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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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150–AF39

Revision of Fee Schedules; 100% Fee Recovery, FY 1996

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, and annual fees charged to its applicants and licensees. The amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), which mandates that the NRC recover approximately 100 percent of its budget authority in Fiscal Year (FY) 1996 less amounts appropriated from the Nuclear Waste Fund (NWF). The amount to be recovered for FY 1996 is approximately $462.3 million.

EFFECTIVE DATE: June 11, 1996.

ADDRESSES: Copies of comments received and the agency workpapers that support these final changes to 10 CFR Parts 170 and 171 may be examined at the NRC Public Document Room at 2120 L Street, NW., (Lower Level), Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: C. James Holloway, Jr., Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone 301–415–6213.

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I. Background.
II. Responses to Comments.
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I. Background

Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), enacted November 5, 1990, requires that the NRC recover approximately 100 percent of its budget authority, less the amount appropriated from the Department of Energy (DOE) administered NWF, for FYs 1991 through 1995 by assessing fees. OBRA–90 was amended in 1993 to extend the NRC's 100 percent fee recovery requirement through FY 1998.

The NRC assesses two types of fees to recover its budget authority. First, license and inspection fees, established in 10 CFR Part 170 under the authority of the Independent Offices Appropriation Act (IOAA), 31 U.S.C. 9701, recover the NRC's costs of providing individually identifiable services to specific applicants and licensees. Examples of the services provided by the NRC for which these fees are assessed are the review of applications for the issuance of new licenses, approvals or renewals, and amendments to licenses or approvals. Second, annual fees, established in 10 CFR Part 171 under the authority of OBRA–90, recover generic and other regulatory costs not recovered through 10 CFR Part 170 fees.

On June 20, 1995 (60 FR 32218), the NRC published its final rule establishing the licensing, inspection, and annual fees necessary for the NRC to recover approximately 100 percent of its budget authority for FY 1995, less the appropriation received from the Nuclear Waste Fund. The NRC stated in the FY 1995 final rule that in an effort to stabilize annual fees, beginning in FY 1996, the NRC would adjust the annual fees by the percentage change (plus or minus) in NRC's total budget authority unless there was a substantial change in the total NRC budget authority or the magnitude of the budget allocated to a specific class of licensees, in which case the annual fee base would be recalculated (60 FR 32225; June 20, 1995). The NRC also stated that the percentage change would be adjusted based on changes in the 10 CFR Part 170 fees and other receipts as well as on the number of licensees paying fees.

On January 30, 1996 (61 FR 2948), the NRC published a proposed rule to establish the licensing, inspection, and annual fees necessary for the NRC to recover approximately 100 percent of its budget authority for FY 1996, less the appropriation received from the Nuclear Waste Fund. Several changes were proposed by the NRC to the fees to be assessed for FY 1996. These changes were highlighted in the proposed rule (61 FR 2948; January 30, 1996). The major changes are summarized as follows:

1. Stabilize 10 CFR Part 171 annual fees by adjusting all annual fees downward by about 6 percent. This change is consistent with the NRC's intention, stated in the FY 1995 final rule, that annual fees would be stabilized, beginning in FY 1996, by adjusting the FY 1995 annual fees by the percent change (plus or minus) in the NRC budget authority taking into consideration the estimated collections from 10 CFR Part 170 fees and the number of licensees paying fees;

2. Assess 10 CFR Part 171 annual fees of less than $100,000 to materials licensees on the anniversary date of the license. This change continues the streamlining of fees and allows the NRC to make the billing process more efficient by distributing the billing and collection of annual fees over the entire year. The current practice is to bill over 6,000 materials licensees at the same time during the fiscal year;

3. Eliminate the materials ''flat'' renewal fees in 10 CFR 170.31 and include the costs of the renewals in the annual fees in 10 CFR 171.16(d) for the affected licensees. This change continues the simplification of fees initiated in FY 1995 and is consistent with NRC's recent Business Process Reengineering initiatives to extend the duration of certain materials licenses (61 FR 1109; January 16, 1996);

4. Revise the two professional hourly rates in 10 CFR 170.20 which are used to determine the Part 170 fees assessed by the NRC. The rate for FY 1996 for the reactor program is $128 per hour and the rate for the materials program is $120 per hour; and

5. Adjust the 10 CFR 170.21 and 170.31 licensing (application and amendment) ''flat'' fees for materials licenses to reflect the costs of providing the licensing services.

II. Responses to Comments

The NRC received eight comments on the proposed rule. Although the comment period ended on February 29, 1996, the NRC has reviewed and

evaluated all comments received, including those that were late.

Many of the comments were similar in nature. For evaluation purposes, these comments have been grouped, as appropriate, and addressed as single issues in this final rule. The comments are as follows:

A. Comments Regarding the Major Changes Proposed in the FY 1996 Fee Rule

1. Streamline and Stabilize Annual Fees

Comment. All commenters responding to this proposed change were encouraged by and supported the positive steps taken by NRC to equitably distribute and to reduce the burden of user fees on licensees. Several commenters indicated that this change represents a greater simplification and streamlining of the fee setting procedures and has eliminated the dramatic swings in NRC fees seen in the past. Commenters stated that the approximate 6 percent reduction in annual fees for all licensees is evidence of this. Other commenters stated that the NRC should continue the process of streamlining and commensurate fee reduction because it is a responsible approach in light of today's highly competitive global nuclear marketplace.

Response. Consistent with the comments, the final rule adopts the methodology to streamline and stabilize FY 1996 annual fees by adjusting these fees by the percentage change (plus or minus) in NRC's total budget authority. The FY 1995 annual fees have been used as base annual fees and these annual fees have been adjusted downward for FY 1996 based on the percentage change in the NRC's budget authority, taking into consideration the total number of licensees paying fees and estimated collections from 10 CFR Part 170 licensing and inspection fees. Therefore for FY 1996, all annual fees have been adjusted 6.5 percent below the FY 1995 levels.

2. Assess Annual Fees of Less Than $100,000 to Materials Licenses on the Anniversary Date of License

Comment. Commenters supported the NRC's proposal to invoice materials annual fees of less than $100,000 on the anniversary date of the license. Commenters stated that, while helping to assist NRC in its billing efforts, it will also provide some relief to entities who have several licenses. The proposed system will allow these licensees to distribute their cash outlays over a longer period of time easing the financial stresses caused by a single payment period.

Response. Consistent with the comments, the NRC in this final rule will assess § 171.16(d) annual fees for those materials licenses whose annual fees are less than $100,000 based on the anniversary of the date the license was originally issued. Accordingly, a new paragraph is added to § 171.19. For FY 1996, those affected materials licenses with a license anniversary date between October 1, 1995, and the effective date of this final FY 1996 fee rule will be billed upon publication of the final rule in the Federal Register and annually thereafter during the anniversary month of the license. Those affected materials licenses whose license anniversary date is on or after the effective date of this final FY 1996 fee rule will be billed during the anniversary month of the license and annually thereafter based on the annual fee in effect at the time of billing. The specific license categories of materials licensees affected by this change are listed in § 171.19(d) of this final rule.

3. Revise the Two Professional Rates in 10 CFR 170.20 Based on the FY 1996 Budget and Adjust the 10 CFR 170.21 and 170.31 Licensing (Application and Amendment) ''Flat'' Fees for Licenses to Reflect the Costs of Providing the Licensing Services

Comment. Commenters supported the revised method of calculating two hourly rates adopted by NRC in FY 1995 to separately, and more equitably, allocate costs associated with the reactor program and the materials program. Commenters stated that the two rates, based on cost center concepts that identify and allocate budgeted resources, is inherently fairer and more equitable to licensees and is more consistent with Congressional intent to identify and properly assess fees to those entities that utilize NRC resources and regulatory services. However, some commenters indicated that, while they are pleased that the materials rate increase is under 4 percent ($116 per hour to $120 per hour) and generally in keeping with inflation, the rate itself is unjustifiably high. These commenters stated that the $120 hourly rate equals or exceeds the hourly rate of senior consultants or principals at major (national) consulting companies and that it exceeds the accepted rate for similar work in private industry. Some commenters pointed out the increase in the hourly rates exceeds the general increase that was provided to all Federal government workers on January 1, 1996, and they encourage the NRC to control its costs by seeking efficiencies in order to attain a downward trend of licensing and inspection fees comparable to that being realized in the annual fees. Other commenters indicated that the average cost per staff hour assumes a lower number of work hours relative to that commonly applied in industry and a multiplier which would appear to significantly exceed those commonly enjoyed by private industry. Some commenters stated that although summary calculations are presented in the proposed revisions, insufficient detail is provided to determine the justification for an increase in the hourly fees, i.e., the NRC has not listed the assumptions used in forecasting the predicted FTEs (full time equivalents) considered necessary for the materials program.

Response. Consistent with the comments, the NRC has established in this final rule two professional hourly rates for FY 1996 which will be used to determine the 10 CFR Part 170 fees. A rate of $128 per hour is established in § 170.20 for the reactor program and a second rate of $120 per hour is established in § 170.20 for the nuclear materials and nuclear waste programs. The two rates are based on the ''cost center'' concept that is now being used for budgeting purposes.

The NRC professional hourly rates are established to recover approximately 100 percent of the agency's Congressionally-approved budget, less the appropriation from the Nuclear Waste Fund (NWF), as required by OBRA–90. The rates reflect the NRC budgeted cost per direct professional hour. This cost includes the salary and benefits for the direct hours, and a prorata share of the salary and benefits for the program and agency overhead and agency general and administrative expenses (e.g., rent, supplies, and information technology). Both the method and budgeted costs used by the NRC in the development of the hourly rates of $128 and $120 are discussed in detail in Part III, Section-by-Section Analysis, relating to § 170.20 of the proposed rule (61 FR 2951; January 30, 1996) and the same section of this final rule. For example, Table II shows the budgeted costs and the direct FTEs that must be recovered through fees assessed for the hours expended by the direct FTEs. The budgeted costs as well as the direct resources are those required by the NRC to implement its statutory responsibilities and effectively accomplish the mission of the agency. Additional information on the hourly rates is provided in the NRC workpapers located in the Public Document Room. The specific details regarding the budget for FY 1996 are documented in the NRC's publication ''Budget Estimates, Fiscal Years 1996–1997'' (NUREG–1100,

Volume 11), which is available to the public. Copies of NUREG–1100, Volume 11, may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and copying for a fee in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555–0001.

B. Other Comments

1. Public Interest Exemptions

Comment. Commenters supported NRC's decision to continue to charge annual fees to Federal agencies and to deny their requests for exemption based on ''public good'' claims.

Response. Consistent with the proposed rule and the comments received, the NRC does not intend to grant public good exemptions to Federal agencies.

2. Fee Legislation

Comment. Several commenters noted that the NRC had completed its report on fee policy as required by the Energy Policy Act of 1992 and that the NRC had sent a report to Congress with legislative recommendations. The commenters commended NRC's efforts in this regard and stated that they continue to believe that 100 percent fee recovery for NRC, as mandated by OBRA–90, is inequitable and unfair to licensees because licensees are paying for certain costs that are not directly related to and do not benefit them. The commenters acknowledged that without legislative changes to OBRA–90, the central problems with NRC's fees cannot be completely resolved. Commenters strongly supported more efforts to define a more equitable fee base and recommended that the NRC continue to work with Congress and the Administration to obtain the necessary legislative changes. In this regard, commenters stated that it is time for NRC to actively pursue a legislative agenda with Congress by drafting specific language to modify OBRA–90 or the Atomic Energy Act.

Response. The need for legislation is beyond the scope of this rulemaking proceeding. As indicated in the FY 1995 final rule (60 FR 32218; June 20, 1995), the NRC will continue to work with the Congress to make fees more fair and equitable.

3. Reexamine the Issue of Fees

Comment. Some commenters stated that both Congress and the NRC should reexamine the whole issue of fees in the context of the substantial concerns of licensees regarding the trend of more states entering into the Agreement State program. These commenters refer to the stated intentions of Pennsylvania, Ohio, Massachusetts, and Oklahoma to become Agreement States. The commenters indicated that the NRC would then lose about 30 percent of the existing license base and fees would significantly increase unless other budgeting methods are approved or the number of FTEs is reduced in proportion to the reduction in the number of licenses.

Commenters from the uranium recovery industry also indicated that, as the uranium recovery industry continues to shrink in size, the decreasing number of licensees will ultimately be charged increasing annual fees thereby forcing more financial hardships on an already depressed industry. Commenters state that the current system gives preferential treatment to licensees in Agreement States. One commenter suggested that the NRC should enter into reimbursable agreements with the Agreement States before FY 1997, as stated in the FY 1995 final rule. In addition, one commenter believes that NRC should assess the Environmental Protection Agency (EPA) for NRC work such as review of regulations promulgated by EPA relating to radionuclide emission standards.

Response. In FY 1995, the NRC changed the methodology for allocating those budgeted costs (about 10 percent of the NRC budget authority) that cause fairness and equity concerns because the legislation requested by the NRC had not been passed by the Congress (60 FR 32218; June 20, 1995). These costs, which include the cost of the Agreement State oversight and regulatory support to the Agreement States, are now treated in a manner similar to overhead. These costs are distributed based on the percentage of the budget directly attributable to a class of licensees. Commenters at that time supported this method of allocation as being more equitable, pending legislative relief by Congress to remedy this inequitable situation. If additional states become Agreement States and the NRC decides to rebaseline the fees based on substantive changes to the budget, then any increased cost for Agreement State oversight and regulatory support to the Agreement States would be identified, treated similar to overhead, and distributed based on the percentage of the budget directly attributable to a class of licensees.

The NRC also revised its methodologies in the FY 1995 final rule for determining annual fees for fuel facility and uranium recovery licensees. The revised methodologies resulted in annual fees that more accurately reflect the costs of providing regulatory services to the subclasses of fuel facility and uranium recovery licensees. The revised methodologies were fully explained in Section IV, Section-by-Section Analysis, of the final FY 1995 rule (60 FR 32218; June 20, 1995).

In response to comments relative to annual fee increases as a result of the decrease in the number of licensees, the changes adopted in the FY 1995 final rule to stabilize fees should minimize large fee changes as a result of decreases in licensees. This is substantiated by this final FY 1996 rule which reduces all annual fees by the percent change to the FY 1995 levels.

The NRC indicated in the FY 1995 proposed rule (60 FR 14672; March 20, 1995) that it planned to increase the use of reimbursable agreements with Agreement States and Federal agencies beginning in FY 1997. To this end, the NRC has begun this process for Federal agencies. For example, in FY 1995 the NRC entered into reimbursable agreements with the National Aeronautics and Space Administration (NASA) for the Cassini mission and the Department of Energy (DOE) for plutonium disposition. Reimbursable agreements with Agreement States, however, continue to generate strong responses, both positive and negative, on the part of licensees and Agreement States.

With respect to the interaction between the NRC and EPA on the promulgation of regulations, NRC interactions with EPA are an integral part of NRC's responsibilities under the Atomic Energy Act. Therefore, NRC must include the costs of this work in its budget and cannot perform such work under reimbursable agreements. In addition, the Independent Offices Appropriation Act of 1952, as amended, precludes the NRC from charging fees to Federal agencies for specific services rendered. While the NRC can assess annual fees to Federal agencies holding NRC licenses, the EPA is not considered a licensee of the NRC with respect to regulations promulgated by EPA relating to radionuclide emission standards.

4. Fees Based on Other Factors

Comment. One commenter indicated that NRC fees should take into consideration the competitive condition of certain markets and the effect of fees on domestic and foreign competition. For example, the commenter suggested that the NRC assess a small fee, such as $5.00 per pound, on imported uranium

to help offset the NRC budget and that OBRA–90 be amended to include this provision. In addition, the commenter suggested that a fee be added to foreign Separative Work Units (SWUs) used by U.S. utilities to enrich uranium. The commenter indicated that these fees, if levied, would not only solve part of the NRC's financing problems, but would also ''rejuvenate the domestic uranium mining, milling, and enrichment businesses.'' Another commenter believes that NRC should give full consideration to the effects of imposing significant annual fees on the domestic uranium recovery industry particularly in light of the Secretary of Energy's determination that the industry is non-viable and the requirement of the Atomic Energy Act that the country maintain a viable domestic source material industry to sustain vital national interests.

Response. OBRA–90 requires that the fees assessed to licensees have a reasonable relationship, to the maximum extent practicable, to the cost of providing the service. The IOAA requires that licensing fees be based on the cost of the services rendered. Consistent with these requirements, the NRC assesses licensing fees for import licenses. Basing fees on market competitive positions or assessing a $5.00 per pound surcharge on imported uranium would not be consistent with these statutes. The issue of adverse economic impact of fees on NRC licensees was addressed in the FY 1991 final rule published July 10, 1991 (56 FR 31476). The NRC indicated that there will be adverse impacts from implementing the legislation and to eliminate the adverse effects, the annual fees would have to be eliminated or reduced. The issues of basing fees on market competitive positions, the amount of material possessed, the frequency of use of the material, and the size of the facilities, were also addressed by the NRC in previous rules and in the Regulatory Flexibility Analysis in Appendix A to the final rule published July 10, 1991 (56 FR 31511–31513). The NRC did not adopt that approach because it would require licensees to submit large amounts of new data and would require additional NRC staff to evaluate the data submitted and to develop and administer even more complex fee schedules. The NRC continues to believe that uniformly allocating the generic and other regulatory costs to the specific licensee within a class to determine the amount of the annual fee is a fair, equitable, and practical way to recover those costs and that establishing reduced annual fees based on gross receipts (size) is the most appropriate approach to minimize the impact on small entities. Therefore, the NRC finds no basis for altering its approach at this time. This approach was upheld by the D.C. Circuit in its March 16, 1993 decision in *Allied-Signal.*

5. Comment

Several comments were received from uranium recovery licensees suggesting: (1) A tiered fee system that would result in full fees for operating facilities and reduced fees for facilities in shutdown or standby status; (2) a licensee review board be established to review NRC fees annually; (3) the NRC establish standards for its activities, such as a schedule for response intervals for processing licensing actions; and (4) 10 CFR Part 170 bills for services rendered be itemized to show hours spent, a description of the work performed, the names of individuals who completed the work and the dates the work was performed.

Response. In response to a petition of rulemaking from the American Mining Congress (now the National Mining Association) the NRC addressed each of these comments in the Federal Register on April 28, 1995 (60 FR 20918–20922). For the reasons provided in response to the petition, the NRC is not adopting the suggestions from the commenters in this final rule. While denying the petition, the NRC noted that it would continue its current practice of providing available backup data to support 10 CFR Part 170 licensing and inspection billings upon request by the licensee or applicant.

6. Relationship Between Fees and Regulatory Services

Comment. Several commenters indicated that although they appreciate NRC's efforts to stabilize fees, they have concerns about the lack of a reasonable relationship between the cost to uranium recovery licensees of NRC's regulatory program and the benefit derived from such services. The commenters assert that the Commission cannot impose fees under the IOAA unless there is a rational relationship between the fees and the regulatory services provided. The commenters, citing *Central & S. Motor Freight Tariff Ass'n* v. *United States,* 777 F.2d 722, 729 (D.C. Cir. 1985), note that in applying this IOAA requirement, the fees assessed must be reasonably related to, and may not exceed the value of the service to the recipient whatever the agency's cost may be. The commenters then suggest that the NRC fee system may violate this principle because the proposed hourly rate of $120 for services provided by agency professionals is unduly high.

Response. The Commission believes that its IOAA fee schedule is fully supported by applicable legal precedent and does not adopt commenters' suggestion. In upholding the Commission's IOAA fee schedule, the United States Court of Appeals for the Fifth Circuit held that the NRC may recover the full cost of providing a service to an identifiable recipient. (Emphasis in original) *Mississippi Power & Light* v. *NRC,* 601 F.2d at 230. This is consistent with the earlier teaching of *National Cable Television Ass'n Inc.* v. *FCC,* 554 F.2d 1094, 1106 (D.C. 1976) relied upon by the court in *Central & S Motor Freight Tariff Ass'n, supra.* There the court held that fees should be a reasonable approximation of the attributable costs which the Commission identifies as being expended to benefit the recipient. The Court suggested that a fee might be questionable if the fee unreasonably exceeds the value of the specific services for which it is charged. Here the services provided by the NRC are required for licensees to maintain their licenses and the benefits derived therefrom. The basis for the revised hourly rates is fully discussed in NRC's response to comment A.3. which relate to the hourly rates being assessed by NRC under 10 CFR Part 170. The commenters have provided virtually no evidence that could cause the NRC to conclude that its fees unreasonably exceed the value of the services rendered.

7. Competitive Bids by Contractors

Comment. Two commenters indicated that to control costs government agencies routinely require competitive bids for contract labor. The commenters stated that costs incurred by the Oak Ridge National Laboratory (ORNL) are considered by many licensees to be excessive, yet NRC awards contracts to ORNL on an apparently sole source basis. The commenters suggest that NRC consider as large a pool as possible for potential contractors including both government laboratories and private consultants when seeking contract labor.

Response. The NRC is committed to making its regulatory programs more efficient and effective wherever it can do so without diminishing its ability to protect the public health and safety. The NRC follows accepted contracting practices in all contract awards. Before determining whether to place work with a commercial source under the competitive proposal process or with a DOE laboratory, the NRC considers the

type of work to be done, the expertise required, and the past performance of the contractor. If the NRC determines that commercial sources are appropriate to perform the work and that conflict of interest can be avoided, a competitive procurement may be initiated. Otherwise, a DOE laboratory may be selected to perform the work. Costs are routinely considered and negotiated in either case.

Costs for particular actions are also affected by the quality of the licensee submittal, the timeliness and quality of licensees responses to NRC questions, delays caused by external factors, the complexity of the site, and the degree of cooperation by the licensee with NRC.

8. Regulatory Deficiencies

Comment. Two commenters indicated that the proposed rule has no provision for allowing licensees to object to unreasonable costs. The commenters stated that without such a mechanism, licensees are at the mercy of the regulators and are expected to pay for services billed and that there is no assurance that any given regulatory function performed by the NRC will be completed expeditiously, efficiently, or within a reasonable range of cost.

