex, Sodium DR Capsules, DR Tablets  
 Warfarin, Sodium Tablets  
 ER - Extended Release  
 DR - Delayed Release  
 Dated: November 22, 1995.  
 William B. Schultz,  
 Deputy Commissioner for Policy.  
 [FR Doc. 95-29218 Filed 11-29-95; 8:45 am]  
 BILLING CODE 4160-01-F

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**LIST OF PUBLIC LAWS**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-2470).

**S. 395/P.L. 104-58**

To authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes. (Nov. 28, 1995; 109 Stat. 557)

**S. 440/P.L. 104-59**

National Highway System Designation Act of 1995 (Nov. 28, 1995; 109 Stat. 568)

**S. 1328/P.L. 104-60**

To amend the commencement dates of certain temporary Federal judgeships. (Nov. 28, 1995; 109 Stat. 635)

Last List November 28, 1995