Response. While the NRC is committed to the expeditious review of each application and uses all reasonable means of keeping costs as low as feasible, its responsibility for ensuring the public health and safety and environmental protection cannot be compromised. The NRC is committed to the effective use of its increasingly limited resources and therefore cannot afford to use these resources unwisely if it is to successfully perform its mission. 10 CFR Part 170.51 of the Commission's regulations provides the mechanism whereby licensees are allowed to dispute a debt if they believe the debt is incorrect. Disputed debts must be submitted in accordance with the provisions of 10 CFR Part 15.31 ''Disputed Debts.''

9. Fee Deferral Policy for Standard Plant and Early Site Reviews

Comment. One commenter urged the NRC to reestablish the NRC's previous fee deferral policy for standard plant and early site reviews in order to encourage the development of standardized designs and in light of the NRC decision to issue designs to be certified through rulemaking rather than by granting a license for the certified design.

Response. The NRC addressed this issue in the FY 1995 final rule (60 FR 32222; June 20, 1995), indicating that the Commission decided in its FY 1991 final fee rule that the costs for standardized reactor design reviews, whether for domestic or foreign applicants, should be assessed under 10 CFR Part 170 to those filing an application with the NRC for approval or certification of a standardized design (56 FR 31478; July 10, 1991). The Commission revisited this issue as part of its review of fee policy required by the Energy Policy Act of 1992 (EPA–92) and reconfirmed its FY 1991 decision. The NRC continues to believe that the costs of these reviews should be assessed to advanced reactor applicants. The NRC finds no compelling justification for singling out these types of applications for special treatment and shifting additional costs to operating power reactors or other NRC licensees, and does not believe the points made by the commenter are sufficient to change current policy.

10. Credit for Services Rendered to NRC by Licensees

Comment. One commenter stated that the company performs services for the NRC which include training of NRC personnel, familiarization visits for NRC staff and contractors, and NRC requested tours for foreign and domestic dignitaries. The commenter believes that recovery of the costs by the licensee from the NRC would be justified and suggested that cost recovery for the licensee be implemented via ''credits'' against NRC annual fees.

Response. The annual fees assessed by the NRC are those necessary to recover 100 percent of its budget authority. In order to give ''credits'' to licensees, the NRC would have to adjust the entire annual fee structure for a few licensees who volunteer to assist the NRC from time to time. Other licensees would be required to pick up the lost sums attributable to the credits. The NRC notes that it is solely within the discretion of the licensee to determine whether or not such assistance should be provided to the NRC. Therefore, the NRC is not adopting this suggestion.

11. Billing of the Office of Nuclear Regulatory Research Activities Related to Design Certification Reviews

Comment. One commenter stated that NRC should bill design certification applicants for the Office of Nuclear Reactor Regulation (NRR) activities only and not bill for any activities relating to the Office of Nuclear Regulatory Research (RES).

Response. This issue was addressed in the final FY 1995 fee rule. After careful consideration of the comments received on the proposed rule, the NRC indicated that beginning with the effective date of the FY 1995 final fee rule the NRC would bill applicants for RES's direct review and evaluation of the standard design in support of the NRC's Final Design Approval (FDA) design certification (60 FR 14673; March 20, 1995). In the final FY 1995 fee rule, the NRC stated that it was changing its fee policy in this area and that it will charge vendors for only the research which is necessary to support the issuance of the FDA or certification. Research initiated to address generic issues, such as human factors or code development, will be included in the annual fee assessed under 10 CFR Part 171 annual fees (60 FR 32224; June 20, 1995). The NRC does not believe the arguments advanced by the commenter are sufficient to warrant a change in agency policy.

III. Final Action

The NRC is amending its licensing, inspection, and annual fees to recover approximately 100 percent of its FY 1996 budget authority, including the budget authority for its Office of the Inspector General, less the appropriations received from the NWF. For FY 1996, the NRC's budget authority is $473.3 million, of which $11.0 million has been appropriated from the NWF. Therefore, OBRA–90 requires that the NRC collect approximately $462.3 million in FY 1996 through 10 CFR Part 170 licensing and inspection fees and 10 CFR Part 171 annual fees. This amount to be recovered for FY 1996 is about $41.3 million less than the total amount to be recovered for FY 1995 and $50.7 million less when compared to the amount to be recovered for FY 1994. The NRC estimates that approximately $120.5 million will be recovered in FY 1996 from fees assessed under 10 CFR Part 170 and other offsetting receipts. The remaining $341.8 million will be recovered through the 10 CFR Part 171 annual fees established for FY 1996.

As a result of the reduced amount to be recovered for FY 1996 and the final changes outlined in this section, the FY 1996 annual fees for all licensees have been reduced by 6.5 percent compared to the annual fees assessed for FY 1995. The following examples illustrate changes in annual fees.

	FY 1995 annual fee	FY 1996 annual fee
Class of Licensees:		
Power Reactors	$2,936,000	$2,746,000
Nonpower Reactors	56,500	52,800

	FY 1995 annual fee	FY 1996 annual fee
High Enriched Uranium Fuel Facility	2,569,000	2,403,000
Low Enriched Uranium Fuel Facility	1,261,000	1,179,000
UF_6 Conversion Facility	639,200	597,800
Uranium Mills	60,900	57,000
Typical Materials Licensees:		
Radiographers	13,900	13,000
Well Loggers	8,100	7,500
Gauge Users	1,700	1,600
Broad Scope Medical	23,200	21,700

The NRC is also continuing its streamlining of the fee structure and process for materials licenses which began in FY 1995 and will make other changes as discussed in Sections A and B. Among the changes will be a change in the billing date for the annual fees imposed on many materials licensees.

The NRC's fees for FY 1996 will become effective 60 days after publication of the final rule in the Federal Register. The NRC will send a bill for the amount of the annual fee upon publication of the FY 1996 final rule to the licensee or certificate, registration or approval holder not subject to quarterly billing (those licensees who pay annual fees of less than $100,000) and whose anniversary date (the first day of the month in which the original license was issued) is before the effective date of the final FY 1996 rule. For these licensees, payment will be due on the effective date of the FY 1996 rule. Those materials licensees whose license anniversary date during FY 1996 falls after the effective date of the final FY 1996 rule will be billed during the anniversary month of the license and payment will be due on the date of the invoice.

A. Amendments to 10 CFR Part 170: Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services

Four amendments have been made to 10 CFR Part 170. These amendments do not change the underlying basis for the regulation—that fees be assessed to applicants, persons, and licensees for specific identifiable services rendered. The amendments also comply with the guidance in the Conference Committee Report on OBRA–90 that fees assessed under the Independent Offices Appropriation Act (IOAA) recover the full cost to the NRC of identifiable regulatory services each applicant or licensee receives.

First, the two professional hourly rates established in FY 1995 in § 170.20 are revised based on the FY 1996 budget. These rates are based on the FY 1996 direct FTEs and that portion of the FY 1996 budget that either does not constitute direct program support (contractual services costs) or is not recovered through the appropriation from the NWF. These rates are used to determine the Part 170 fees. The NRC has established a rate of $128 per hour ($223,314 per direct FTE) for the reactor program. This rate is applicable to all activities whose fees are based on full cost under § 170.21 of the fee regulations. A second rate of $120 per hour ($209,057 per direct FTE) is established for the nuclear materials and nuclear waste program. This rate is applicable to all materials activities whose fees are based on full cost under § 170.31 of the fee regulations.

The two rates are based on cost center concepts adopted in FY 1995 (60 FR 32225; June 20, 1995) and used for NRC budgeting purposes. In implementing cost center concepts, all budgeted resources are assigned to cost centers to the extent they can be separately distinguished. These costs include all salaries and benefits, contract support, and travel that support each cost center activity.

Second, the NRC has adjusted the current Part 170 licensing and inspection fees in §§ 170.21 and 170.31 for applicants and licensees to reflect the changes in the revised hourly rates.

Third, to continue FY 1995 initiatives for streamlining its fee program and improving the predictability of fees, the NRC has eliminated certain materials ''flat'' renewal fees in § 170.31 and has amended § 170.12 accordingly. This final action is also consistent with NRC's recent Business Process Reengineering initiative to extend the duration of certain materials licenses. The NRC published a proposed rule in the Federal Register for comment on September 8, 1995 (60 FR 46784) explaining this initiative. In the September 8, 1995, proposed rule, certain materials licenses would be extended for five years beyond their expiration date. Additionally, comments were requested on the general topic of the appropriate duration of licenses. A final rule was published in the Federal Register on January 16, 1996 (61 FR 1109).

The elimination of 10 CFR Part 170 materials ''flat'' renewal fees continues to recognize that the NRC's ''regulatory service'' provided to licensees, as referred to in OBRA–90, is comprised of the total regulatory activities that the NRC determines are needed to regulate a class of licensees. These regulatory activities include not only renewals but also inspections, research, rulemaking, orders, enforcement actions, responses to allegations, incident investigations, and other activities necessary to regulate classes of licensees. This final action does not result in any net fee increases for affected licensees and would provide those licensees with greater fee predictability, a frequent licensee request in comments on past fee rules. The materials annual fees, which include the cost for any renewals, are effective for FY 1996. Materials licensees who paid a ''flat'' 10 CFR Part 170 renewal fee for renewal applications filed in FY 1996 will receive a refund for those payments, as appropriate.

Fourth, the language in § 170.31, Category 15, relating to export and import licenses, is amended to clarify that export and import of materials includes the export and import of radioactive waste. The NRC amended 10 CFR Part 110 effective August 21, 1995 (60 FR 37556; July 21, 1995), to require specific licenses for the export or import of radioactive waste.

In summary, the NRC has (1) revised the two 10 CFR Part 170 hourly rates; (2) revised the licensing fees assessed under 10 CFR Part 170 to reflect the cost to the agency of providing the service; (3) eliminated the materials ''flat'' renewal fees in § 170.31 and amended § 170.12 accordingly; and (4) amended Category 15 in § 170.31 to make clear that fees will be assessed for licenses authorizing the export or import of radioactive waste.

B. Amendments to 10 CFR Part 171: Annual Fees for Reactor Operating Licenses, and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by NRC

Three amendments have been made to 10 CFR Part 171. First, the NRC is amending §§ 171.15 and 171.16 to revise the annual fees for FY 1996 to recover approximately 100 percent of the FY 1996 budget authority, less fees collected under 10 CFR Part 170 and funds appropriated from the NWF.

In the FY 1995 final rule, the NRC stated that it would stabilize annual fees as follows. Beginning in FY 1996, the NRC would adjust the annual fees only by the percentage change (plus or minus) in NRC's total budget authority unless there was a substantial change in the total NRC budget authority or the magnitude of the budget allocated to a specific class of licensees. If either case occurred, the annual fee base would be

recalculated (60 FR 32225; June 20, 1995). The NRC also indicated that the percentage change would be adjusted based on changes in the 10 CFR Part 170 fees and other receipts as well as on the number of licensees paying the fees. The NRC does not believe the changes to the FY 1996 budget compared to the FY 1995 budget warrant establishing new baseline fees for FY 1996. Therefore, the NRC is establishing the FY 1996 annual fees for all licensees at a level of 6.5 percent below the FY 1995 annual fees. The 6.5 percent reduction is based on the changes in the budget to be recovered from fees, the amount of the budget recovered for 10 CFR Part 170 fees and other offsetting receipts, and changes in the number of licensees paying annual fees. Table I shows the total budget and fee amounts for FY 1995 and FY 1996.

TABLE I.—CALCULATION OF THE PERCENTAGE CHANGE TO THE FY 1995 ANNUAL FEES

[Dollars in millions]

	FY95	FY96
Total Budget	$525.6	$473.3
Less NWF	−22.0	−11.0
Total Fee Base	503.6	462.3
Less Part 170 Fees and Other Receipts	141.1	120.5
Total Annual Fee Amount	362.5	341.8

As shown in Table I, the total amount to be recovered from annual fees in FY 1996 is $20.7M ($341.8-$362.5) or 5.7 percent less than the amount that was to be recovered from annual fees in FY 1995. This difference is the net change resulting from a reduction in the budget and a reduction in the expected collection from 10 CFR Part 170 fees and other receipts. The NRC notes that the reduction in 10 CFR Part 170 fees for FY 1996 results primarily from the fact that NRC had a one-time collection of five quarters of 10 CFR Part 170 fees in FY 1995 as a result of changes in its billing practices which permits the NRC to bill for services shortly after they are rendered.

In addition to changes in the budget and 10 CFR Part 170 fees and other receipts, the number of licensees to pay fees in FY 1996 changed compared to FY 1995. Also, the amount of the small entity surcharge (difference between annual fee and small entity fee) decreased as the annual fees decreased. The changes in the number of licensees in the various classes plus the reduction in the small entity surcharge result in an additional decrease in the annual fee per licensee of 0.8 percent. Thus the total change in the annual fees for FY 1996 compared to FY 1995 is a decrease of 6.5 percent (5.7 percent plus 0.8 percent).

Second, Footnote 1 of 10 CFR 171.16(d) is amended to provide for a waiver of annual fees for FY 1996 for those materials licensees, and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1, 1995, and permanently ceased licensed activities entirely by September 30, 1995. All other licensees and approval holders who held a license or approval on October 1, 1995, are subject to FY 1996 annual fees. This change is made in recognition of the fact that since the final FY 1995 rule was published in June 1995, some licensees have filed requests for termination of their licenses or certificates with the NRC. Other licensees have either called or written to the NRC since the FY 1995 final rule became effective requesting further clarification and information concerning the annual fees assessed. The NRC is responding to these requests as quickly as possible. However, the NRC was unable to respond and take action on all such requests before the end of the fiscal year on September 30, 1995. Similar situations existed after the FY 1991–1994 rules were published, and in those cases, the NRC provided an exemption from the requirement that the annual fee is waived only when a license is terminated before October 1 of each fiscal year.

Third, beginning in FY 1996, the NRC will assess § 171.16(d) annual fees based on the anniversary of the date the license was originally issued for those materials licenses whose annual fees are less than $100,000. Accordingly, a new paragraph is added to § 171.19. For example, if the original license was issued on June 17, then the anniversary date of that materials license, for annual fee purposes is June 1. The licensee will be billed in June of each year for the annual fees in effect on the anniversary date (the first day of the month that the original license was issued) of the license. For FY 1996, those affected materials licenses with a license anniversary date between October 1, 1995, and the effective date of the final FY 1996 fee rule will be billed upon publication of the final rule in the Federal Register and annually thereafter during the anniversary month of the license. Those affected materials licenses whose license anniversary date is on or after the effective date of the final FY 1996 fee rule will be billed during the anniversary month of the license and annually thereafter based on the annual fee in effect at the time of billing. The specific license categories of materials licensees affected by this final change are listed in § 171.19(d) of this final rule.

Billing certain materials licensees on the anniversary date of the license will allow the NRC to make the billing process more efficient by distributing the billing and collection of annual fee invoices over the entire year. The current practice is to bill over 6,000 materials licenses simultaneously during the fiscal year. Section 171.19 is amended to credit quarterly partial annual fee payments for FY 1996 already made by certain licensees in FY 1996 either toward their total annual fee to be assessed, or to make refunds, if necessary. Materials licensees who paid a ''flat'' 10 CFR Part 170 renewal fee for renewal applications filed in FY 1996 will receive a refund for those payments, as appropriate.

The final amendments to 10 CFR Part 171 do not change the underlying basis for 10 CFR Part 171; that is, charging a class of licensees for NRC costs attributable to that class of licensees. The changes are consistent with the NRC's FY 1995 final rule indicating that, for the period FY 1996–1999, the expectation is that annual fees will be adjusted by the percentage change (plus or minus) to the NRC's budget authority adjusted for NRC offsetting receipts and the number of licensees paying annual fees.

IV. Section-by-Section Analysis

The following analysis of those sections that will be amended by this final rule provides additional explanatory information. All references are to Title 10, Chapter I, U.S. Code of Federal Regulations.

Part 170

Section 170.12 Payment of Fees

This section is amended to conform to the streamlining changes being made by the NRC. Section 170.12(a), which describes application fees, is amended to recognize that the NRC will not issue a new license or amendment prior to receipt of the prescribed fee. Section 170.12(d), which describes renewal fees, is amended to recognize that materials ''flat'' renewal fees are eliminated. Section 170.12(g), which discusses inspection fees, is amended to recognize that materials ''flat'' inspection fees were eliminated in the FY 1995 final rule (60 FR 32218; June 20, 1995).

Section 170.20 Average Cost Per Professional Staff Hour

This section is amended to establish two professional staff-hour rates based on FY 1996 budgeted costs—one for the reactor program and one for the nuclear material and nuclear waste program. Accordingly, the NRC reactor direct staff-hour rate for FY 1996 for all activities whose fees are based on full cost under § 170.21 is $128 per hour, or $223,314 per direct FTE. The NRC nuclear material and nuclear waste direct staff-hour rate for all materials activities whose fees are based on full cost under § 170.31 is $120 per hour, or $209,057 per direct FTE. The rates are based on the FY 1996 direct FTEs and NRC budgeted costs that are not recovered through the appropriation from the NWF. The NRC has continued the use of cost center concepts established in FY 1995 in allocating certain costs to the reactor and materials programs in order to more closely align budgeted costs with specific classes of licensees. The method used to determine the two professional hourly rates is as follows:

1. Direct program FTE levels are identified for both the reactor program and the nuclear material and waste program.

2. Direct contract support, which is the use of contract or other services in support of the line organization's direct program, is excluded from the calculation of the hourly rate because the costs for direct contract support are charged directly through the various categories of fees.

3. All other direct program costs (i.e., Salaries and Benefits, Travel) represent ''in-house'' costs and are to be allocated by dividing them uniformly by the total number of direct FTEs for the program. In addition, salaries and benefits plus contracts for general and administrative support are allocated to each program based on that program's salaries and benefits. This method results in the following costs which are included in the hourly rates.

TABLE II.—FY 1996 BUDGET AUTHORITY TO BE INCLUDED IN HOURLY RATES

[Dollars in millions]

	Reactor program	Materials program
Salary and Benefits:		
Program	$149.6	$46.3
Allocated Agency Management & Support	40.9	12.7
Subtotal	190.5	59.0
General and Administrative Support (G&A):		
Program Travel and Other Support	11.7	3.2
Allocated Agency Management and Support	69.5	21.5
Subtotal	81.2	24.7
Less offsetting receipts	.1	.....
Total Budget Included in Hourly Rate	271.6	83.7
Program Direct FTEs	1,216.2	400.5
Rate per Direct FTE	223,314	209,057
Professional Hourly Rate	128	120

Dividing the $271.6 million budget for the reactor program by the number of reactor program direct FTEs (1216.2) results in a rate for the reactor program of $223,314 per FTE for FY 1996. Dividing the $83.7 million budget for the nuclear materials and nuclear waste program by the number of program direct FTEs (400.5) results in a rate of $209,057 per FTE for FY 1996. The Direct FTE Hourly Rate for the reactor program is $128 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE ($223,314) by the number of productive hours in one year (1744 hours) as indicated in OMB Circular A–76, ''Performance of Commercial Activities.'' The Direct FTE Hourly Rate for the materials program is $120 per hour (rounded to the nearest whole dollar). This rate is calculated by dividing the cost per direct FTE ($209,057) by the number of productive hours in one year (1744 hours). The method used to calculate the FY 1996 hourly rate is the same as the method used in the FY 1995 rule. The FY 1996 rate is slightly higher than the FY 1995 rate due in part to the Federal pay raise given to all Federal employees in January 1995.

Section 170.21 Schedule of Fees for Production and Utilization Facilities, Review of Standard Reference Design Approvals, Special Projects, Inspections and Import and Export Licenses

The NRC is revising the licensing and inspection fees in this section, which are based on full-cost recovery, to reflect FY 1996 budgeted costs and to recover costs incurred by the NRC in providing licensing and inspection services to identifiable recipients. The fees assessed for services provided under the schedule are based on the professional hourly rate, as shown in § 170.20, for the reactor program and any direct program support (contractual services) costs expended by the NRC. Any professional hours expended on or after the effective date of the final rule will be assessed at the FY 1996 hourly rate for the reactor program, as shown in § 170.20. Although the average amounts of time needed to review import and export licensing applications have not changed, the fees in § 170.21, facility Category K, have increased from FY 1995 as a result of the increase in the hourly rate.

For those applications currently on file and pending completion, footnote 2 of § 170.21 is revised to provide that professional hours expended up to the effective date of the final rule will be assessed at the professional rates in effect at the time the service was rendered. For topical report applications currently on file that are still pending completion of the review, and for which review costs have reached the applicable fee ceiling established by the July 2, 1990, rule, the costs incurred after any applicable ceiling was reached through August 8, 1991, will not be billed to the applicant. Any professional

hours expended for the review of topical report applications, amendments, revisions, or supplements to a topical report on or after August 9, 1991, are assessed at the applicable rate established by § 170.20.

Section 170.31 Schedule of Fees for Materials Licenses and Other Regulatory Services, Including Inspections and Import and Export Licenses

The licensing and inspection fees in this section, which are based on full-cost recovery, are modified to recover the FY 1996 costs incurred by the NRC in providing licensing and inspection services to identifiable recipients. The fees assessed for services provided under the schedule are based on both the professional hourly rate as shown in § 170.20 for the materials program and any direct program support (contractual services) costs expended by the NRC. Licensing fees based on the average time to review an application (''flat'' fees) are adjusted to reflect the increase in the professional hourly rate from $116 per hour in FY 1995 to $120 per hour in FY 1996. The ''flat'' renewal fees for certain materials licenses in § 170.31 are eliminated and combined with the materials annual fees in § 171.16(d).

The amounts of the licensing ''flat'' fees were rounded off so that the amounts would be de minimis and the resulting flat fee would be convenient to the user. Fees that are greater than $1,000 are rounded to the nearest $100. Fees under $1,000 are rounded to the nearest $10.

Fee Category 15, covering the fees for export and import licenses, is amended to include clarifying language that export and import of materials includes the export and import of radioactive waste. The NRC amended 10 CFR Part 110 on July 21, 1995 (60 FR 37556), to require specific licenses for the export and import of radioactive waste. The final rule became effective August 21, 1995.

The licensing ''flat'' fees are applicable to fee categories 1.C and 1.D; 2.B and 2.C; 3.A through 3.P; 4.B through 9.D, 10.B, 15.A through 15.E and 16. Applications filed on or after the effective date of the final rule are subject to the revised fees in this final rule. Although the average amounts of time needed to review licensing applications have not changed, the ''flat'' fees in § 170.31 have increased from FY 1995 as a result of the increase in the hourly rate.

For those licensing, inspection, and review fees that are based on full-cost recovery (cost for professional staff hours plus any contractual services), the materials program hourly rate of $120, as shown in § 170.20, applies to those professional staff hours expended on or after the effective date of the final rule.

Part 171

Section 171.15 Annual Fee: Reactor Operating Licenses

The annual fees in this section are revised as described below. Paragraph (d) is removed and reserved and paragraphs (a), (b), (c)(1), (c)(2) and (e) are revised to comply with the requirement of OBRA–90 that the NRC recover approximately 100 percent of its budget for FY 1996.

Paragraph (b) is revised in its entirety to establish the FY 1996 annual fee for operating power reactors and to change fiscal year references from FY 1995 to FY 1996. The fees are established by reducing FY 1995 annual fees (prior to rounding) by 6.5 percent. The activities comprising the base FY 1995 annual fee and the FY 1995 additional charge (surcharge) are listed in paragraphs (b) and (c) and continue to be shown for convenience purposes. Paragraphs (c)(1) is revised in its entirety and (c)(2) is removed and reserved.

With respect to Big Rock Point, a smaller, older reactor, the NRC hereby grants a partial exemption from the FY 1996 annual fees similar to FY 1995 based on a request filed with the NRC in accordance with § 171.11.

Each operating power reactor, except Big Rock Point, will pay an annual fee of $2,746,000 in FY 1996.

Paragraph (d) is removed and reserved.

Paragraph (e) is revised to show the amount of the FY 1996 annual fee for nonpower (test and research) reactors. In FY 1996, the annual fee of $52,800 is 6.5 percent below the FY 1995 level. The Energy Policy Act of 1992 established an exemption for certain Federally-owned research reactors that are used primarily for educational training and academic research purposes, where the design of the reactor satisfies certain technical specifications set forth in the legislation. Consistent with this legislative requirement, the NRC granted an exemption from annual fees for FY 1992 and FY 1993 to the Veterans Administration Medical Center in Omaha, Nebraska, the U.S. Geological Survey for its reactor in Denver, Colorado, and the Armed Forces Radiobiological Institute in Bethesda, Maryland, for its research reactor. This exemption was initially codified in the July 20, 1993 (58 FR 38695) final fee rule at § 171.11(a) and more recently in the March 17, 1994 (59 FR 12543) final rule at § 171.11(a)(2). The NRC amended § 171.11(a)(2) on July 20, 1994 (59 FR 36895) to exempt from annual fees the research reactor owned by the Rhode Island Atomic Energy Commission. The NRC will continue to grant exemptions from the annual fee to Federally-owned and State-owned research and test reactors that meet the exemption criteria specified in § 171.11.

Section 171.16 Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals, and Government Agencies Licensed by the NRC

Section 171.16(c) covers the fees assessed for those licensees that can qualify as small entities under NRC size standards. The NRC will continue to assess two fees for licensees that qualify as small entities under the NRC's size standards. In general, licensees with gross annual receipts of $350,000 to $5 million pay a maximum fee of $1,800. A second or lower-tier small entity fee of $400 is in place for small entities with gross annual receipts of less than $350,000 and small governmental jurisdictions with a population of less than 20,000. No change in the amount of the small entity fees is being made because the small entity fees are not based on the budget but are established at a level to reduce the impact of fees on small entities. The small entity fees are shown in this final rule for convenience.

Section 171.16(d) is revised to establish the FY 1996 annual fees for materials licensees, including Government agencies, licensed by the NRC. These fees were determined by reducing the FY 1995 annual fees (prior to rounding) by 6.5 percent.

For the first time, the NRC is combining the ''flat'' material renewal fees in 10 CFR Part 170 with the annual fees in 10 CFR Part 171. As described in the Federal Register on September 8, 1995 (60 FR 46784), recent NRC internal reviews and regulatory impact surveys of materials licensees have highlighted areas in which the current materials licensing process can be improved. The NRC has completed the preliminary phases of its Business Process Reengineering (BPR) initiative to redesign the process of licensing medical, academic, and industrial users of byproduct materials as well as with regard to some small scope users of source and special nuclear materials. The NRC has extended, by rulemaking, certain specific materials licenses by five years from the current expiration dates of those licenses. Resources that would have otherwise been used to

renew these licenses would be devoted to the BPR project. The NRC is also examining whether to permanently change the license duration for materials licenses. The NRC estimates that approximately 80 percent of its approximately 6,500 materials licenses will be extended by the final rulemaking published in the Federal Register January 20, 1996 (60 FR 1109). Consistent with this change in license renewals, the NRC is, for fee purposes, combining the materials ''flat'' renewal fees in 10 CFR Part 170 with the annual fees in 10 CFR Part 171.

This action also recognizes that the NRC's ''regulatory service'' provided to licensees, as referred to in OBRA–90, is comprised of the total regulatory activities that the NRC determines are needed to regulate a class of licensees. These regulatory activities include not only ''flat'' fee inspections but also research, rulemaking, orders, enforcement actions, responses to allegations, incident investigations, and other activities necessary to regulate classes of licensees. In addition to being consistent with the regulatory service concept of OBRA–90, the NRC believes that materials licensees' ''flat'' renewal fees can be combined with their annual fees without creating any significant questions of fairness. This is because the concept of the annual fee, including the renewal fee, has, in effect, already been implemented for most materials licensees. First, materials licensees currently pay a ''flat fee'' per renewal based on the average cost of a renewal for their fee category, and second, the renewal term of five years is identical for most materials licensees. Thus, licensees in the same materials license fee category already pay essentially the same average annual cost for renewals. Further, the average cost will decrease to a relatively small amount as a result of the five-year extension and potential change in license duration. Therefore, combining renewal and annual fees results in essentially the same average cost per license over time. This approach will provide materials licensees with simpler and more predictable NRC fee charges as there will be no additional fees paid for periodic renewals. Because certain materials FY 1996 annual fees will include renewals, those materials licensees who paid a ''flat'' 10 CFR Part 170 renewal fee for renewal applications filed in FY 1996 will be issued a refund, as appropriate.

Beginning in FY 1996, the NRC will also bill annual fees for most materials licenses on the anniversary date of the license (licensees whose annual fees are $100,000 or more will continue to be assessed quarterly). The annual fee assessed will be the fee in effect on the license anniversary date. This final rule will apply to those materials licenses in the following fee categories: 1.C. and 1.D.; 2.A.(2) through 2.C.; 3.A. through 3.P.; 4.A. through 9.D., and 10.B. Billing most materials licenses on the anniversary date of the license will allow the NRC to improve the efficiency of its billing process; under this final rule an average of approximately 500 annual fee invoices will be sent to materials licensees each month. The current practice of billing over 6,000 materials licensees simultaneously each fiscal year is eliminated. For annual fee purposes, the anniversary date of the materials license is considered to be the first day of the month in which the original materials license was issued. For example, if the original materials license was issued on June 17 then, for annual fee purposes, the anniversary date of the materials license is June 1 and the licensee will be billed in June of each year for the annual fee in effect on June 1. This final change to the billing system means that during the transition period of FY 1996 affected materials licensees with an anniversary date falling between October 1, 1995, and the effective date of the FY 1996 fee rule will receive a bill payable on the effective date of the FY 1996 final rule. Affected materials licensees with license anniversary dates falling on or after the effective date of the FY 1996 final rule will be billed during their anniversary month of their license. Under this final rule, some materials licensees will unavoidably receive two annual fee bills during the 12 month transition period. For example, a materials licensee who paid its FY 1996 annual fee bill in May 1996, the planned effective date of the FY 1996 fee rule, will receive a bill six months later in November 1996 (FY 1997) if November is the anniversary month of that materials license. In this example, the licensee will pay the same annual fee in FY 1997 (November) as he paid in FY 1996 (May). Materials licensees will continue to pay fees at the FY 1996 rate in FY 1997 until such time as the FY 1997 final fee rule becomes effective. Each bill would be for a different fiscal year, therefore, no double billing would occur.

The NRC believes that the efficiencies gained by billing certain materials annual fees throughout the year as well as having materials licensees know exactly when they will be billed each year for the annual fee outweigh the inconveniences that may be caused during the transition period. New licenses issued during FY 1996 will receive a prorated annual fee in accordance with the current proration provision of § 171.17. For example, those new materials licenses issued during the period October 1 through March 31 of the FY will be assessed one-half the annual fee for FY 1996. New materials licenses issued on or after April 1, 1996, will not be assessed an annual fee for FY 1996. Thereafter, the full annual fee is due and payable each subsequent fiscal year on the anniversary date of the license. Beginning with the effective date of this FY 1996 final rule, affected licensees will be billed and will pay the annual fee in effect on the anniversary date of the license. Affected licensees who are not sure of the anniversary date of their materials license should check the original issue date of the license.

A materials licensee may pay a reduced annual fee if the licensee qualifies as a small entity under the NRC's size standards and certifies that it is a small entity using NRC Form 526.

The amount or range of the FY 1996 annual fees for all materials licensees is summarized as follows:

MATERIALS LICENSES—ANNUAL FEE RANGES

Category of license	Annual fees
Part 70—High enriched fuel facility.	$2,403,000.
Part 70—Low enriched fuel facility.	1,179,000.
Part 40— UF_6 conversion facility.	597,800.
Part 40—Uranium recovery facilities.	20,600 to 57,000.
Part 30—Byproduct Material Licenses.	450 to 21,700.[1]
Part 71—Transportation of Radioactive Material.	950 to 72,700.
Part 72—Independent Storage of Spent Nuclear Fuel.	260,900.

[1] Excludes the annual fee for a few military ''master'' materials licenses of broad-scope issued to Government agencies, which is $388,400.

Section 171.16(e) is revised in its entirety to indicate the activities that were a part of the additional charge (surcharge) included in the FY 1995 annual fees. These activities are listed and continue to be shown for convenience.

Footnote 1 of 10 CFR 171.16(d) is amended to provide a waiver of the annual fees for materials licensees, and holders of certificates, registrations, and approvals, who either filed for termination of their licenses or approvals or filed for possession only/

storage only licenses before October 1, 1995, and permanently ceased licensed activities entirely by September 30, 1995. All other licensees and approval holders who held a license or approval on October 1, 1995, are subject to the FY 1996 annual fees.

Section 171.19 Payment

Paragraph (b) is revised to give credit for partial payments made by certain licensees in FY 1996 toward their FY 1996 annual fees. The NRC anticipates that the first, second, and third quarterly payments for FY 1996 will have been made by operating power reactor licensees and some large materials licensees before this final rule is effective. Therefore, the NRC will credit payments received for those quarterly annual fee assessments toward the total annual fee to be assessed. The NRC will adjust the fourth quarterly bill to recover the full amount of the revised annual fee or to make refunds, as necessary. The NRC also expects that certain materials licensees will have paid renewal fees for renewal applications that were filed in FY 1996, whereas this final rule includes the renewals in the annual fee. The NRC will refund these renewal fee payments, as appropriate. Payment of the annual fee is due on the date of the invoice and interest accrues from the invoice date. However, interest will be waived if payment is received within 30 days from the invoice date.

Paragraph (c) is revised to update fiscal year references and to delete the references concerning payment requirements for those licensees whose annual fees are less than $100,000.

A new paragraph (d) is added to cover those licensees whose annual fees are less than $100,000 and who will be billed on the anniversary date of their license beginning in FY 1996.

During the past five years many licensees have indicated that, although they held a valid NRC license authorizing the possession and use of special nuclear, source, or byproduct material, they were either not using the material to conduct operations or had disposed of the material and no longer needed the license. In response, the NRC has consistently stated that annual fees are assessed based on whether a licensee holds a valid NRC license that authorizes possession and use of radioactive material. Whether or not a licensee is actually conducting operations using the material is a matter of licensee discretion. The NRC cannot control whether a licensee elects to possess and use radioactive material once it receives a license from the NRC. Therefore, the NRC reemphasizes that the annual fee will be assessed based on whether a licensee holds a valid NRC license that authorizes possession and use of radioactive material. To remove any uncertainty, the NRC issued minor clarifying amendments to 10 CFR 171.16, footnotes 1 and 7 on July 20, 1993 (58 FR 38700).

The NRC reinstated the exemption from 10 CFR Part 171 annual fees for nonprofit educational institutions on April 18, 1994 (59 FR 12539; March 17, 1994). In that final rule, the NRC indicated that although nonprofit research institutions were not exempt from annual fees, such institutions were free to file an exemption request based on the ''public good'' concept if they felt they could qualify. Several nonprofit research institutions have since filed and been granted an exemption from the annual fees on that basis. In addition, some Federal agencies who hold materials licenses have filed for exemption from annual fees based on the public good concept as well. The requests from Federal agencies to receive public good exemptions have been denied by the NRC. The NRC did not intend to extend public good exemptions to Federal agencies.

V. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental impact assessment has been prepared for the final regulation. By its very nature, this regulatory action does not affect the environment, and therefore, no environmental justice issues are raised.

VI. Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VII. Regulatory Analysis

With respect to 10 CFR Part 170, this final rule was developed pursuant to Title V of the Independent Offices Appropriation Act of 1952 (IOAA) (31 U.S.C. 9701) and the Commission's fee guidelines. When developing these guidelines the Commission took into account guidance provided by the U.S. Supreme Court on March 4, 1974, in its decision of *National Cable Television Association, Inc.* v. *United States*, 415 U.S. 36 (1974) and *Federal Power Commission* v. *New England Power Company*, 415 U.S. 345 (1974). In these decisions, the Court held that the IOAA authorizes an agency to charge fees for special benefits rendered to identifiable persons measured by the ''value to the recipient'' of the agency service. The meaning of the IOAA was further clarified on December 16, 1976, by four decisions of the U.S. Court of Appeals for the District of Columbia: *National Cable Television Association* v. *Federal Communications Commission*, 554 F.2d 1094 (D.C. Cir. 1976); *National Association of Broadcasters* v. *Federal Communications Commission*, 554 F.2d 1118 (D.C. Cir. 1976); *Electronic Industries Association* v. *Federal Communications Commission*, 554 F.2d 1109 (D.C. Cir. 1976) and *Capital Cities Communication, Inc.* v. *Federal Communications Commission*, 554 F.2d 1135 (D.C. Cir. 1976). These decisions of the Courts enabled the Commission to develop fee guidelines that are still used for cost recovery and fee development purposes.

The Commission's fee guidelines were upheld on August 24, 1979, by the U.S. Court of Appeals for the Fifth Circuit in *Mississippi Power and Light Co.* v. *U.S. Nuclear Regulatory Commission*, 601 F.2d 223 (5th Cir. 1979), *cert. denied*, 444 U.S. 1102 (1980). The Court held that—

(1) The NRC had the authority to recover the full cost of providing services to identifiable beneficiaries;

(2) The NRC could properly assess a fee for the costs of providing routine inspections necessary to ensure a licensee's compliance with the Atomic Energy Act and with applicable regulations;

(3) The NRC could charge for costs incurred in conducting environmental reviews required by NEPA;

(4) The NRC properly included the costs of uncontested hearings and of administrative and technical support services in the fee schedule;

(5) The NRC could assess a fee for renewing a license to operate a low-level radioactive waste burial site; and

(6) The NRC's fees were not arbitrary or capricious.

With respect to 10 CFR Part 171, on November 5, 1990, the Congress passed Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990 (OBRA–90) which required that for FYs 1991 through 1995, approximately 100 percent of the NRC budget authority be recovered through the assessment of fees. OBRA–90 was amended in 1993 to extend the 100 percent fee recovery requirement for NRC through FY 1998. To accomplish this statutory requirement, the NRC, in accordance with § 171.13, is publishing the final

amount of the FY 1996 annual fees for operating reactor licensees, fuel cycle licensees, materials licensees, and holders of Certificates of Compliance, registrations of sealed source and devices and QA program approvals, and Government agencies. OBRA–90 and the Conference Committee Report specifically state that—

(1) The annual fees be based on the Commission's FY 1996 budget of $473.3 million less the amounts collected from Part 170 fees and the funds directly appropriated from the NWF to cover the NRC's high level waste program;

(2) The annual fees shall, to the maximum extent practicable, have a reasonable relationship to the cost of regulatory services provided by the Commission; and

(3) The annual fees be assessed to those licensees the Commission, in its discretion, determines can fairly, equitably, and practicably contribute to their payment.

10 CFR Part 171, which established annual fees for operating power reactors effective October 20, 1986 (51 FR 33224; September 18, 1986), was challenged and upheld in its entirety in *Florida Power and Light Company* v. *United States*, 846 F.2d 765 (D.C. Cir. 1988), *cert. denied*, 490 U.S. 1045 (1989).

The NRC's FY 1991 annual fee rule was largely upheld by the D.C. Circuit Court of Appeals in *Allied Signal* v. *NRC*, 988 F.2d 146 (D.C. Cir. 1993).

VIII. Regulatory Flexibility Analysis

The NRC is required by the Omnibus Budget Reconciliation Act of 1990 to recover approximately 100 percent of its budget authority through the assessment of user fees. OBRA–90 further requires that the NRC establish a schedule of charges that fairly and equitably allocates the aggregate amount of these charges among licensees.

This final rule establishes the schedules of fees that are necessary to implement the Congressional mandate for FY 1996. The final rule results in a decrease in the annual fees charged to all licensees, and holders of certificates, registrations, and approvals. The Regulatory Flexibility Analysis, prepared in accordance with 5 U.S.C. 604, is included as Appendix A to this final rule.

IX. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and that a backfit analysis is not required for this final rule. The backfit analysis is not required because these final amendments do not require the modification of or additions to systems, structures, components, or the design of a facility or the design approval or manufacturing license for a facility or the procedures or organization required to design, construct or operate a facility.

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Non-payment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 170 and 171.

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

1. The authority citation for Part 170 continues to read as follows:

Authority: 31 U.S.C. 9701, 96 Stat. 1051; sec. 301, Pub. L. 92–314, 86 Stat. 222 (42 U.S.C. 2201w); sec. 201, Pub. L. 93–4381, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 205, Pub. L. 101–576, 104 Stat. 2842, (31 U.S.C. 901).

2. In § 170.12, paragraph (d)(1) is removed and reserved and paragraphs (a) and (g) are revised to read as follows:

§ 170.12 Payment of fees.

(a) *Application fees.* Each application for which a fee is prescribed shall be accompanied by a remittance in the full amount of the fee. The NRC will not issue a new license or amendment prior to the receipt of the prescribed fee. All application fees will be charged irrespective of the Commission's disposition of the application or a withdrawal of the application.

* * * * *

(d) * * *

(1) [Reserved].

* * * * *

(g) *Inspection fees.* Fees for all inspections subject to full cost recovery will be assessed on a per inspection basis for completed inspections and are payable, on a quarterly basis, upon notification by the Commission. Inspection costs include preparation time, time on site, and documentation time and any associated contractual service costs, but exclude the time involved in the processing and issuance of a notice of violation or civil penalty.

* * * * *

3. Section 170.20 is revised to read as follows:

§ 170.20 Average cost per professional staff-hour.

Fees for permits, licenses, amendments, renewals, special projects, Part 55 requalification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 that are based upon the full costs for the review or inspection will be calculated using the following applicable professional staff-hour rates:

Reactor Program (§ 170.21 Activities).	$128 per hour.
Nuclear Materials and Nuclear Waste Program (§ 170.31 Activities).	$120 per hour.

4. In § 170.21, the introductory text, Category K, and footnotes 1 and 2 to the table are revised to read as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections and import and export licenses

Applicants for construction permits, manufacturing licenses, operating licenses, import and export licenses, approvals of facility standard reference designs, requalification and replacement examinations for reactor operators, and special projects and holders of construction permits, licenses, and other approvals shall pay fees for the following categories of services.

SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

Facility categories and type of fees	Fees [1 2]
* * * * * * *	
K. Import and export licenses:	
Licenses for the import and export only of production and utilization facilities or the export only of components for production and utilization facilities issued pursuant to 10 CFR Part 110:	
1. Application for import or export of reactors and other facilities and exports of components which must be reviewed by the Commissioners and the Executive Branch, for example, actions under 10 CFR 110.40(b):	
Application-new license	$7,800
Amendment	$7,800
2. Application for export of reactor and other components requiring Executive Branch review only, for example, those actions under 10 CFR 110.41(a)(1)–(8):	
Application-new license	$4,800
Amendment	$4,800
3. Application for export of components requiring foreign government assurances only:	
Application-new license	$3,000
Amendment	$3,000
4. Application for export of facility components and equipment not requiring Commissioner review, Executive Branch review, or foreign government assurances:	
Application-new license	$1,200
Amendment	$1,200
5. Minor amendment of any export or import license to extend the expiration date, change domestic information, or make other revisions which do not require in-depth analysis or review:	
Amendment	$120

[1] Fees will not be charged for orders issued by the Commission pursuant to § 2.202 of this chapter or for amendments resulting specifically from the requirements of these types of Commission orders. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., §§ 50.12, 73.5) and any other sections now or hereafter in effect regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. Fees for licenses in this schedule that are initially issued for less than full power are based on review through the issuance of a full power license (generally full power is considered 100 percent of the facility's full rated power). Thus, if a licensee received a low power license or a temporary license for less than full power and subsequently receives full power authority (by way of license amendment or otherwise), the total costs for the license will be determined through that period when authority is granted for full power operation. If a situation arises in which the Commission determines that full operating power for a particular facility should be less than 100 percent of full rated power, the total costs for the license will be at that determined lower operating power level and not at the 100 percent capacity.

[2] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect at the time the service was provided. For those applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for any topical report, amendment, revision or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20. In no event will the total review costs be less than twice the hourly rate shown in § 170.20.

* * * * *

5. Section 170.31 is revised to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

Applicants for materials licenses, import and export licenses, and other regulatory services and holders of materials licenses, or import and export licenses shall pay fees for the following categories of services. This schedule includes fees for health and safety and safeguards inspections where applicable.

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
1. Special nuclear material:	
A. Licenses for possession and use of 200 grams or more of plutonium in unsealed form or 350 grams or more of contained U–235 in unsealed form or 200 grams or more of U–233 in unsealed form. This includes applications to terminate licenses as well as licenses authorizing possession only:	
License, Renewal, Amendment	Full Cost.
Inspections	Full Cost.
B. Licenses for receipt and storage of spent fuel at an independent spent fuel storage installation (ISFSI):	
License, Renewal, Amendment	Full Cost.
Inspections	Full Cost.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers: [4]	
Application—New license	$550.
Amendment	$300.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1A: [4]	
Application—New license	$600.
Amendment	$290.
E. Licenses for construction and operation of a uranium enrichment facility:	
Application	$125,000.
License, Renewal, Amendment	Full Cost.
Inspections	Full Cost.
2. Source material:	
A. (1) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, refining uranium mill concentrates to uranium hexafluoride, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode:	
License, Renewal, Amendment	Full Cost.
Inspections	Full Cost.
(2) Licenses that authorize the receipt of byproduct material, as defined in Section 11e(2) of the Atomic Energy Act, from other persons for possession and disposal except those licenses subject to fees in Category 2.A. (1):	
License, renewal, amendment	Full Cost.
Inspections	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A. (1):	
License, renewal, amendment	Full Cost.
Inspections	Full Cost.
B. Licenses which authorize the possession, use and/or installation of source material for shielding:	
Application—New license	$160.
Amendment	$240.
C. All other source material licenses:	
Application—New license	$2,800.
Amendment	$420.
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued pursuant to Parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution:	
Application—New license	$3,000.
Amendment	$550.
B. Other licenses for possession and use of byproduct material issued pursuant to Part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution:	
Application—New license	$1,200.
Amendment	$580.
C. Licenses issued pursuant to §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material:	
Application—New license	$4,100.
Amendment	$520.
D. Licenses and approvals issued pursuant to §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material:	
Application—New license	$1,500.
Amendment	$430.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units):	
Application—New license	$1,200.
Amendment	$360.
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes:	
Application—New license	$1,500.
Amendment	$370.
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes:	
Application—New license	$6,000.
Amendment	$780.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
H. Licenses issued pursuant to Subpart A of Part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of Part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter:	
Application—New license	$2,400.
Amendment	$1,000.
I. Licenses issued pursuant to Subpart A of Part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of Part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter:	
Application—New license	$4,400.
Amendment	$860.
J. Licenses issued pursuant to Subpart B of Part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under Part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter:	
Application—New license	$1,600.
Amendment	$290.
K. Licenses issued pursuant to Subpart B of Part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under Part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter:	
Application—New license	$1,300.
Amendment	$310.
L. Licenses of broad scope for possession and use of byproduct material issued pursuant to Parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution:	
Application—New license	$4,300.
Amendment	$660.
M. Other licenses for possession and use of byproduct material issued pursuant to Part 30 of this chapter for research and development that do not authorize commercial distribution:	
Application—New license	$1,500.
Amendment	$610.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4A, 4B, and 4C:	
Application—New license	$1,900.
Amendment	$590.
O. Licenses for possession and use of byproduct material issued pursuant to Part 34 of this chapter for industrial radiography operations:	
Application—New license	$3,900.
Amendment	$720.
P. All other specific byproduct material licenses, except those in Categories 4A through 9D:	
Application—New license	$550.
Amendment	$300.
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material:	
License, renewal, amendment	Full Cost.
Inspections	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:	
Application—New license	$3,400.
Amendment	$410.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material:	
Application—New license	$1,700.
Amendment	$290.
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies:	
Application—New license	$3,200.
Amendment	$640.
B. Licenses for possession and use of byproduct material for field flooding tracer studies:	
License, renewal, amendment	Full Cost.
6. Nuclear laundries:	

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material:	
Application—New license	$5,100.
Amendment	$790.
7. Human use of byproduct, source, or special nuclear material:	
A. Licenses issued pursuant to Parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application—New license	$2,800.
Amendment	$470.
B. Licenses of broad scope issued to medical institutions or two or more physicians pursuant to Parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application—New license	$3,000.
Amendment	$580.
C. Other licenses issued pursuant to Parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices:	
Application—New license	$1,400.
Amendment	$440.
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities:	
Application—New license	$760.
Amendment	$350.
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution:	
Application—each device	$3,400.
Amendment—each device	$1,200.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices:	
Application—each device	$1,700.
Amendment—each device	$600.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution:	
Application—each source	$720.
Amendment—each source	$240.
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel:	
Application—each source	$360.
Amendment—each source	$120.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers:	
Approval, Renewal, Amendment	Full Cost.
Inspections	Full Cost.
B. Evaluation of 10 CFR Part 71 quality assurance programs:	
Application—Approval	$340.
Amendment	$250.
Inspections	Full Cost.
11. Review of standardized spent fuel facilities:	
Approval, Renewal, Amendment	Full Cost.
Inspections	Full Cost.
12. Special projects:[5]	
Approvals and preapplication/licensing activities	Full Cost.
Inspections	Full Cost.
13. A. Spent fuel storage cask Certificate of Compliance:	
Approvals	Full Cost.
Amendments, revisions, and supplements	Full Cost.
Reapproval	Full Cost.
B. Inspections related to spent fuel storage cask:	
Certificate of Compliance	Full Cost.
C. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities pursuant to 10 CFR Parts 30, 40, 70, and 72 of this chapter:	
Approval, Renewal, Amendment	Full Cost.
Inspections	Full Cost.
15. Import and Export licenses:	

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2, 3]
Licenses issued pursuant to 10 CFR Part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, heavy water, or nuclear grade graphite:	
A. Application for export or import of high enriched uranium and other materials, including radioactive waste, which must be reviewed by the Commissioners and the Executive Branch, for example, those actions under 10 CFR 110.40(b). This category includes application for export or import of radioactive wastes in multiple forms from multiple generators or brokers in the exporting country and/or going to multiple treatment, storage or disposal facilities in one or more receiving countries:	
Application—new license	$7,800.
Amendment	$7,800.
B. Application for export or import of special nuclear material, source material, tritium and other byproduct material, heavy water, or nuclear grade graphite, including radioactive waste, requiring Executive Branch review but not Commissioner review. This category includes application for the export or import of radioactive waste involving a single form of waste from a single class of generator in the exporting country to a single treatment, storage and/or disposal facility in the receiving country:	
Application—new license	$4,800.
Amendment	$4,800.
C. Application for export of routine reloads of low enriched uranium reactor fuel and exports of source material requiring only foreign government assurances under the Atomic Energy Act:	
Application—new license	$3,000.
Amendment	$3,000.
D. Application for export or import of other materials, including radioactive waste, not requiring Commissioner review, Executive Branch review, or foreign government assurances under the Atomic Energy Act. This category includes application for export or import of radioactive waste where the NRC has previously authorized the export or import of the same form of waste to or from the same or similar parties, requiring only confirmation from the receiving facility and licensing authorities that the shipments may proceed according to previously agreed understandings and procedures:	
Application—new license	$1,200.
Amendment	$1,200.
E. Minor amendment of any export or import license to extend the expiration date, change domestic information, or make other revisions which do not require in-depth analysis, review, or consultations with other agencies or foreign governments:	
Amendment	$120.
16. Reciprocity:	
Agreement State licensees who conduct activities in a non-Agreement State under the reciprocity provisions of 10 CFR 150.20:	
Application (initial filing of Form 241)	$1,100.
Revisions	$200.

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for preapplication consultations and reviews and applications for new licenses and approvals, issuance of new licenses and approvals, amendments and certain renewals to existing licenses and approvals, safety evaluations of sealed sources and devices, and certain inspections. The following guidelines apply to these charges:

(a) *Application fees.* Applications for new materials licenses and approvals; applications to reinstate expired, terminated or inactive licenses and approvals except those subject to fees assessed at full costs, and applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20, must be accompanied by the prescribed application fee for each category, except that:

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category; and

(2) Applications for licenses under Category 1E must be accompanied by the prescribed application fee of $125,000.

(b) *License/approval/review fees.* Fees for applications for new licenses and approvals and for preapplication consultations and reviews subject to full cost fees (fee Categories 1A, 1B, 1E, 2A, 4A, 5B, 10A, 11, 12, 13A, and 14) are due upon notification by the Commission in accordance with § 170.12(b), (e), and (f).

(c) *Renewal/reapproval fees.* Applications subject to full cost fees (fee Categories 1A, 1B, 1E, 2A, 4A, 5B, 10A, 11, 13A, and 14) are due upon notification by the Commission in accordance with § 170.12(d).

(d) *Amendment/Revision Fees.*

(1) Applications for amendments to licenses and approvals and revisions to reciprocity initial applications, except those subject to fees assessed at full costs, must be accompanied by the prescribed amendment/revision fee for each license/revision affected. An application for an amendment to a license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment unless the amendment is applicable to two or more fee categories in which case the amendment fee for the highest fee category would apply. For those licenses and approvals subject to full costs (fee Categories 1A, 1B, 1E, 2A, 4A, 5B, 10A, 11, 12, 13A, and 14), amendment fees are due upon notification by the Commission in accordance with § 170.12(c).

(2) An application for amendment to a materials license or approval that would place the license or approval in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for the new category.

(3) An application for amendment to a license or approval that would reduce the scope of a licensee's program to a lower fee category must be accompanied by the prescribed amendment fee for the lower fee category.

(4) Applications to terminate licenses authorizing small materials programs, when no dismantling or decontamination procedure is required, are not subject to fees.

(e) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. The fees assessed at full cost will be determined based on the professional staff time required to conduct the inspection multiplied by the rate established under § 170.20 plus any applicable contractual support services costs incurred. Inspection fees are due upon notification by the Commission in accordance with § 170.12(g).

[2] Fees will not be charged for orders issued by the Commission pursuant to 10 CFR 2.202 or for amendments resulting specifically from the requirements of these types of Commission orders. However, fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the Code of Federal Regulations (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections now or hereafter in effect) regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in Categories 9A through 9D.

[3] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For those applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect at the time the service was provided. For applications currently on file for which review costs have reached an applicable fee ceiling established by the June 20, 1984, and July 2, 1990, rules, but are still pending completion of the review, the cost incurred after any applicable ceiling was reached through January 29, 1989, will not be billed to the applicant. Any professional staff-hours expended above those ceilings on or after January 30, 1989, will be assessed at the applicable rates established by § 170.20, as appropriate, except for topical reports whose costs exceed $50,000. Costs which exceed $50,000 for each topical report, amendment, revision, or supplement to a topical report completed or under review from January 30, 1989, through August 8, 1991, will not be billed to the applicant. Any professional hours expended on or after August 9, 1991, will be assessed at the applicable rate established in § 170.20. The minimum total review cost is twice the hourly rate shown in § 170.20.

[4] Licensees paying fees under Categories 1A, 1B, and 1E are not subject to fees under Categories 1C and 1D for sealed sources authorized in the same license except in those instances in which an application deals only with the sealed sources authorized by the license. Applicants for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee Category 1C only.

[5] Fees will not be assessed for requests/reports submitted to the NRC:

(a) In response to a Generic Letter or NRC Bulletin that does not result in an amendment to the license, does not result in the review of an alternate method or reanalysis to meet the requirements of the Generic Letter, or does not involve an unreviewed safety issue;

(b) In response to an NRC request (at the Associate Office Director level or above) to resolve an identified safety or environmental issue, or to assist NRC in developing a rule, regulatory guide, policy statement, generic letter, or bulletin; or

(c) As a means of exchanging information between industry organizations and the NRC for the purpose of supporting generic regulatory improvements or efforts.

PART 171—ANNUAL FEES FOR REACTOR OPERATING LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

6. The authority citation for Part 171 continues to read as follows:

Authority: Sec. 7601, Pub. L. 99–272, 100 Stat. 146, as amended by sec. 5601, Pub. L. 100–203, 101 Stat. 1330, as amended by Sec. 3201, Pub. L. 101–239, 103 Stat. 2106 as amended by sec. 6101, Pub. L. 101–508, 104 Stat. 1388, (42 U.S.C. 2213); sec. 301, Pub. L. 92–314, 86 Stat. 222 (42 U.S.C. 2201(w)); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 2903, Pub. L. 102–486, 106 Stat. 3125, (42 U.S.C. 2214 note).

7. In § 171.15, paragraph (d) is removed and reserved and paragraphs (a), (b), (c)(1), (c)(2) and (e) are revised to read as follows:

§ 171.15 Annual Fees: Reactor operating licenses.

(a) Each person licensed to operate a power, test, or research reactor shall pay the annual fee for each unit for which the person holds an operating license at any time during the Federal FY in which the fee is due, except for those test and research reactors exempted in § 171.11 (a)(1) and (a)(2).

(b) The FY 1996 uniform annual fee for each operating power reactor which must be collected by September 30, 1996, is $2,746,000. This fee has been determined by adjusting the FY 1995 annual fee downward by approximately 6 percent. The FY 1995 annual fee was comprised of a base annual fee and an additional charge (surcharge). The activities comprising the base FY 1995 annual fee are as follows:

(1) Power reactor safety and safeguards regulation except licensing and inspection activities recovered under 10 CFR Part 170 of this chapter.

(2) Research activities directly related to the regulation of power reactors.

(3) Generic activities required largely for NRC to regulate power reactors, e.g., updating Part 50 of this chapter, or operating the Incident Response Center.

(c) The activities comprising the FY 1995 surcharge are as follows:

(1) Activities not attributable to an existing NRC licensee or class of licensees; e.g., reviews submitted by other government agencies (e.g., DOE) that do not result in a license or are not associated with a license; international cooperative safety program and international safeguards activities; low-level waste disposal generic activities; uranium enrichment generic activities; and

(2) Activities not currently assessed under 10 CFR Part 170 licensing and inspection fees based on existing Commission policy, e.g., reviews and inspections conducted of nonprofit educational institutions, and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act.

* * * * *

(d) [Reserved].

(e) The FY 1996 annual fees for licensees authorized to operate a nonpower (test and research) reactor licensed under Part 50 of this chapter, except for those reactors exempted from fees under § 171.11(a), are as follows:

Research reactor	$52,800
Test reactor	$52,800

* * * * *

8. In § 171.16, the introductory text of paragraph (c) and paragraphs (c)(1), (c)(4), (d), and (e) are revised to read as follows:

§ 171.16 Annual Fees: Materials Licensees, Holders of Certificates of Compliance, Holders of Sealed Source and Device Registrations, Holders of Quality Assurance Program Approvals and Government agencies licensed by the NRC.

* * * * *

(c) A licensee who is required to pay an annual fee under this section may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification, the licensee may pay reduced annual fees for FY 1996 as follows:

	Maximum annual fee per licensed category
Small businesses not engaged in manufacturing and small not-for-profit organizations (gross annual receipts):	
$350,000 to $5 million	$1,800
Less than $350,000	400
Manufacturing entities that have an average of 500 employees or less:	
35 to 500 employees	1,800
Less than 35 employees	400
Small Governmental jurisdictions (Including publicly supported educational institutions) (population):	
20,000 to 50,000	1,800
Less than 20,000	400
Educational institutions that are not State or publicly supported, and have 500 employees or less.	
35 to 500 employees	1,800
Less than 35 employees	400

(1) A licensee qualifies as a small entity if it meets the size standards established by the NRC (See 10 CFR 2.810).

* * * * *

(4) For FY 1996, the maximum annual fee a small entity is required to pay is

$1,800 for each category applicable to the license(s).

(d) The FY 1996 annual fees for materials licensees and holders of certificates, registrations or approvals subject to fees under this section are shown below. The FY 1996 annual fees, which must be collected by September 30, 1996, have been determined by adjusting downward the FY 1995 annual fees by approximately 6 percent. The FY 1995 annual fee was comprised of a base annual fee and an additional charge (surcharge). The activities comprising the FY 1995 surcharge are shown in paragraph (e) of this section.

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
1. Special nuclear material:	
A.(1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material:	
Babcock & Wilcox (SNM–42)	$2,403,000
Nuclear Fuel Services (SNM–124)	2,403,000
(b) Low Enriched Uranium in Dispersable Form Used for Fabrication of Power Reactor Fuel:	
Combustion Engineering (Hematite) (SNM–33)	1,179,000
General Electric Company (SNM–1097)	1,179,000
Siemens Nuclear Power (SNM–1227)	1,179,000
Westinghouse Electric Company (SNM–1107)	1,179,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations:	
B&W Fuel Company (SNM–1168)	469,200
(b) All Others:	
General Electric (SNM–960)	318,600
B. Licenses for receipt and storage of spent fuel at an independent spent fuel storage installation (ISFSI)	260,900
C. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers	1,200
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical quantity, as defined in § 150.11 of this chapter, for which the licensee shall pay the same fees as those for Category 1.A.(2)	2,800
E. Licenses for the operation of a uranium enrichment facility	[11] N/A
2. Source material:	
A.(1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride	597,800
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ leaching, heap-leaching, ore buying stations, ion exchange facilities and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
Class I facilities [4]	57,000
Class II facilities [4]	32,200
Other facilities [4]	20,600
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4)	41,800
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2)	7,400
B. Licenses which authorize only the possession, use and/or installation of source material for shielding	450
C. All other source material licenses	8,100
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued pursuant to Parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution	15,400
B. Other licenses for possession and use of byproduct material issued pursuant to Part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution	5,200
C. Licenses issued pursuant to §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized pursuant to Part 40 of this chapter when included on the same license	10,400
D. Licenses and approvals issued pursuant to §§ 32.72, 32.73, and/or 32.74 of this chapter authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of byproduct material. This category also includes the possession and use of source material for shielding authorized pursuant to Part 40 of this chapter when included on the same license	4,100
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units)	2,900
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes	3,500
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes	18,100

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
H. Licenses issued pursuant to Subpart A of Part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of Part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter	4,600
I. Licenses issued pursuant to Subpart A of Part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of Part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of Part 30 of this chapter	8,200
J. Licenses issued pursuant to Subpart B of Part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under Part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter	3,500
K. Licenses issued pursuant to Subpart B of Part 31 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under Part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under Part 31 of this chapter	3,000
L. Licenses of broad scope for possession and use of byproduct material issued pursuant to Parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution	11,400
M. Other licenses for possession and use of byproduct material issued pursuant to Part 30 of this chapter for research and development that do not authorize commercial distribution	5,100
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3P; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4A, 4B, and 4C	5,600
O. Licenses for possession and use of byproduct material issued pursuant to Part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized pursuant to Part 40 of this chapter when authorized on the same license	13,000
P. All other specific byproduct material licenses, except those in Categories 4A through 9D	1,600
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material	[5] 94,300
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material	13,300
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material	7,100
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies	7,500
B. Licenses for possession and use of byproduct material for field flooding tracer studies	12,200
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material	13,600
7. Human use of byproduct, source, or special nuclear material:	
A. Licenses issued pursuant to Parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license	9,500
B. Licenses of broad scope issued to medical institutions or two or more physicians pursuant to Parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license [9]	21,700
C. Other licenses issued pursuant to Parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license [9]	4,300
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities	1,600
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	6,700
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	3,400

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1, 2, 3]
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	1,400
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	720
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
Spent Fuel, High-Level Waste, and plutonium air packages	[6] N/A
Other Casks	[6] N/A
B. Approvals issued of 10 CFR Part 71 quality assurance programs.	
Users and Fabricators	72,700
Users	950
11. Standardized spent fuel facilities	[6] N/A
12. Special Projects	[6] N/A
13. A. Spent fuel storage cask Certificate of Compliance	[6] N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210	260,900
14. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities pursuant to 10 CFR Parts 30, 40, 70, and 72	[7] N/A
15. Import and Export licenses	[8] N/A
16. Reciprocity	[8] N/A
17. Master materials licenses of broad scope issued to Government agencies	388,400
18. Department of Energy:.	
A. Certificates of Compliance	[10] 1,077,000
B. Uranium Mill Tailing Radiation Control Act (UMTRCA) activities	1,812,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the fiscal year. However, the annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses prior to October 1, 1995, and permanently ceased licensed activities entirely by September 30, 1995. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a POL during the fiscal year and for new licenses issued during the fiscal year will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license. Licensees paying annual fees under Category 1.A.(1) are not subject to the annual fees of Category 1.C and 1.D for sealed sources authorized in the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of Parts 30, 40, 70, 71, or 72 of this chapter.

[3] For FYs 1997 and 1998, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

[4] A Class I license includes mill licenses issued for the extraction of uranium from uranium ore. A Class II license includes solution mining licenses (in-situ and heap leach) issued for the extraction of uranium from uranium ores including research and development licenses. An ''other'' license includes licenses for extraction of metals, heavy metals, and rare earths.

[5] Two licenses have been issued by NRC for land disposal of special nuclear material. Once NRC issues a LLW disposal license for byproduct and source material, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, Parts 71 and 72 Certificates of Compliance, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to the users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under Categories 7B or 7C.

[10] This includes Certificates of Compliance issued to DOE that are not under the Nuclear Waste Fund.

[11] No annual fee has been established because there are currently no licensees in this particular fee category.

(e) The activities comprising the FY 1995 surcharge are as follows:

(1) LLW disposal generic activities;

(2) Activities not attributable to an existing NRC licensee or classes of licensees; e.g., international cooperative safety program and international safeguards activities; support for the Agreement State program; site decommissioning management plan (SDMP) activities; and

(3) Activities not currently assessed under 10 CFR part 170 licensing and inspection fees based on existing law or Commission policy, e.g., reviews and inspections conducted of nonprofit educational institutions and Federal agencies; activities related to decommissioning and reclamation and costs that would not be collected from small entities based on Commission policy in accordance with the Regulatory Flexibility Act.

* * * * *

9. In § 171.19, paragraphs (b) and (c) are revised and a new paragraph (d) is added to read as follows:

§ 171.19 Payment.

* * * * *

(b) For FY 1996 through FY 1998, the Commission will adjust the fourth quarterly bill for operating power reactors and certain materials licensees to recover the full amount of the revised annual fee. If the amounts collected in the first three quarters exceed the amount of the revised annual fee, the overpayment will be refunded. The NRC will refund any ''flat'' materials renewal fees payments received for renewal applications filed in FY 1996, as appropriate. All other licensees, or holders of a certificate, registration, or approval of a QA program will be sent a bill for the full amount of the annual fee upon publication of the final rule or on the anniversary date of the license.

Payment is due on the invoice date and interest accrues from the date of the invoice. However, interest will be waived if payment is received within 30 days from the invoice date.

(c) For FYs 1996 through 1998, annual fees in the amount of $100,000 or more and described in the Federal Register notice pursuant to § 171.13 must be paid in quarterly installments of 25 percent as billed by the NRC. The quarters begin on October 1, January 1, April 1, and July 1 of each fiscal year.

(d) For FYs 1996 through 1998, annual fees of less than $100,000 must be paid as billed by the NRC. Beginning in FY 1996, materials license annual fees that are less than $100,000 will be billed on the anniversary of the license. The materials licensees that will be billed on the anniversary date of the license are those covered by fee categories 1.C. and 1.D.; 2.A.(2) through 2.C.; 3.A. through 3.P.; 4.B. through 9.D.; and 10.B. For annual fee purposes, the anniversary date of the license is considered to be the first day of the month in which the original license was issued by the NRC. During the transition year of FY 1996, licensees with license anniversary dates falling between October 1, 1995, and the effective date of the FY 1996 final rule will receive an annual fee bill payable on the effective date of the final rule, and licensees with license anniversary dates that fall on or after the effective date of the final rule will be billed on the anniversary of their license. Starting with the effective date of the FY 1996 final rule, licensees that are billed on the license anniversary date will be assessed the annual fee in effect on the anniversary date of the license.

Dated at Rockville, Maryland, this 25th day of March, 1996.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

Appendix A to This Final Rule Regulatory Flexibility Analysis For the Amendments to 10 CFR Part 170 (License Fees) and 10 CFR Part 171 (Annual Fees)

I. Background

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) establishes as a principle of regulatory practice that agencies endeavor to fit regulatory and informational requirements, consistent with applicable statutes, to a scale commensurate with the businesses, organizations, and government jurisdictions to which they apply. To achieve this principle, the Act requires that agencies consider the impact of their actions on small entities. If the agency cannot certify that a rule will not significantly impact a substantial number of small entities, then a regulatory flexibility analysis is required to examine the impacts on small entities and the alternatives to minimize these impacts.

To assist in considering these impacts under the Regulatory Flexibility Act (RFA), first the NRC adopted size standards for determining which NRC licensees qualify as small entities (50 FR 50241; December 9, 1985). These size standards were clarified November 6, 1991 (56 FR 56672). On April 7, 1994 (59 FR 16513), the Small Business Administration (SBA) issued a final rule changing its size standards. The SBA adjusted its receipts-based size standards levels to mitigate the effects of inflation from 1984 to 1994. On November 30, 1994 (59 FR 61293), the NRC published a proposed rule to amend its size standards. After evaluating the two comments received, a final rule that would revise the NRC's size standards as proposed was developed and approved by the SBA on March 24, 1995. The NRC published the final rule revising its size standards on April 11, 1995 (60 FR 18344). The revised standards became effective May 11, 1995. The revised standards adjusted the NRC receipts-based size standards from $3.5 million to $5 million to accommodate inflation and to conform to the SBA final rule. The NRC also eliminated the separate $1 million size standard for private practice physicians and applied a receipts-based size standard of $5 million to this class of licensees. This mirrored the revised SBA standard of $5 million for medical practitioners. The NRC also established a size standard of 500 or fewer employees for business concerns that are manufacturing entities. This standard is the most commonly used SBA employee standard and is the standard applicable to the types of manufacturing industries that hold an NRC license.

The NRC used the revised standards in the final FY 1995 fee rule and is using them in this FY 1996 final rule. The small entity fee categories in § 171.16(c) of this final rule reflect the changes in the NRC's size standards adopted in FY 1995. A new maximum small entity fee for manufacturing industries with 35 to 500 employees was established at $1,800 and a lower-tier small entity fee of $400 was established for those manufacturing industries with less than 35 employees. The lower-tier receipts-based threshold of $250,000 was raised to $350,000 to reflect approximately the same percentage adjustment as that made by the SBA when they adjusted the receipts-based standard from $3.5 million to $5 million. The NRC believes that continuing these actions for FY 1996 will reduce the impact of annual fees on small businesses. The NRC size standards are codified at 10 CFR 2.810.

Public Law 101–508, the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), requires that the NRC recover approximately 100 percent of its budget authority, less appropriations from the Nuclear Waste Fund, for Fiscal Years (FY) 1991 through 1995 by assessing license and annual fees. OBRA–90 was amended in 1993 to extend the 100 percent recovery requirement for NRC through 1998. For FY 1991, the amount for collection was approximately $445.3 million; for FY 1992, approximately $492.5 million; for FY 1993 about $518.9 million; for FY 1994 about $513 million; for FY 1995 about $503.6 million and the amount to be collected in FY 1996 is approximately $462.3 million.

To comply with OBRA–90, the Commission amended its fee regulations in 10 CFR Parts 170 and 171 in FY 1991 (56 FR 31472; July 10, 1991) in FY 1992, (57 FR 32691; July 23, 1992) in FY 1993 (58 FR 38666; July 20, 1993) in FY 1994 (59 FR 36895; July 20, 1994) and in FY 1995 (60 FR 32218; June 20, 1995) based on a careful evaluation of over 1,000 comments. These final rules established the methodology used by NRC in identifying and determining the fees assessed and collected in FYs 1991–1995.

The NRC indicated in the FY 1995 final rule that it would attempt to stabilize annual fees as follows. Beginning in FY 1996, it would adjust the annual fees only by the percentage change (plus or minus) in NRC's total budget authority unless there was a substantial change in the total NRC budget authority or the magnitude of the budget allocated to a specific class of licensees, in which case the annual fee base would be recalculated (60 FR 32225; June 20, 1995). The NRC also indicated that the percentage change would be adjusted based on changes in the 10 CFR Part 170 fees and other receipts as well as an adjustment for the number of licensees paying the fees. As a result, the NRC is establishing the FY 1996 annual fees for all licensees at 6.5 percent below the FY 1995 annual fees. The NRC believes that the 6.5 percent downward adjustment to the FY 1995 annual fees is not a substantial enough change to warrant establishing a new baseline for FY 1996.

The NRC is also continuing to streamline the fee structure and process for materials licenses, efforts which

began in FY 1995. Two changes are being made in this area.

First, the NRC will assess annual fees for certain materials licenses on the anniversary date of the license. Billing certain materials licenses on the anniversary date of the license will allow NRC to make improved efficiencies in the billing process whereby approximately 500 annual fee invoices will be sent to materials licensees each month. The current practice of billing over 6,000 materials licensees at the same time in the fiscal year is eliminated. The NRC believes that the efficiencies gained by billing certain materials annual fees on a monthly basis as well as materials licensees knowing exactly when they will be billed each year for the annual fee outweigh the inconveniences that may be caused during the FY 1996 transition period.

Second, the NRC is further streamlining the materials fee program and improving the predictability of fees by eliminating the materials ''flat'' renewal fees in § 170.31. This action is consistent with the NRC's recent Business Process Reengineering initiative to extend the duration of certain materials licenses. The NRC published a proposed rule explaining this initiative in the Federal Register on September 8, 1995, (60 FR 46784). In the proposed rule, certain materials licenses would be extended for five years beyond their expiration date. Additionally, comments were requested on the general topic of the appropriate duration of licenses. A final rule was published in the Federal Register on January 16, 1996 (61 FR 1109).

II. Impact on Small Entities

The comments received on the proposed FY 1991–1995 fee rule revisions and the small entity certifications received in response to the final FY 1991–1995 fee rules indicate that NRC licensees qualifying as small entities under the NRC's size standards are primarily those licensed under the NRC's materials program. Therefore, this analysis will focus on the economic impact of the annual fees on materials licensees.

The Commission's fee regulations result in substantial fees being charged to those individuals, organizations, and companies that are licensed under the NRC materials program. Of these materials licensees, about 18 percent (approximately 1,300 licensees) have requested small entity certification in the past. In FY 1993, the NRC conducted a survey of its materials licensees. The results of this survey indicated that about 25 percent of these licensees could qualify as small entities under the current NRC size standards.

The commenters on the FY 1991–1994 proposed fee rules indicated the following results if the proposed annual fees were not modified:

—Large firms would gain an unfair competitive advantage over small entities. One commenter noted that a small well-logging company (a ''Mom and Pop'' type of operation) would find it difficult to absorb the annual fee, while a large corporation would find it easier. Another commenter noted that the fee increase could be more easily absorbed by a high-volume nuclear medicine clinic. A gauge licensee noted that, in the very competitive soils testing market, the annual fees would put it at an extreme disadvantage with its much larger competitors because the proposed fees would be the same for a two-person licensee as for a large firm with thousands of employees.

—Some firms would be forced to cancel their licenses. One commenter, with receipts of less than $500,000 per year, stated that the proposed rule would, in effect, force it to relinquish its soil density gauge and license, thereby reducing its ability to do its work effectively. Another commenter noted that the rule would force the company and many other small businesses to get rid of the materials license altogether. Commenters stated that the proposed rule would result in about 10 percent of the well-logging licensees terminating their licenses immediately and approximately 25 percent terminating their licenses before the next annual assessment.

—Some companies would go out of business. One commenter noted that the proposal would put it, and several other small companies, out of business or, at the very least, make it hard to survive.

—Some companies would have budget problems. Many medical licensees commented that, in these times of slashed reimbursements, the proposed increase of the existing fees and the introduction of additional fees would significantly affect their budgets. Another noted that, in view of the cuts by Medicare and other third party carriers, the fees would produce a hardship and some facilities would experience a great deal of difficulty in meeting this additional burden.

Over the past five years, approximately 2,900 license, approval, and registration terminations have been requested. Although some of these terminations were requested because the license was no longer needed or licenses or registrations could be combined, indications are that other termination requests were due to the economic impact of the fees.

The NRC continues to receive written and oral comments from small materials licensees. These commenters previously indicated that the $3.5 million threshold for small entities was not representative of small businesses with gross receipts in the thousands of dollars. These commenters believe that the $1,800 maximum annual fee represents a relatively high percentage of gross annual receipts for these ''Mom and Pop'' type businesses. Therefore, even the reduced annual fee could have a significant impact on the ability of these types of businesses to continue to operate.

To alleviate the continuing significant impact of the annual fees on a substantial number of small entities, the NRC considered alternatives, in accordance with the RFA. These alternatives were evaluated in the FY 1991 rule (56 FR 31472; July 10, 1991) in the FY 1992 rule (57 FR 32691; July 23, 1992), in the FY 1993 rule (58 FR 38666; July 20, 1993); in the FY 1994 rule (59 FR 36895; July 20, 1994) and in the FY 1995 rule (60 FR 32218; June 20, 1995). The alternatives considered by the NRC can be summarized as follows.

—Base fees on some measure of the amount of radioactivity possessed by the licensee (e.g., number of sources).

—Base fees on the frequency of use of the licensed radioactive material (e.g., volume of patients).

—Base fees on the NRC size standards for small entities.

The NRC has reexamined the FY 1991–1995 evaluations of the these alternatives. Based on that reexamination, the NRC continues to believe that establishment of a maximum fee for small entities is the most appropriate option to reduce the impact on small entities.

The NRC established, and is continuing for FY 1996, a maximum annual fee for small entities. The RFA and its implementing guidance do not provide specific guidelines on what constitutes a significant economic impact on a small entity. Therefore, the NRC has no benchmark to assist it in determining the amount or the percent of gross receipts that should be charged to a small entity. For FY 1996, the NRC will rely on the analysis previously completed that established a maximum annual fee for a small entity and the amount of costs that must be recovered from other NRC licensees as a result of establishing the maximum annual fees.

The NRC continues to believe that the 10 CFR Part 170 license fees

(application and amendment), or any adjustments to these licensing fees during the past year, do not have a significant impact on small entities. In issuing this final rule for FY 1996, the NRC concludes that the 10 CFR Part 170 materials license fees do not have a significant impact on a substantial number of small entities and that the 10 CFR Part 171 maximum annual small entity fee of $1,800 be continued.

By maintaining the maximum annual fee for small entities at $1,800, the annual fee for many small entities is reduced while at the same time materials licensees, including small entities, pay for most of the FY 1996 costs attributable to them. The costs not recovered from small entities are allocated to other materials licensees and to operating power reactors. However, the amount that must be recovered from other licensees as a result of maintaining the maximum annual fee is not expected to increase. Therefore, the NRC is continuing, for FY 1996, the maximum annual fee (base annual fee plus surcharge) for certain small entities at $1,800 for each fee category covered by each license issued to a small entity.

While reducing the impact on many small entities, the Commission agrees that the maximum annual fee of $1,800 for small entities, when added to the Part 170 license fees, may continue to have a significant impact on materials licensees with annual gross receipts in the thousands of dollars. Therefore, as in FY 1992–1995, the NRC is continuing the lower-tier small entity annual fee of $400 for small entities with relatively low gross annual receipts. The lower-tier small entity fee of $400 also applies to manufacturing concerns, and educational institutions not State or publicly supported, with less than 35 employees. This lower-tier small entity fee was first established in the final rule published in the Federal Register on April 17, 1992 (57 FR 13625) and now includes manufacturing companies with a relatively small number of employees.

III. Summary

The NRC has determined the 10 CFR Part 171 annual fees significantly impacts a substantial number of small entities. A maximum fee for small entities strikes a balance between the requirement to collect 100 percent of the NRC budget and the requirement to consider means of reducing the impact of the fee on small entities. On the basis of its regulatory flexibility analyses, the NRC concludes that a maximum annual fee of $1,800 for small entities and a lower-tier small entity annual fee of $400 for small businesses and not-for-profit organizations with gross annual receipts of less than $350,000, small governmental jurisdictions with a population of less than 20,000, small manufacturing entities that have less than 35 employees and educational institutions that are not State or publicly supported and have less than 35 employees reduces the impact on small entities. At the same time, these reduced annual fees are consistent with the objectives of OBRA–90. Thus, the revised fees for small entities maintain a balance between the objectives of OBRA–90 and the RFA. Therefore, the analysis and conclusions established in the FY 1991–1995 rules remain valid for this final rule for FY 1996.

[FR Doc. 96–9026 Filed 4–11–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–ANE–47; Amendment 39–9566; AD 95–24–05 R1]

Airworthiness Directives; McCauley Accessory Division, The Cessna Aircraft Company, Model C35, C72, C74, C75, C80, C86, C87, C92, and C93 Series Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to McCauley Accessory Division, The Cessna Aircraft Company, Model C35, C72, C74, C75, C80, C86, C87, C92, and C93 series propellers, that currently requires initial and repetitive visual and dye penetrant inspections of the propeller hub for cracks. This existing AD also requires a one-time eddy current inspection for cracks in the threaded areas of the propeller hub followed by modification of the hub to contain oil with red dye as a terminating action to the repetitive inspections. This amendment clarifies that a dye penetrant inspection is only necessary if crack indications are found or suspected during the visual inspection. This amendment is prompted by requests from operators for clarification of inspection procedures. The actions specified by this AD are intended to prevent propeller blade separation due to a cracked propeller hub, which could result in separation of the engine from the aircraft and subsequent loss of aircraft control.

DATES: Effective April 12, 1996.

The incorporation by reference of certain publications listed in the regulations was approved by the Director of the Federal Register as of December 18, 1995. (60 FR 61645, December 1, 1995).

Comments for inclusion in the Rules Docket must be received on or before June 11, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–47, 12 New England Executive Park, Burlington, MA 01803–5299.

The service information referenced in this AD may be obtained from McCauley Accessory Division, The Cessna Aircraft Company, 3535 McCauley Dr., Vandalia, OH 45377–0430; telephone (513) 890–5246, fax (513) 890–6001. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patricia Bonnen, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Ave., Room 232, Des Plaines, IL 60018; telephone (847) 294–7134, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: On November 7, 1995, the Federal Aviation Administration (FAA) issued AD 95–24–05, Amendment 39–9437 (60 FR 61645, December 1, 1995), applicable to McCauley Accessory Division, The Cessna Aircraft Company, Model C35, C72, C74, C75, C80, C86, C87, C92, and C93 series propellers, to require initial and repetitive visual and dye penetrant inspections of the propeller hub for cracks. That AD also requires a one-time eddy current inspection for cracks in the threaded areas of the propeller hub followed by modification of the hub to contain oil with red dye, which constitutes terminating action to the repetitive visual and dye-penetrant inspections. That action was prompted by several reports of cracked propeller hubs. Additionally, two incidents have occurred where the propeller blades separated during flight. That condition, if not corrected, could result in propeller blade separation due to a cracked propeller hub, which could result in separation of the engine from the aircraft and subsequent loss of aircraft control.

Since the issuance of that AD, the FAA has received requests from

operators for clarification of inspection procedures. The AD as currently written could be interpreted to mean that both visual and dye penetrant inspections must be performed concurrently. As McCauley Accessory Division, The Cessna Aircraft Company, Service Bulletin (SB) No. 200C, dated January 20, 1994, states, dye penetrant inspection is only necessary if crack indications are found or suspected during the visual inspection. This revised AD clarifies the inspection procedures to show that the dye penetrant inspection need not be performed concurrently with the visual inspection, but sequentially, and only if the visual inspection reveals actual or suspected crack indications.

The FAA has reviewed and approved the technical contents of the following service documents: McCauley Accessory Division, The Cessna Aircraft Company, SB No. 200C, dated January 20, 1994, that describes procedures for an initial and repetitive visual and dye penetrant inspections of propeller hubs for cracks; and McCauley Service Letter (SL) No. 1993–11A, dated June 20, 1995, that describes procedures for eddy current inspection for cracks in the threaded areas of the propeller hub and modification of the hub to contain oil with red dye, which provides a built-in means of crack detection, as well as improved lubrication and corrosion protection.

Since an unsafe condition has been identified that is likely to exist or develop on other propellers of this same type design, this AD revises AD 95–24–05 to clarify that a dye penetrant inspection is only necessary if crack indications are found or suspected during the visual inspection. The other requirements of AD 95–24–05 remain unchanged. The actions are required to be accomplished in accordance with the service documents described previously.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 94–ANE–47.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–9437 (60 FR 61645, December 1, 1995) and by adding a new airworthiness directive, Amendment 39–9566, to read as follows:

95–24–05 R1 McCauley Accessory Division, The Cessna Aircraft Company: Amendment 39–95–24–05R1. Docket 94–ANE–47. Revises AD 95–24–05, Amendment 39–9437.

Applicability: McCauley Accessory Division, The Cessna Aircraft Company, Model C35, C72, C74, C75, C80, C86, C87, C92, and C93 series propellers, incorporating the following Hub Models:

D3AF32C35–( )
3AF32C72–( )
3AF34C74–( )
3AF32C75–( )
D3AF32C80–( )
3AF34C86–( )
3AF32C87–( )
D3AF32C87–( )
3AF34C92–( )
3AF32C93–( )

The parentheses used in the above list indicate the presence or absence of an additional letter(s) which vary the basic propeller hub model designation. These letter(s) define minor changes that do not affect interchangeability or eligibility, and therefore, this airworthiness directive (AD) still applies regardless of whether these letters are present or absent on the propeller hub model designation.

These propellers are installed on but not limited to the following aircraft:

Beech 58, 58A, 95–C55, –C55A, –D55, –D55A, –E55, –E55A.

British Aerospace B–206 Series 2.

Cessna 310K, 310L, 310N, 310P, 310Q, 310R, T310P, T310Q, T310R, 320D, 320E, 320F, 335, 340, 340A, 401, 401A, 401B, 402, 402A, 402B, 402C, 411, 411A, 414, 414A, 421, 421A, 421B.

Colemill Executive 600 (Conversion of Cessna 310I, 310J, 310K, 310L, 310N).

RAM Conversion of Cessna 340.

Note 1: The above is not an exhaustive list of aircraft which may contain the affected

McCauley Model C35, C72, C74, C75, C80, C86, C87, C92, and C93 series propellers, incorporating Models D3AF32C35, 3AF32C72, 3AF34C74, 3AF32C75, D3AF32C80, 3AF34C86, 3AF32C87, D3AF32C87, 3AF34C92, and 3AF32C93 propeller hubs because of installation approvals made by Supplemental Type Certificate or Federal Aviation Administration (FAA) Form 337 ''Major Repair and Alteration,'' etc. It is the responsibility of the owner, operator and person returning the aircraft to service to determine if an aircraft has an affected propeller.

Note 2: This AD applies to each propeller identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For propellers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (g) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any propeller from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent propeller blade separation due to a cracked propeller hub, which could result in separation of the engine from the aircraft and subsequent loss of aircraft control, accomplish the following:

(a) Within the next 25 hours time in service (TIS) after December 18, 1995 (the effective date of AD 95–24–05), unless already accomplished within the last 35 hours TIS, and thereafter at intervals not to exceed 60 hours TIS, perform a visual inspection for cracks and, if crack indications are found or suspected, confirm cracks by a dye penetrant inspection on propeller hubs in accordance with McCauley Accessory Division, The Cessna Aircraft Company, Service Bulletin (SB) No. 200C, dated January 20, 1994. Any propeller hubs found cracked during this inspection are to be permanently retired from service and replaced with a serviceable hub modified in accordance with paragraph (c) of this AD, or with an equivalent initial production propeller which has incorporated a hub containing oil with red dye.

(b) For affected propellers identified with the change letter ''R'' following the hub model designation and having an oil-fill plug in the side of the hub, compliance is required only with paragraphs (d) and (f) of this AD.

(c) Perform a one-time eddy current inspection and modify serviceable propeller hubs in accordance with the following schedule and requirements:

Propeller time-in-service (TIS) on the effective date of this AD	Compliance required
Greater than 900 hours or 59 calendar months since last overhaul/penetrant inspection or installed new, or prior TIS unknown.	Within the next 300 hours or at the next annual inspection or by December 31, 1996, whichever occurs first.
Less than or equal to both 900 hours and 59 calendar months since last overhaul/penetrant inspection or installed new.	Prior to the accumulation of 1,200 hours or 60 calendar months since last overhaul/penetrant inspection or installed new, whichever occurs first.

(1) Perform a one-time eddy current inspection for cracks in the threaded areas of the propeller hubs in accordance with McCauley Accessory Division, The Cessna Aircraft Company, Service Letter (SL) No. 1993–11A, dated June 20, 1995.

(2) Any propeller hubs found cracked during the eddy current inspection are to be permanently retired from service and replaced with a serviceable hub modified in accordance with paragraph (c) of this AD, or with an equivalent initial production propeller which has incorporated a hub containing oil with red dye.

(3) Modify affected propeller hubs to contain oil with red dye, in accordance with McCauley Accessory Division, The Cessna Aircraft Company, SL No. 1993–11A, dated June 20, 1995. Completion of this modification of the hub to contain oil with red dye constitutes terminating action to the repetitive inspections required by paragraph (a) of this AD.

Note: The modification of the propeller hub assembly to contain oil with a red dye provides an ''on-condition'' (in- service) means of early crack detection of the propeller assembly and also improves lubrication and corrosion protection. The oil will add approximately 4.0 lbs. to the weight of the propeller assembly.

(4) Previous compliance with McCauley Accessory Division, SL 1993–11, dated September 15, 1993, also constitutes compliance with paragraphs (a) and (c) of this AD.

(5) Install Decal-Warning ''Oil Filled'', part number B–6493, in accordance with McCauley Accessory Division, The Cessna Aircraft Company, SL No. 1993–11A, dated June 20, 1995, Figure F–9.

(d) If leakage of oil containing red dye is detected in service (whether during flight or while on the ground), determine, prior to further flight, the source of leakage in accordance with the procedures specified in Section A–7 of McCauley SL No. 1993–11A, dated June 20, 1995. Remove from service, prior to further flight, propeller assemblies that exhibit cracks and replace with a serviceable unit, modified in accordance with paragraph (c) of this AD, or with an equivalent initial production propeller that has incorporated a hub containing oil with red dye. Oil-filled propellers are identified with the change letter ''R'' following the Hub Model Designation and have an oil-fill plug in the side of the hub.

(e) The ''calendar month'' compliance times stated in this AD allow the performance of the required action up to the last day of the month in which compliance is required. For example, a required eddy current inspection and modification 60 calendar months from last overhaul/penetrant inspection that was performed on December 15, 1991, would allow the eddy current inspection and modification to be performed no later than December 31, 1996.

(f) Report in writing any cracks found during the accomplishment of paragraphs (a), (c) or (d) of this AD to the Manager, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Room 232, Des Plaines, IL 60018; telephone (847) 294–7134, fax (847) 294–7834, within 10 days of the inspection. Information collection requirements contained in the regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96–511) and has been assigned OMB Control Number 2120–0056.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

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

(i) The inspections and modification required by this AD shall be done in accordance with the following McCauley Accessory Division, The Cessna Aircraft Company, service documents:

Document No.	Pages	Date
SB 200C	1–4	Jan. 20, 1994.
Total pages:	4	
SL 1993–11A:		
Cover Page	1	June 20, 1995.
Section A	1–4	June 20, 1995.
Section B	1	June 20, 1995.
Section C	1	June 20, 1995.
Section D	1–7	June 20, 1995.
Section E	1–10	June 20, 1995.
Section F	1–15	June 20, 1995.
Section G	1	June 20, 1995.
Section H	1–4	June 20, 1995.
Section I	1–4	June 20, 1995.
Total pages:	48	

This incorporation by reference was approved by the Director of the Federal

Register as of December 18, 1995. (60 FR 61645, December 1, 1995) in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McCauley Accessory Division, The Cessna Aircraft Company, 3535 McCauley Dr., Vandalia, OH 45377–0430; telephone (513) 890–5246, fax (513) 890–6001. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on April 12, 1996.

Issued in Burlington, Massachusetts, on April 1, 1996.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96–8951 Filed 4–11–96; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MI40–02–7253; FRL–5456–2]

State of Michigan: Withdrawal of Direct Final Action

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Withdrawal of direct final action.

SUMMARY: On February 14, 1996, the USEPA published a proposed rule (61 FR 5724) and a direct final rule (61 FR 5694) approving State Implementation Plan (SIP) revision for the State of Michigan which was submitted pursuant to the USEPA transportation conformity rules set forth at 40 CFR part 51 subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The USEPA is withdrawing the final rule due to adverse comments and will summarize and address all public comments received in a subsequent final rule (based upon the proposed rule cited above).

EFFECTIVE DATE: This withdrawal of the direct final action will be effective April 12, 1996.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Michael G. Leslie, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Telephone: (312) 353–6680.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Transportation conformity, Hydrocarbons, Intergovernmental relations, Oxides of Nitrogen, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 21, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–9163 Filed 4–11–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 95–471]

Authority To Issue Subpoenas

AGENCY: Federal Communications Commission.

ACTION: Final rule; Order on Reconsideration.

SUMMARY: The Commission ruled on two petitions for reconsideration of its earlier order (FCC 94–319; released November 21, 1994) adopting rules to permit the Chief, Common Carrier Bureau, to issue subpoenas in matters involving allegations of unlawful conduct by common carriers under Title II of the Communications Act of 1934, as amended. One petitioner argued that the Commission should reconsider its delegation of authority and should issue a notice of proposed rulemaking to solicit comments on the proper scope of delegation. The other petitioner argued that the delegation of subpoena power is unconstitutional and that the Commission should limit the scope of subpoena power granted to the Bureau accordingly. The Commission found that the petitioners arguments were without merit. The Commission decided on reconsideration, however, that some modification of the earlier order was appropriate. On its own motion, the Commission issued an order (''*Amendment of Part 0*'') delegating similar authority to other bureaus within the Commission (FCC 95–213; released June 9, 1995). This modification of the rules required that the delegation of authority to other bureaus be conditioned on an approval from the Office of General Counsel, that the bureaus only be authorized to issue ''non-hearing-related'' subpoenas, and that the bureaus have a broad delegation of subpoena authority over matters within their jurisdiction. The Commission will amend its rules for the purpose of authorizing the Chief of the Common Carrier Bureau, with the approval of the Office of the General Counsel, to issue non-hearing related subpoenas for the attendance of witnesses and the production of documents deemed relevant by the Bureau, to add language making it consistent with the Commission's *Amendment of Part 0.*

EFFECTIVE DATE: April 12, 1996.

FOR FURTHER INFORMATION CONTACT: Heather McDowell, Enforcement Division, Common Carrier Bureau, (202) 418–0960.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's order in FCC 95–471, adopted November 27, 1995, and released February 9, 1996. The full text of the rule is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. The full text of this rule may also be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M Street, N.W., Suite 140, Washington, D. C. 20037, (202) 857–3800.

Summary of Order

1. In this Order on Reconsideration, the Commission addresses petitions filed by ICORE and the Personal Communications Industry Association (''PCIA'') seeking reconsideration of the Commission's order (''*Subpoena Order*'') (59 FR 66487, published December 27, 1994) delegating certain investigative authority to the Chief, Common Carrier Bureau (''Bureau''). For the reasons set forth below, the Commission denies both petitions. The Commission does, however, on its own motion, add several modifications to the Bureau's delegated authority to issue subpoenas.

2. In its petition, PCIA argues that the Commission should reconsider its delegation of subpoena authority to the Bureau and should instead issue a notice of proposed rulemaking to solicit comment on the proper scope of the delegation and to allow for an exploration of the concerns as well of the benefits of such a delegation. ICORE, in its petition, asserts that the delegation of subpoena authority to the Bureau is unconstitutional to the extent that it can be construed as applicable to the

investigation of connecting carriers. ICORE contends that because the Commission itself does not have the authority to issue subpoenas to connecting carriers under Title II of the Communications Act of 1934, as amended, it should limit the scope of the subpoena power granted to the Bureau accordingly.

I. Discussion

3. Neither PCIA's nor ICORE's arguments are meritorious. PCIA makes no persuasive argument to support its claim that the Commission should have initiated a notice and comment rulemaking proceeding to consider the adoption of rules delegating subpoena authority to the Bureau. The Commission emphasizes again that its decision to amend Section 0.291 of its rules to grant the Bureau subpoena power pertains to agency organization, procedure, or practice. Consequently, the notice and comment requirement and the effective date provisions contained in Sections 553(b) and 553(d) of the Administrative Procedure Act do not apply.

4. Similarly, ICORE's argument that the Commission does not have the authority to issue subpoenas to connecting carriers and, therefore, should limit the Bureau's subpoena power accordingly is unavailing. The Commission determined that it need not resolve in this proceeding the question of whether it has the authority to issue subpoenas to connecting carriers. The *Subpoena Order* simply delegates to the Bureau subpoena authority properly exercised by the Commission. ICORE has provided no support for its contention that this delegation is beyond the scope of the Commission's authority or jurisdiction.

5. The Commission determined, however, that some modification to the Bureau's subpoena authority is appropriate. The Commission recently issued, on its own motion, an order (''*Amendment of Part 0*'') (60 FR 35503, published July 10, 1995) delegating similar authority to other bureaus within the Commission. The delegation of authority in that order differed from the delegation contained in the *Subpoena Order* in three respects. First, the Commission delegated subpoena authority to the bureaus on the condition that before the issuance of a subpoena, each bureau would obtain the approval of the Office of General Counsel (''OGC''). In conformance with this order, and in keeping with the Commission's intent to make language in the delegations of authority to issue subpoenas of all bureaus conform to a requirement for prior approval by OGC, the Commission will amend Section 0.291(h) to add additional language requiring OGC approval before a subpoena is issued.

6. Second, in *Amendment of Part 0*, the Commission qualified the type of subpoena that may be authorized by the bureaus. Specifically, the Commission stated that they are authorized to issue only ''non-hearing related'' subpoenas. The delegation of subpoena authority to the Bureau under Section 0.291(h) will be revised to include this qualification.

7. Third, instead of limiting the other bureaus' subpoena authority to investigations involving violations of particular sections or titles within the Act, the Commission generally granted each of them a broad delegation of subpoena authority over matters within their jurisdiction. The Commission will, therefore, modify the delegation of authority to the Common Carrier Bureau to be consistent in this regard.

II. Conclusion and Ordering Clauses

8. For the reasons set forth herein, the Commission denies the petitions for reconsideration submitted by PCIA and ICORE. The Commission also makes certain revisions to its delegation of subpoena authority to the Bureau. On its own motion, the Commission amends Section 0.291(h) to require the Chief, Common Carrier Bureau to obtain the approval of OGC prior to the issuance of a subpoena, to qualify the type of subpoena that may be authorized, and to extend the delegation of the Bureau's subpoena authority.

9. Accordingly, *it is ordered*, pursuant to Sections 4(i), 4(j), and 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 405(a), that the Petitions for Reconsideration filed by PCIA and ICORE ARE DENIED.

10. *It is further ordered*, pursuant to Sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and 154(j), that Section 0.291(j) of the Commission's rules, 47 CFR 0.291, IS AMENDED as set forth below. The requirement of notice and comment rule making contained in 5 U.S.C. 553(b) and the effective date provisions of 5 U.S.C. 553(d) do not apply because this amendment concerns matters of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A), (d).

11. *It is further ordered* that this revision to Section 0.291(h), as set forth below, is effective April 12, 1996.

List of Subjects in 47 CFR Part 0

Organization and functions: (Government agencies).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

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

PART 0—COMMISSION ORGANIZATION

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

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.291(h) is revised to read as follows:

§ 0.291 Authority delegated.

* * * * *

(h) *Authority concerning the issuance of subpoenas.* The Chief of the Common Carrier Bureau or her/his designee is authorized to issue non-hearing related subpoenas for the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, schedules of charges, contracts, agreements, and any other records deemed relevant to the investigation of matters within the jurisdiction of the Common Carrier Bureau. Before issuing a subpoena, the Bureau shall obtain the approval of the Office of General Counsel.

[FR Doc. 96–8456 Filed 4–11–96; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 61, No. 72
Friday, April 12, 1996

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 1

Claims, Administrative Regulations Amendment

AGENCY: Office of the Secretary of Agriculture, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This document proposes to amend the Administrative Regulations of the United States Department of Agriculture (USDA) relating to claims submitted pursuant to the Federal Tort Claims Act (FTCA) contained in 7 CFR Part 1, Subpart D, as part of the USDA regulatory reinvention initiative to improve its regulations.

DATES: Comments must be received by May 13, 1996.

ADDRESSES: Comments should be sent to: Robert L. Siegler, Deputy Assistant General Counsel, Research and Operations Division, Office of the General Counsel, USDA, room 2321, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250, (202) 720–6035.

FOR FURTHER INFORMATION CONTACT: Robert L. Siegler at the above address.

SUPPLEMENTARY INFORMATION:

Background

The President directed the heads of all departments and agencies to review all regulations and eliminate or revise regulations that are outdated or otherwise in need of reform. This proposed rule updates the USDA regulation contained in 7 CFR § 1.51 relating to claims submitted under the FTCA to remove those provisions relating to claims submitted prior to 1967 and to update the procedure for filing FTCA claims.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule will not have any economic impact.

Under these circumstances, the Secretary has determined that this 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 proposed rule: (1) preempts all state and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 1

Administrative practice and procedure, Agriculture, Claims.

Accordingly, it is proposed to amend 7 CFR part 1, subpart D as follows:

PART 1—ADMINISTRATIVE REGULATIONS

Subpart D—Claims

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

Authority: 5 U.S.C. 301; 28 U.S.C. 2671–2680; 28 CFR part 14.

2. Section 1.51 is revised to read as follows:

§ 1.51 Claims based on negligence, wrongful act or omission.

(a) *Authority of the Department.* Under the provisions of the Federal Tort Claims Act (FTCA), as amended, 28 U.S.C. 2671–2680, and the regulations issued by the Department of Justice contained in 28 CFR part 14, the Department may, subject to the provisions of the FTCA and regulations, consider, ascertain, adjust, determine, compromise, and settle claims for money damages against the United States for personal injury, death, or property loss or damage caused by the negligent or wrongful act or omission of any employee of the United States Department of Agriculture (USDA) while acting within the scope of his or her office or employment, under circumstances where the United States, if it were a private person, would be liable, in accordance with the law of the place where the act or omission occurred.

(b) *Procedure for filing claims.* Claims must be presented by the claimant, or by his or her duly authorized agent or legal representative as specified in 28 CFR 14.3. Standard Form 95, Claim for Damage or Injury, may be obtained from the agency within USDA that employs the employee who allegedly committed the negligent or wrongful act or omission. The completed claim form, together with appropriate evidence and information, as specified in 28 CFR 14.4, shall be filed with the agency from which it was obtained.

(c) *Determination of claims.* (1) *Delegation of authority to determine claims.* The General Counsel, and such employees of the Office of the General Counsel as may be designated by the General Counsel, are hereby authorized to consider, ascertain, adjust, determine, compromise, and settle claims pursuant to the FTCA, as amended, and the regulations contained in 28 CFR part 14 and in this section.

(2) *Disallowance of claims.* If a claim is denied the General Counsel, or his or her designee, shall notify the claimant, or his or her duly authorized agent or legal representative.

Done in Washington, DC, this 5th day of April 1996.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 96–9114 Filed 4–11–96; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 36

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1191

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 37

Americans With Disabilities Act Accessibility Guidelines; Detectable Warnings

AGENCIES: Architectural and Transportation Barriers Compliance Board, Department of Justice, and Department of Transportation.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board), the Department of Justice, and the Department of Transportation propose to extend the suspension of the requirements for detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) from July 26, 1996 to July 26, 1998. The Access Board has established an advisory committee to conduct a comprehensive review of ADAAG, including the detectable warning requirements, and plans to initiate rulemaking to revise and update ADAAG based on the advisory committee's recommendations. Extending the suspension date for the detectable warning requirements will allow the Access Board to consider the advisory committee's recommendations and available research data, and to address the detectable warning requirements in the rulemaking to revise and update ADAAG.

DATES: Comments should be received by May 13, 1996. Comments received after this date will be considered to the extent practicable.

ADDRESSES: Comments should be sent to the Office of the General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. The Access Board will provide copies of all comments received to the Department of Justice and the Department of Transportation.

Comments will be available for inspection at the above address from 9:00 a.m. to 5:30 p.m. on regular business days.

FOR FURTHER INFORMATION CONTACT: Access Board: James J. Raggio, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone (202) 272–5434 extension 16 or (800) 872–2253 extension 16 (voice), and (202) 272–5449 (TTY) or (800) 993–2822 (TTY).

Department of Justice: The ADA Information Line, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, Washington, DC 20530. Telephone (800) 514–0301 (voice) or (800) 514–0383 (TTY).

Department of Transportation: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, SW., room 10424, Washington, DC 20590. Telephone (202) 366–9306 (voice) or (202) 755–7687 (TTY).

SUPPLEMENTARY INFORMATION:

Availability of Alternate Formats

Copies of this proposed rule are available in the following formats: standard print, large print, Braille, audio cassette tape, and computer disk. Single copies may be obtained at no cost by calling the Access Board's automated publications order line (202) 272–5434 or (800) 872–2253, pressing 1 on the telephone keypad, then 1 again and requesting publication DW1 (Detectable Warnings Notice of Proposed Rulemaking). Persons using a TTY should call (202) 272–5449 or (800) 993–2822. Please give your name, address, and telephone number when ordering publications. Persons who want a copy in large print, Braille, audio cassette tape, or computer disk should specify the type of format they want.

The proposed rule is available on electronic bulletin board at (202) 272–5448 (Access Board) and (202) 514–6193 (Department of Justice). These telephone numbers are not toll-free numbers.

The proposed rule is also available on the Internet. It can be accessed with World Wide Web software (http://www.usdoj.gov).

Background

The Access Board is responsible for issuing guidelines to assist the Department of Justice and the Department of Transportation in establishing accessibility standards for newly constructed and altered facilities under the Americans with Disabilities Act. In 1991, the Access Board issued the Americans with Disabilities Act Accessibility Guidelines (36 CFR part 1191), which is commonly referred to as ADAAG. Sections 1 through 10 of ADAAG have been adopted as the accessibility standards for the Americans with Disabilities Act by the Department of Justice (28 CFR part 36) and the Department of Transportation (49 CFR part 37).

As issued in 1991, ADAAG required that a pattern of small, raised truncated domes be built in or applied to walking surfaces at certain locations on a site to warn pedestrians who are blind or visually impaired of hazards on a circulation path. The detectable warnings were required at:

- Curb ramps (ADAAG 4.7.7);
- Hazardous vehicular areas (i.e., where pedestrian ways adjoin vehicular ways and there are no curbs, railings, or other elements separating the pedestrian and vehicular ways) (ADAAG 4.29.5); and
- Reflecting pool edges that are not protected by railings, walks, or curbs (ADAAG 4.29.6).[1]

In April 1994, the Access Board, the Department of Justice, and the Department of Transportation issued a joint rule that suspended the requirements for detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools until July 26, 1996. 59 FR 17442 (April 12, 1994). This action was taken to allow the agencies to consider the results of a research project on the need for detectable warnings at vehicular-pedestrian intersections. The research project, which was sponsored by the Access Board and was conducted by the Virginia Polytechnic Institute and State University, was completed in January 1995.

The research project showed that vehicular-pedestrian intersections are very complex environments and that pedestrians who are blind or visually impaired use a combination of cues to detect and cross intersections. The research project also showed that the travel skills and experience of the pedestrian who is blind or visually impaired are also important factors in negotiating an intersection. The research project found that detectable warnings helped some pedestrians who are blind or visually impaired locate and identify curb ramps. However, the detectable warnings had only a modest impact on

[1] Detectable warnings were also required at platform edges in train stations that are not protected by platform screens or guard rails (ADAAG 10.3.1 (8)). The requirement for detectable warnings at platform stations in train stations is not affected by this rulemaking action.

overall performance because, in their absence, pedestrians who are blind or visually impaired used whatever other cues were available to detect and cross the intersection. The research project indicated that there may be a need for additional cues at some types of intersections. The research project did not identify the specific conditions where such cues should be provided. The research project suggested that other technologies be explored for providing information about intersections, which may be less costly and equally or more effective than detectable warnings.[2]

The Access Board, in cooperation with Project ACTION, has taken steps to further define specific areas of research that are necessary in order to provide adequate information for pedestrians who are blind or visually impaired at crossings, intersections, hazardous vehicular areas, and reflecting pools. A panel of experts representing people who are blind or visually impaired, designers and engineers, educators, researchers, and State and local governments was assembled in June 1995 to review the existing research on pedestrians who are blind or visually impaired and to develop a statement of research needs. It is anticipated that a final statement of research needs will be available by the summer of 1996.

The Access Board has also established an advisory committee to conduct a comprehensive review of ADAAG. The advisory committee has formed several subcommittees, including a communications subcommittee which considered the detectable warning requirements. The subcommittees have presented their recommendations to the full advisory committee which is reviewing the recommendations and will issue a final report to the Access Board by September 1996. The Access Board plans to initiate rulemaking to revise and update ADAAG based on the advisory committee's report in fiscal year 1997. The Access Board intends to address the requirements for detectable warnings in the planned rulemaking to revise and update ADAAG, after considering the advisory committee's recommendations and available research data.

In view of advisory committee's activities and the planned rulemaking to revise and update ADAAG, the Access Board, the Department of Justice, and the Department of Transportation propose to extend the suspension of the detectable warnings requirements at curb ramps, hazardous vehicular areas, and reflecting pools from July 26, 1996 to July 26, 1998. This extension will allow the Access Board to consider the recommendations of the advisory committee that is currently reviewing ADAAG and available research data, and to address the requirements in the planned rulemaking to update and revise ADAAG.

Regulatory Process Matters

The Access Board, the Department of Justice, and the Department of Transportation have independently determined that this proposed rule is not a significant regulatory action under Executive Order 12866. Accordingly, a regulatory analysis is not required. It is a significant rule under the Department of Transportation's regulatory policies and procedures since it amends the agency's Americans with Disabilities Act regulations, which are a significant rule. The Department of Transportation expects the economic impacts to be minimal and has not prepared a full regulatory evaluation.

Executive Order 12875 prohibits agencies from promulgating any regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government unless certain conditions are met. This proposed rule creates no new mandate. Consistent with the spirit of Executive Order 12875, this proposed rule continues the suspension of an existing regulatory requirement to allow for further review of the requirement.

The Access Board, the Department of Justice, and the Department of Transportation have also independently certified under section 605(b) of the Regulatory Flexibility Act that this proposed rule is not expected to have a significant economic impact on a substantial number of small entities because it continues the suspension of an existing regulatory requirement and does not impose any new requirement. Therefore, an initial regulatory flexibility analysis is not required.

Text of Proposed Common Rule

The text of the common rule is revised to read as follows:

§ _____._____ Temporary suspension of certain detectable warning requirements.

The detectable warning requirements contained in §§ 4.7.7, 4.29.5, and 4.29.6 of appendix A to this part are suspended temporarily until July 26, 1998.

Adoption of Proposed Common Rule

The agency specific proposals to adopt the proposed common rule, which appears at the end of the common preamble, are set forth below.

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 36

List of Subjects in 28 CFR Part 36

Administrative practice and procedure, Alcoholism, Buildings and facilities, Business and industry, Civil rights, Consumer protection, Drug abuse, Historic preservation, HIV/AIDS, Individuals with disabilities, Reporting and recordkeeping requirements, Transportation.

Authority and Issuance

By the authority vested in me as Attorney General by 28 U.S.C. 509, 510; 5 U.S.C. 301; and 42 U.S.C. 12186, and for the reasons set forth in the common preamble, part 36 of chapter I of title 28 of the Code of Federal Regulations is proposed to be amended as follows:

PART 36—NONDISCRIMINATION ON THE BASIS OF DISABILITY BY PUBLIC ACCOMMODATIONS AND IN COMMERCIAL FACILITIES

1. The authority citation for 28 CFR part 36 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; 42 U.S.C. 12186(b).

§ 36.407 [Revised]

2. Section 36.407 is revised to read as set forth at the end of the common preamble.

Janet Reno,

Attorney General.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1191

List of Subject in 36 CFR Part 1191

Buildings and facilities, Civil rights, Individuals with disabilities.

Authority and Issuance

For the reasons set forth in the common preamble, part 1191 of title 36 of the Code of Federal Regulations is proposed to be amended as follows:

[2] The research project also examined whether detectable warnings introduce barriers to other pedestrians. The research project found that most pedestrians ignored the detectable warnings and no major problems were encountered.

PART 1191—AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

1. The authority citation for 36 CFR part 1191 continues to read as follows:

Authority: 42 U.S.C. 12204.

§ 1191.2 [Revised]

2. Section 1191.2 is revised to read as set forth at the end of the common preamble.

Authorized by vote of the Access Board on February 23, 1996.

John H. Catlin,

Chairman, Architectural and Transportation Barriers Compliance Board.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 37

List of Subjects in 49 CFR Part 37

Buildings and facilities, Buses, Civil rights, Individuals with disabilities, Mass transportation, Railroads, Reporting and recordkeeping requirements, Transportation.

Authority and Issuance

For the reasons set forth in the common preamble, part 37 of title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 37—TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (ADA)

1. The authority citation for 49 CFR part 37 continues to read as follows:

Authority: The Americans with Disabilities Act of 1990 (42 U.S.C. 12101–12213); 49 U.S.C. 322.

§ 37.15 [Revised]

2. Section 37.15 is revised to read as set forth at the end of the common preamble.

Dated: April 5, 1996.

Nancy E. McFadden,

Acting Secretary of Transportation.

[FR Doc. 96–8974 Filed 4–11–96; 8:45 am]

BILLING CODES 4410–01–P, 8150–01–P, 4910–62–P]

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5453–9]

National Oil and Hazardous Substances Pollution Contingency Plan, National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Liquid Gold Oil Corporation Site (EPA ID# CAT000646208) from the National Priorities List, request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 9 announces its intent to delete the Liquid Gold Oil Corporation Site (the Site) in Richmond, California, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 400 CFR Part 300 which is 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) of 1980, as amended. EPA and the State of California Department of Toxic Substances Control have determined that the Site poses no significant threat to human health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted by May 13, 1996.

ADDRESSES: Comments may be mailed to: Keith Takata, Director, Superfund Programs, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

Comprehensive information on this Site is available through the EPA Region 9 public docket which is located at EPA Region 9's Superfund Records Center, at the address above, and is available for viewing between 8 a.m. and 5 p.m., Monday through Friday, excluding holidays. Additional information on the Liquid Gold Superfund Site, including that contained in the public docket, is also available for viewing at the Site repository located at: State of California, Department of Toxic Substances Control, 700 Heinz Avenue, 2nd floor, Berkeley, CA 94710–2737.

FOR FURTHER INFORMATION CONTACT:

Andrew Lincoff, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–2245

or

Ben Hargrove, Department of Toxic Substances Control, 700 Heinz Avenue, 2nd floor, Berkeley, CA 94710–2737, (510) 540–3845.

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 9, announces its intent to delete the Liquid Gold Oil Corporation Site, located in Richmond, California, from the National Priorities List (NPL) and requests comments on this deletion. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300. EPA identifies sites that present a significant risk to public health, welfare, or the environment and maintains the NPL as a list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site for thirty days after 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 the Liquid Gold Oil Corporation Site and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on the NPL when no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required; or

(ii) All appropriate response under CERCLA has been implemented and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment, and therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and

unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. Consistent with the Operations and Maintenance Plan for the site, the State of California Department of Toxic Substances Control will oversee the five-year review of this final remedy in January, 1999. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Wherever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 9 has recommended deletion and has prepared the relevant documents; (2) The State of California has concurred with the proposed deletion decision; (3) A notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and (4) All relevant documents have been made available for public review in the local Site information repository.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in Section II of this Notice, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final notice in the Federal Register. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to interested parties by the Regional Office.

IV. Basis for Intended Site Deletion

A. Site Background

The Liquid Gold Oil Corporation Superfund Site is located in the City of Richmond, Contra Costa County, California, west of Interstate 580 and southwest of the Bayview West interchange. The Site is bounded by Hoffman Marsh on the east and southeast, and by drainage channels connecting to San Francisco Bay on the west and southwest. The area of the Site is approximately 18 acres.

The Site is currently fenced and unoccupied. Current and expected future zoning of the Site permits only commercial and industrial uses. Land use restrictions selected as part of the Site remedy will also permit only non-residential uses in the future.

B. History

The Site is owned by Southern Pacific Transportation Company (''SPTCo'') and was leased to several tenants from the 1940s to the early 1980s. An asphalt manufacturing plant was operated on the Site in the 1940s and '50s. Later the Site was leased to the Liquid Gold Oil Corporation (''Liquid Gold''), which operated an oil and solvent collection, storage and transfer facility. In the 1970s and early '80s, investigations by the San Francisco Bay Regional Water Quality Control Board and the U.S. Coast Guard documented spills of oil and chemicals at the Site. Liquid Gold cleaned up some surface spills after ceasing operations in 1980, and then abandoned the facility. The Site was placed on the California State Superfund List in January 1983, and on the NPL in September, 1983.

The property owner, SPTCo, performed a number of interim response actions prior to and after California and NPL listing. These actions included the removal and off-site disposal of 25 bulk storage tanks in 1982 and '83; the removal and off-site disposal of 73 drums of hazardous waste in 1984; the excavation and off-site disposal of 760 cubic yards of contaminated soil; and the demolition of remaining site buildings and off-site disposal of the demolished buildings along with some asbestos contaminated debris, in 1989. On January 13, 1988, DTSC issued a Consent Order to SPTCo requiring completion of an RI/FS for the Site.

C. Characterization of Risk

Site investigations included sampling and analysis of surface and subsurface soils, groundwater, surface water, and marsh sediments. The soils at the Site consist of 5–10 feet of fill material over the original bay mud. The contaminants of potential concern which remained in soils were lead and polycyclic aromatic hydrocarbons (''PAHs''). Average lead levels across the Site were low (42 ppm) and were well below the most stringent health-based levels for residential use by children (370 ppb). One subsurface area of approximately 5 acres in the center of the Site contains elevated lead levels. The average lead concentration in this area was 400 ppm. The average lead concentration in the most contaminated layer (5–6.5 feet below ground surface) was 1,000 ppm. This area also has the highest PAH levels onsite with an average of approximately 5 ppm. This area was identified as the area of concern for the analysis of risks and remedial alternatives. PAH levels for the rest of the Site were generally not detectable.

Due to the Site's proximity to San Francisco Bay, the groundwater at the Site is naturally saline and is not a source of drinking water under state or federal law. Average concentrations of copper, lead, and nickel exceeded the State basin plan marine chronic water quality objectives by roughly a factor of two.

The ecological assessment found evidence of biological stress in at least one drainage channel leading away from the Site. The resource agencies believed that there was also sufficient evidence to demonstrate biological stress in another drainage channel. Although chemical analyses did not clearly establish a link with Site contaminants, the resource agencies believed that the makeup of the biological communities in these areas was indicative of petroleum contamination.

The human health risk assessment demonstrated that the interim remedial measures performed at the Site had reduced the level of contamination to acceptable levels for all uses permitted under current zoning. Contaminant levels are also acceptable for trespassing children. The risk assessment also considered the safety of a hypothetical residential development even though residential development would not be permitted under current zoning and is not expected to occur. The results indicate that lead concentrations, particularly in subsurface soils in the area of concern, could cause unacceptable non-carcinogenic risks if childhood residential exposure were to occur (using an uptake-biokinetic model derived criteria of 370 ppm). However, the maximum lifetime cancer risk levels are within EPA's range of acceptable risk under both residential and commercial scenarios.

D. Remedial Actions

In February, 1993 DTSC released a proposed plan and final RI/FS for the Site.

The major components of the proposed remedy included:

—A deed restriction prohibiting residential development;
—Grading, addition of soil, and seeding to control runoff patterns;
—Groundwater monitoring for a minimum of five years; and
—Removal of sediments and debris from two drainage channels leading to the adjacent marsh to mitigate possible past adverse impacts from Liquid Gold.

A public meeting was held on March 30, 1993 to describe the proposed remedy and receive comments. The Record of Decision for the Site was issued by EPA on June 21, 1993 and selected the proposed remedy without change. It was determined that the selected remedy would provide overall protection of human health and the environment, comply with Applicable or Relevant and Appropriate Requirements of federal and state environmental laws, and provide the best overall balance of alternatives under the nine selection criteria of Section 300.430(f) of the NCP.

A preliminary design meeting and Site inspection by regulatory agencies occurred on August 13, 1993. The Draft Design Report was submitted on October 12, 1993. Design approval was given by DTSC on January 11, 1994. Construction began on July 5, 1994. Grading, placement of clean fill, and excavation of marsh sediments were completed, followed by the planting of native grasses and shrubs on the new cap. An initial inspection was performed by regulatory agencies on February 2, 1995 and additional sampling and minor cap repair were required. The final Site inspection occurred on July 28, 1995. The State certified completion of the remedy by letter dated August 14, 1995.

E. Community Relations Activities

Four fact sheets have been released describing activities at the Site. In February, 1993, DTSC released a proposed plan and RI/FS for the Site. Site documents were made available at the lead agency offices and a local repository, and a public notice was published allowing 30 days for public comment on the RI/FS and Proposed Plan. A public meeting was held on March 30, 1993 to describe the proposed remedy and receive comments. Four members of the public asked questions at the public meeting, and two written comments were received from the community. The comments were favorable. DTSC responded to all comments received during this period, which were primarily from other State agencies. A fact sheet describing the remediation was released approximately 30 days prior to the initiation of construction. Finally, a public notice of this proposed deletion is being published concurrently in a local newspaper.

F. Summary of Operation and Maintenance

The Operations and Maintenance Plan was finalized on July 24, 1995. The plan provides for routine monitoring, inspection and maintenance of the vegetated cap, fencing and groundwater wells, and submission of reports. The plan also provides for inspection of the marsh channels and biological testing.

The deed restriction for the Site, which prohibits residential use, was signed on July 25, 1995 and recorded on September 13, 1995. Southern Pacific provided financial assurance of its ability to perform long-term O&M at the Site to the State on September 19, 1995.

SPTCo. has been required to monitor and report the quality of groundwater in sixteen wells quarterly. Results to date consistently indicate that contaminants, including metals, are not moving offsite through groundwater.

G. Protectiveness

All the completion requirements for this Site have been met as specified in OSWER Directive 9320.2–09, ''Close Out Procedures for National Priorities List Sites.'' Specifically, all cleanup actions specified in the ROD have been implemented. The human health risk assessment performed during the remedial investigation demonstrated that prior response measures performed at the Site had reduced the level of contamination to acceptable levels for all uses permitted under current zoning. A deed restriction prohibiting residential use is in place. Ongoing confirmatory groundwater and marsh biological sampling and capping with clean soil provide further assurance that the Site no longer poses a threat to human health or the environment. The only remaining activities to be performed are Operations and Maintenance which will be performed by the property owner under a written agreement with the State, pursuant to a State Order.

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if ''responsible parties or other parties have implemented all appropriate response actions required.'' EPA, with the concurrence of the California Department of Toxic Substances Control, believes that this criterion for deletion has been met. Consequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available in the Regional NPL Docket.

Dated: March 12, 1996.

Felicia Marcus,

Regional Administrator.

[FR Doc. 96–9165 Filed 4–11–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[I.D.040896C]

Atlantic Swordfish Fisheries; Public Hearings

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

ACTION: Public hearings; request for comments.

SUMMARY: NMFS will hold four public hearings to receive comments from fishery participants and other members of the public regarding proposed amendments to regulations governing the Atlantic swordfish fisheries. The proposed rule would: Reduce the total allowable catch to 2,625 metric tons dressed weight via a split season (June 1 - May 31), decrease the minimum size to 73 cm (29 inches) cleithrum to caudal keel measure and eliminate the trip allowance for undersized fish, and make technical changes to ensure consistency of regulations.

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

DATES: See **SUPPLEMENTARY INFORMATION** for dates and times of the public hearings. Written comments on the proposed rule must be received on or before May 2, 1996.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for the public hearing locations. Written comments should be sent to William Hogarth, Acting Chief, Highly Migratory Species Management Division, Office of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. Clearly mark the outside of the

envelope ''Atlantic Swordfish Comments.''

FOR FURTHER INFORMATION CONTACT: William Hogarth at 301–713–2339; Kevin Foster at 508–281–9260.

SUPPLEMENTARY INFORMATION: The proposed regulatory amendments that are the subject of the hearings are necessary to improve management and monitoring of the U.S. Atlantic swordfish fisheries, to implement recommendations of the International Commission for the Conservation of Atlantic Tunas, and to enhance collection of data to improve assessment of the environmental, economic, and social impacts of the fisheries.

A complete description of the measures, and the purpose and need for the proposed action, is contained in the proposed rule published April 5, 1996 (61 FR 15212) and is not repeated here. Copies of the proposed rule may be obtained by writing (see **ADDRESSES**) or calling one of the contact persons (see **FOR FURTHER INFORMATION CONTACT**).

The public hearings are scheduled as follows:

Friday, April 19, 1996, Barnegat Light, NJ, 7–10 p.m.

Barnegat Light Firehouse

West 10th Street

Barnegat Light, NJ 08006

Monday, April 22, 1996, Silver Spring, MD, 2–5:00 p.m.

NOAA Building 4, Room 1W611 (Lobby Conference Room)

1305 East-West Highway

Silver Spring, MD 20910

Tuesday, April 23, 1996, Fairhaven, MA, 7–10 p.m.

Seaport Inn (Nantucket Room)

110 Middle Street

Fairhaven, MA 02719

Thursday, April 25, 1996, New Orleans, LA, 7–10 p.m.

Quality Inn Midtown (Napoleon Room)

3900 Tulane Avenue

New Orleans, LA 70119

The purpose of this notice is to alert the interested public of hearings and provide for public participation. These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to William Hogarth by April 15, 1996 (see **ADDRESSES**).

Dated: April 8, 1996.

Richard H. Schaefer,

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

[FR Doc. 96–9115 Filed 4–9–96; 10:10 am]

BILLING CODE 3510–22–F

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50 CFR Parts 650 and 651

[I.D. 040396A]

New England Fishery Management Council; Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The meeting will convene on Wednesday, April 17, 1996, at 10 a.m. and on Thursday, April 18, 1996, at 8:30 a.m.

ADDRESSES: The meeting will be held at the Providence Biltmore Hotel, Kennedy Plaza, Providence, RI 02903; telephone: (401) 421–0700. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097; telephone: (617) 231–0422.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, (617) 231–0422.

SUPPLEMENTARY INFORMATION:

April 17, 1996

The April 17, 1996, session will begin with reports from the Council Chairman, Council Executive Director, NMFS Regional Director, Northeast Fisheries Science Center liaison, Mid-Atlantic Fishery Management Council liaison, and representatives from the Coast Guard, and the Atlantic States Marine Fisheries Commission. A report on the most recent meeting of the Council's Monkfish Committee will follow. Discussion will include a review of the development of management options for public hearing purposes.

The afternoon agenda will include a discussion on the gear conflict emergency regulations and the Council will explore alternatives for extending these emergency regulations, which are due to expire on June 25, 1996. Following that will be a report from the Council's Sea Scallop Committee. The Council may initiate action on a framework adjustment to the Atlantic Sea Scallop Fishery Management Plan (Sea Scallop FMP) that would allow some vessels fishing with dredges to also use nets to harvest scallops, if they meet certain criteria. Sea scallop regulations currently prohibit dredge vessels from using nets to harvest scallops. The Herring Committee will report on its deliberations concerning internal waters processing and joint venture allocations for 1996–97.

April 18, 1996

On April 18, 1996, the Large Pelagics Committee will report to the Council on the current situation in the fisheries for pelagic sharks, swordfish, bluefin and other tunas, and on management issues and activities for those fisheries. The Marine Mammal Committee will then brief the Council on its recommendations concerning action to further reduce the bycatch of the Gulf of Maine harbor porpoise and its discussion on the status of the northern right whale. The Groundfish Committee will discuss its recommendation to initiate action on a framework adjustment to the Northeast Multispecies Fishery Management Plan (Northeast Multispecies FMP). The adjustment would modify days-at-sea (DAS) allocated to sea scallop net vessels. A second framework adjustment may be initiated for the purpose of implementing gillnet effort restrictions to replace those measures currently proposed in Amendment 7 to the Northeast Multispecies FMP. The Council meeting will conclude with a discussion of the Enforcement Committee's recommendations on measures contained in the Amendment 7 proposed rule and other broader enforcement issues. Any other outstanding business will be addressed at the end of the day.

Abbreviated Rulemaking Action—Atlantic Sea Scallops

At the recommendation of its Scallop Committee, the Council will consider initial action on Framework Adjustment 8 to the Sea Scallop FMP under the framework for abbreviated rulemaking procedure contained in 50 CFR 650.40. The Council proposes to allow vessels that have used a scallop dredge 5 times or less from 1998 through 1994 to continue to use a net to catch scallops. Other options for determining whether it is impractical for vessels to use dredges include a change of owners, total refitting of the vessel, and horsepower limits.

Abbreviated Rulemaking Action—Northeast Multispecies

The Council will consider initial action on Framework Adjustment 15 to the Northeast Multispecies FMP under the framework for abbreviated rulemaking procedure contained in 50 CFR 651.40. The action is intended to further reduce the bycatch of harbor porpoise in the Gulf of Maine sink gillnet fishery by increasing the area and possibly changing the time period for the closure referred to as the Northeast Area, currently in place from August 15 through September 13 of each fishing year.

Two additional framework adjustments to the Multispecies FMP may be initiated. One would adjust groundfish DAS allocations to scallop net vessels and the other would implement alternative gillnet effort reduction measures to replace Amendment 7 proposals.

The Council will consider public comments at a minimum of two Council meetings prior to making any final recommendations to the Director, Northeast Region, NMFS (Regional Director) under the provisions for abbreviated rulemaking cited above. If the Regional Director concurs with the measures proposed by the Council, he will publish them as a final rule in the Federal Register.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Douglas G. Marshall (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: April 8, 1996.

Richard H. Schaefer,

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

[FR Doc. 96–9168 Filed 4–11–96; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 72
Friday, April 12, 1996

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

DEPARTMENT OF COMMERCE

Evaluation of Coastal Zone Management Program and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of Virginia and Oregon Coastal Zone Management Programs.

These evaluations will be conducted pursuant to section 312 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of states with respect to coastal program implementation. Evaluation of Coastal Zone Management Programs requires findings concerning the extent to which a state has met the national objectives, adhered to its coastal program document approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA. The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings are held as part of the site visits

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of public meetings during the site visits.

The Virginia Coastal Zone Management Program site visit will be from June 3–7, 1996. Public meetings will be held on Tuesday, June 4, 1996, at 7:00 p.m., at the Rappahannock Community College, 52 Campus Drive (Route 360), Warsaw, VA, and Thursday, June 6, 1996, at 7:00 p.m., at the Hampton Roads Planning District Commission, 723 Woodlake Drive, Chesapeake, VA.

The Oregon Coastal Zone Management Program site visit will be from June 3–7, 1996. A public meeting will be held on Wednesday, June 5, 1996, at 7:00 p.m., at the Lincoln City Council Chambers, Lincoln City Hall, 3rd Floor, 801 SW Highway 101, Lincoln City, OR, 97367.

The States will issue notice of the public meeting(s) in a local newspaper(s) at least 45 days prior to the public meeting(s), and will issue other timely notices as appropriate.

Copies of the State's most recent performance reports, as well as OCRM's notifications and supplemental request letters to the States, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910. When the evaluation is completed, OCRM will place a notice in the Federal Register announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Vickie A. Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, (301) 713–3090, ext. 126.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.

Dated: April 8, 1996.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone.

[FR Doc. 96–9070 Filed 4–11–96; 8:45 am]

BILLING CODE 3510–08–M

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of availability of evaluation final findings.

SUMMARY: Notice is hereby given of the availability of the final evaluation findings for the Alaska, Commonwealth of the Northern Marianas, Florida, Massachusetts, and New York Coastal Management Programs, and the ACE Basin (South Carolina), Elkhorn Slough (California), South Slough (Oregon), Jobos Bay (Puerto Rico), Old Woman Creek (Ohio), and Wells (Maine) National Estuarine Research Reserves (NERRs). Sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended, require a continuing review of the performance of coastal states with respect to approved coastal management programs and the operation and management of NERRS.

The states of Alaska, Florida, Massachusetts, New York and the Territory of the Commonwealth of Northern Marianas Islands were found to be adhering to and implementing and enforcing their Federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA Section 303(2) (A)–(K), and adhering to the programmatic terms of their financial assistance awards.

ACE Basin, Elkhorn Slough, Old Woman Creek, South Slough, and Wells NERRs were found to be adhering to programmatic requirements of the NERR system. Jobos Bay NERR was found to be not fully adhering to the NERR System goals, the Federally approved NERR management plan, and to the terms of its financial assistance awards.

Copies of these final evaluation findings may be obtained upon written request from: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, Silver Spring, Maryland 20910 (301) 713–3087x126.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration.

Dated: April 8, 1996.

W. Stanley Wilson,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 96–9071 Filed 4–11–96; 8:45 am]

BILLING CODE 3510–08–M

[I.D. 040496B]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting.

DATES: This meeting will be held on May 1, 1996 from 8:00 a.m. to 3:00 p.m.

ADDRESSES: This meeting will be held at the DoubleTree Guest Suites Hotel, 4400 West Cypress Street, Tampa, FL; telephone: 813–873–8675.

Council address: Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Biologist; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The Reef Fish Advisory Panel will review a video by the Florida Marine Patrol about fish trap enforcement and a summary of the results of the NMFS fish trap vessel observer study, and will review a draft of Amendment 14 to the Reef Fish Fishery Management Plan for the Gulf of Mexico. Draft Amendment 14 addresses a possible permanent license limitation system for fish trap users, and consideration of a ban on fish traps in Federal waters off of southwest Florida. This amendment also contains options to revise the reef fish framework procedure for setting total allowable catch in order to provide NMFS' Regional Director with the authority to reopen a season that was closed prematurely due to quota harvest projections. In addition, the amendment contains an option to modify the transferability provisions for reef fish vessel permits when transferring between vessel owners and operators who are the income qualifiers for the permit.

The Reef Fish Advisory Panel will also review Federal and state definitions of charter vessels and headboats and possible revisions to those definitions.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by April 26, 1996.

Dated: April 5, 1996.

Richard W. Surdi,

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

[FR Doc. 96–9111 Filed 4–11–96; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: May 13, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On December 29, 1995 and February 23, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (60 F.R. 67351 and 61 F.R. 6977) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Case, Plotting Board

1220–01–055–6137

Bag, Plastic

8105–01–150–6256

Panel Marker, Aerial Liaison

8345–00–567–3323

Services

Janitorial/Custodial

AMSA #32
100 Stephens Road
Wilkes-Barre, Pennsylvania

Operation of Servmart

Fleet and Industrial Supply Center
Agana, Guam

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 96–9158 Filed 4–11–96; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 13, 1996.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its

purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Janitorial/Custodial
U.S. Customs House
Philadelphia, Pennsylvania
NPA: Elwyn, Inc. Elwyn, Pennsylvania at its facility in Concordville, Pennsylvania

Janitorial/Custodial
Federal Bureau of Investigation Academy
Training Division
Quantico, VA
NPA: Rappahannock Goodwill Industries, Inc., Fredericksburg, Virginia

Switchboard Operation
Kirtland Air Force Base, New Mexico
NPA: RCI, Inc., Albuquerque, New Mexico.

Beverly L. Milkman,
Executive Director.

[FR Doc. 96–9159 Filed 4–11–96; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0068]

Submission for OMB Review; Comment Request Entitled Economic Price Adjustment

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0068).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Economic Price Adjustment. A request for public comments was published at 61 FR 3375, January 31, 1996. No comments were received.

DATES: *Comment Due Date:* May 13, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0068, Economic Price Adjustment, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano, Federal Acquisition Policy Division, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

A fixed-price contract with economic price adjustment provides for upward and downward revision of the stated contract price upon occurrence of specified contingencies. In order for the contracting officer to be aware of price changes, the firm must provide pertinent information to the Government. The information is used to determine the proper amount of price adjustments required under the contract.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15* minutes 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.

The annual reporting burden is estimated as follows: Respondents, *7,200;* responses per respondent, 1; total annual responses, *7,200;* preparation hours per response, *.25;* and total response burden hours, *1,800*.

Obtaining Copies of Proposals: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0068, Economic Price Adjustment, in all correspondence.

Dated: April 8, 1996.

Beverly Fayson,
FAR Secretariat.

[FR Doc. 96–9171 Filed 4–11–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0071]

Submission for OMB Review; Comment Request Entitled Price Redetermination

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0071).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Price Redetermination. A request for public comments was published at 61 FR 3376, January 31, 1996. No comments were received.

DATES: *Comment Due Date:* May 13, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of

this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0071, Price Redetermination, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano, Federal Acquisition Policy Division, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

Fixed-price contracts with prospective price redetermination provide for firm fixed prices for an initial period of the contract with prospective redetermination at stated times during performance. Fixed price contracts with retroactive price redetermination provide for a fixed ceiling price and retroactive price redetermination within the ceiling after completion of the contract. In order for the amounts of price adjustments to be determined, the firms performing under these contracts must provide information to the Government regarding their expenditures and anticipated costs. The information is used to establish fair price adjustments to Federal contracts.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *3,500;* responses per respondent, *2;* total annual responses, *7,000;* preparation hours per response, *1;* and total response burden hours, *7,000*.

Obtaining Copies of Proposals: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0071, Price Redetermination, in all correspondence.

Dated: April 8, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–9172 Filed 4–11–96; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0119; FAR Case 91–27]

Submission for OMB Review; Comment Request Entitled Performance Bond for Other Than Construction

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0119).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Performance Bond for Other Than Construction. A request for public comments was published at 61 FR 3379, January 31, 1996. No comments were received.

DATES: Comment Due Date: May 13, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0119, Performance Bond for Other Than Construction, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such, Federal Acquisition Policy Division, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

The new Standard Form (SF) 1418, Performance Bond for Other than Construction, is being proposed for establishment. This coincides with the proposed rule, FAR case 91–27, providing a contract clause governing performance bonds for other than construction. The terms and conditions governing performance bonds for construction and other than construction may vary. The SF 1418 is being created to reflect these different terms and conditions.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *25* minutes per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *500*; responses per respondent, *5*; total annual responses, *2,500*; preparation hours per response, *.5*; and total response burden hours, *1,250*.

Obtaining Copies of Proposals: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0119, Performance Bond for Other Than Construction, in all correspondence.

Dated: April 8, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–9173 Filed 4–11–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0139; FAR Case 95–305]

Proposed Collection; Comment Request Entitled Federal Acquisition and Community Right-to-Know

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance received pursuant to the emergency processing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (9000–0139).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection approved pursuant to the emergency processing

provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). This OMB clearance (9000–0139) currently expires on April 30, 1996. The requirement was published in the Federal Register as an interim rule (60 FR 55306, October 30, 1995) and public comments were solicited. Public comments were again solicited on January 31, 1996 (61 FR 3386). One comment has been received to date. It will be considered along with all substantive comments on the rule in finalization of the rule.

DATES: Comment Due Date: June 11, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 18th & F Streets NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0139, Federal Acquisition and Community Right-to-Know, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano, Federal Acquisition Policy Division, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

The interim rule added FAR Subpart 23.9 and its associated solicitation provision and contract clause which implement the requirements of Executive Order (E.O.) 12969 of August 8, 1995 (60 FR 40989, August 10, 1995), ''Federal Acquisition and Community Right-to-Know,'' and the Environmental Protection Agency's ''Guidance Implementing Executive Order 12969; Federal Acquisition; Community Right-to-Know; Toxic Chemical Release Reporting'' (60 FR 50738, September 29, 1995). The interim rule requires offerors in competitive acquisitions over $100,000 (including options) to certify that they will comply with applicable toxic chemical release reporting requirements of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001–11050) and the Pollution Prevention Act of 1990 (42 U.S.C. 13101–13109). The rule does not apply to acquisitions of commercial items under FAR Part 12 or contractor facilities located outside the United States. This rule does not apply to subcontractors beyond first-tier.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *0.50* minutes 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.

The annual reporting burden is estimated as follows: Respondents (includes first-tier subcontractors), *167,487*; responses per respondent, *1*; total annual responses, *167,487*; preparation hours per response, *0.50*; and total response burden hours, *83,744*.

Obtaining Copies of Justifications: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0139, Federal Acquisition and Community Right-to-Know, in all correspondence.

Dated: April 9, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–9174 Filed 4–11–96; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense (DoD) announces a meeting of the Defense Partnership Council (DPC). Notice of this meeting is required under the Federal Advisory Committee Act. This meeting is open to the public. The topics to be covered are a discussion of DPC operating procedures, the DPC charter extension, and action items related to the DPC Plan of Action.

DATES: The meeting is to be held Wednesday, May 1, 1996, in room 1E801, Conference Room 7, the Pentagon, from 1:00 p.m. until 3:00 p.m. Comments should be received by April 26, 1996, in order to be considered at the May 1 meeting.

ADDRESSES: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Kenneth Oprisko at the address shown below. Seating is limited and available on a first-come, first-served basis. Individuals wishing to attend who do not possess an appropriate Pentagon building pass should call the below listed telephone number to obtain instructions for entry into the Pentagon. Handicapped individuals wishing to attend should also call the below listed telephone number to obtain appropriate accommodations.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Blvd, Suite B–200, Arlington, VA 22209–5144, (703) 696–6301, ext. 704.

Dated: April 8, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–9073 Filed 4–11–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board 1996 Summer Study Task Force on Tactics and Technology for 21st Century Military Superiority

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board 1996 Summer Study Task Force on Tactics and Technology for 21st Century Military Superiority will meet in closed session on June 4–5, June 25–26, and July 16–17, 1996 at Strategic Analysis, Inc., Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will focus on the concept of making a relatively small (the size TBD) and rapidly deployable forces (or teams)—specially equipped, trained and supported by remote sensors and weapons—able to accomplish missions heretofore only possible with much larger and massed forces.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: April 8, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–90172 Filed 4–11–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Logistics Modernization

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Logistics Modernization will meet in open session on April 29–30, 1996 at the Institute for Defense Analyses (IDA), 1801 N. Beauregard Street, Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition & Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons interested in further information should call LTC Kerry M. Brown at (703) 697–7980.

Dated: April 8, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–9074 Filed 4–11–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Global Positioning System, Phase II

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Global Positioning System, Phase will meet in closed session on April 25–26 and May 21–22, 1996 at MIT, Lincoln Laboratory Office, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will examine affordable options in providing a robust position, navigation and timing capability.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II (1988)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: April 8, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–9075 Filed 4–11–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Military Personnel Information Management

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Military Personnel Information Management will meet in open session on April 29–30, 1996 at the Sheraton Crystal City Hotel, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons interested in further information should call Ms. Norma St. Clair at (703) 696–8710.

Dated: April 8, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–9076 Filed 4–11–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–289–000]

Colorado Interstate Gas Company; Notice of Application

April 8, 1996.

Take notice that on March 29, 1996, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP96–289–000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to construct and operate a compressor station to effectuate an increase in capacity on CIG's Wind River Lateral, to temporarily lease compression at the Muddy Gas Compressor site with pre-granted abandonment authority, all as more fully set forth in the application on file with the Commission and open to public inspection.

CIG proposes to construct the new compressor station in Carbon County, Wyoming, with approximately 10,556 horsepower of new compression at an estimated cost of $10,844,200. CIG proposes to install compression temporarily of approximately 3,000 horsepower at an estimated $51,000 a month until the permanent compression is in service. CIG avers that the leased (temporary) compression is cable of increasing the capacity of the Wind River Lateral by approximately 32 Dth per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 29, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–9092 Filed 4–11–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–45–000]

Northern Border Pipeline Company; Notice of Informal Settlement Conference

April 8, 1996.

Take notice that an informal settlement conference will be convened in this proceeding on Tuesday, April 23, 1996, at 1:00 p.m., and continuing through Wednesday, April 24, at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, for the purpose of exploring the possible settlement of

the issues in the above-referenced proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Betsy R. Carr at (202) 208–1240 or Anja Clark at (202) 208–2034.

Lois D. Cashell,

Secretary.

[FR Doc. 96–9094 Filed 4–11–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–294–000]

Southern Natural Gas Company; Notice of Application to Abandon

April 8, 1996.

Take notice that on April 1, 1996, Southern Natural Gas Company (Applicant), Post Office Box 2563, Birmingham Alabama 35202–2563, filed pursuant to Section 7(b) of the Natural Gas Act, for authority to abandon, by Sale to Vastar Resources, Inc. (Vastar) 13.05 miles of 18 inch natural gas pipeline, extending from the Vastar Platform in South Pass Block 60 to a subsea value located at Lambert Grid Coordinates X=2,784,488′ and Y=198,266′ in Main Pass Block 151, offshore Louisiana. Applicant also requests authority to abandon the receiving and delivery stations located on the South Pass 60 Platform.

Additionally, Applicant requests a determination from the Commission that the facilities to be abandoned will be a nonjurisdictional gathering facility under Section 1(b) of the NGA upon completion of the sale to Vastar.

Any person desiring to be heard or make any protest with reference to said application should on or before April 29, 1996, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required, or if the Commission on its own review of the matter finds that permission and approval of the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–9093 Filed 4–11–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–741–000, et al.]

MidAmerican Energy Company, et al.; Electric Rate and Corporate Regulation Filings

April 5, 1996.

Take notice that the following filings have been made with the Commission:

1. MidAmerican Energy Company

[Docket No. ER96–741–000]

Take notice that on March 14, 1996, MidAmerican Energy Company (MidAmerican), One River Center Place, 106 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, successor by merger to Midwest Power Systems Inc. (Midwest Power) and Iowa-Illinois Gas and Electric Company (Iowa-Illinois), filed a Notice of Cancellation of certain rate schedules described as follows:

Rate Schedule FERC No. 20, as supplemented, effective June 13, 1983 and filed with the Commission by Iowa Power & Light Company, predecessor of Midwest Power (Interconnection Agreement dated June 13, 1983 between Iowa Power & Light Company and Iowa-Illinois);

Rate Schedule FERC No. 50, as supplemented, effective June 13, 1983 and filed with the Commission by Iowa-Illinois (Interconnection Agreement dated June 13, 1983 between Iowa Power & Light Company and Iowa-Illinois);

Rate Schedule FERC No. 68, as supplemented, effective July 9, 1982 and filed with the Commission by Iowa Public Service Company, predecessor of Midwest Power (Interconnection Agreement dated June 14, 1982 between Iowa Public Service Company and Iowa-Illinois);

Rate Schedule FERC No. 46, as supplemented, effective July 9, 1982 and filed with the Commission by Iowa-Illinois (Interconnection Agreement dated June 14, 1982 between Iowa Public Service Company and Iowa-Illinois);

Rate Schedule FERC No. 59, as supplemented, effective May 1, 1988 and filed with the Commission by Iowa-Illinois (Agreement dated May 1, 1988 for firm power sales from May 1, 1988 through October 31, 1988 by Iowa-Illinois to Iowa Power Inc., a predecessor of Midwest Power);

Rate Schedule FERC No. 82, as supplemented, effective May 6, 1995 and filed with the Commission by Midwest Power (Transmission Service Agreement dated March 1, 1995 with Rainbow Energy Marketing Corporation);

Rate Schedule FERC No. 65, as supplemented, effective January 31, 1995 and filed with the Commission by Iowa-Illinois (Transmission Service Agreement dated December 7, 1994 with Enron Power Marketing Inc.);

Rate Schedule FERC No. 66, as supplemented, effective February 16, 1995 and filed with the Commission by Iowa-Illinois (Transmission Service Agreement dated December 16, 1994 with AES Power Inc.);

Rate Schedule FERC No. 67, as supplemented, effective February 16, 1995 and filed with the Commission by Iowa-Illinois (Transmission Service Agreement dated December 16, 1994 with Citizens Lehman Power Sales);

Rate Schedule FERC No. 68, as supplemented, effective February 16, 1995 and filed with the Commission by Iowa-Illinois (Transmission Service Agreement dated December 16, 1994 with Heartland Energy Services Inc.);

Rate Schedule FERC No. 69, as supplemented, effective February 16, 1995 and filed with the Commission by Iowa-Illinois (Transmission Service Agreement dated December 16, 1994 with Rainbow Energy Marketing Corporation);

Rate Schedule FERC No. 70, as supplemented, effective March 3, 1995 and filed with the Commission by Iowa-Illinois (Transmission Service Agreement dated December 16, 1994 with Electric Clearinghouse, Inc.); and

Rate Schedule FERC No. 71, as supplemented, effective April 14, 1995 and filed with the Commission by Iowa-Illinois (Transmission Service Agreement dated December 16, 1994 with Louis Dreyfus Electric Power Inc.)

MidAmerican states that it is cancelling Rate Schedule FERC Nos. 20, 50, 68 and 46, as described above, because they consist of Interconnection Agreements entered into by MidAmerican's predecessors by merger who were the only parties to such agreements. MidAmerican further states that it is cancelling Rate Schedule FERC No. 59, as described above, because it consists of a power sales agreement between MidAmerican's predecessors by merger who were the only parties to such agreement and the agreement expired on October 31, 1988 by its own terms. MidAmerican also states that it is cancelling Rate Schedule FERC Nos. 82 and 65 through 71, as described above, because they consist of Transmission Service Agreements entered into by MidAmerican's predecessors with power marketers and in accordance with the terms of such agreements they terminated on the effective date of MidAmerican's transmission tariffs accepted by the Commission in Docket No. ER95–188–000 which effective date was July 1, 1995.

MidAmerican requests an effective date and time of July 1, 1995 at 12.01 a.m. for the cancellation of each of the above-described rate schedules except Rate Schedule FERC No. 59 which it requests to be cancelled effective on October 31, 1988. MidAmerican states that good cause exists to grant these retroactive cancellation dates because MidAmerican's predecessors were either the only parties to the rate schedules or the other parties to the agreements have agreed to the termination of such agreements as part of the agreement.

Copies of this filing were served on Rainbow Energy Marketing Corporation, Enron Power Marketing, Inc., AES Power Inc., Citizens Lehman Power Sales, Heartland Energy Services Inc., Electric Clearinghouse, Inc., and Louis Dreyfus Electric Power Inc. In addition, a copy of this Notice has been sent to the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Pennsylvania Electric Company

[Docket No. ER96–1294–000]

Take notice that on March 12, 1996, GPU Service Corporation (GPU), on behalf of its affiliate Pennsylvania Electric Company (Penelec), tendered for filing an executed Joint Pole Attachment Agreement between Penelec and Central Electric Cooperative, Inc. (CEC) dated February 16, 1996.

Penelec requested a waiver of the Commission's notice requirements for good cause shown and an effective date of February 16, 1996, for the Service Agreement. Penelec has served copies of the filing on the appropriate regulatory agency in Pennsylvania.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power Corporation

[Docket No. ER96–1315–000]

Take notice that on March 14, 1996, Florida Power Corporation (Florida Power), tendered for filing a Network Integration Service Transmission Tariff and a Point-to-Point Transmission Service Tariff. Florida Power states that the tariffs supersede the tariff filed in Docket No. ER95–1536–000 and contain all of the non-rate terms and conditions of the pro forma tariffs proposed by the Commission in the Notice of Proposed Rulemaking in Docket No. RM95–8–000, ''Promoting Wholesale Competition Through Open-Access Non-Discriminatory Transmission Services by Public Utilities,'' IV FERC Stats. and Regs. ¶ 32,514 (1995). Florida Power asks the Commission to set an effective date for the tariffs of May 14, 1996.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–1414–000]

Take notice that on March 27, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement to provide interruptible transmission service for MidCon Power Services Corp. (MidCon).

Con Edison states that a copy of this filing has been served by mail upon MidCon.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–1415–000]

Take notice that on March 27, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement to provide interruptible transmission service for Public Service Electric & Gas (PSE&G).

Con Edison states that a copy of this filing has been served by mail upon PSE&G.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER96–1416–000]

Take notice that on March 27, 1996, Entergy Services, Inc. (Entergy Services), on behalf of Arkansas Power & Light Company, Gulf States Utilities Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service, Inc. (Entergy Operating Companies), tendered for filing a Transmission Service Agreement (TSA) between Energy Services, Inc. and Energy Power, Inc. Entergy Services states that the TSA sets out the transmission arrangements under which the Entergy Operating Companies provide firm transmission service under their Transmission Service Tariff.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Houston Lighting & Power Company

[Docket No. ER96–1417–000]

Take notice that on March 27, 1996, Houston Lighting & Power Company (HL&P), tendered for filing executed transmission service agreements (TSAs) with Noram Energy Services, Inc. (Noram) and TU Electric Company (TU Electric) for Economy Energy and Emergency Power 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 March 27, 1996, for the Noram TSA and an effective date of March 14, 1996 for the TU Electric TSA.

Copies of the filing were served on Noram, TU Electric and the Public Utility Commission of Texas.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Southern Company Services, Inc.

[Docket No. ER96–1418–000]

Take notice that on March 28, 1996, 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 Tampa Electric Company. 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. Tampa Electric Company filed a certificate of concurrence in lieu of separate filing.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Houston Lighting & Power Company

[Docket No. ER96–1419–000]

Take notice that on March 28, 1996, Houston Lighting & Power Company (HL&P), tendered for filing executed transmission service agreement (TSA) with Texas Utilities Electric Company (TU Electric) for Economy Energy and Emergency Power 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 March 14, 1996.

Copies of the filing were served on TU Electric and the Public Utility Commission of Texas.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Kansas Gas and Electric Company

[Docket No. ER96–1420–000]

Take notice that on March 28, 1996, Kansas Gas and Electric Company (KGE), tendered for filing a change in its Federal Power Commission Electric Service Tariff No. 93. KGE states that the change is to reflect the amount of transmission capacity requirements required by Western Resources, Inc. under Service Schedule M to FPC Rate Schedule No. 93 for the period June 1, 1996 through May 31, 1997.

Copies of this filing were served upon the Kansas Corporation Commission.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power Corporation

[Docket No. ER96–1421–000]

Take notice that on March 28, 1996, Florida Power Corporation (FPC), tendered for filing a contract for the provision of interchange service between itself and Noram Energy Services, Inc. (Noram). The contract provides for service under Schedule J, Negotiated Interchange Service and OS, Opportunity Sales. Cost support for both schedules has been previously filed and approved by the Commission. No specifically assignable facilities have been or will be installed or modified in order to supply service under the proposed rates.

FPC requests Commission waiver of the 60-day notice requirement in order to allow the contract to become effective as a rate schedule on March 29, 1996. Waiver is appropriate because this filing does not change the rate under these two Commission accepted, existing rate schedules.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER96–1422–000]

Take notice that on March 28, 1996, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Non-Firm Power Sales Standard Tariff (the Tariff) entered into between Cinergy and the Commonwealth Edison Company.

Cinergy and the Commonwealth Edison Company are requesting an effective date of April 1, 1996.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. EnerConnect, Inc.

[Docket No. ER96–1424–000]

Take notice that on March 28, 1996, EnerConnect, Inc. (El), a Nevada corporation, petitioned the Commission for acceptance of El's Rate Schedule FERC No. 1, providing for the sale of electricity at market based rates; the granting of certain blanket approvals and the waiver of certain Commission regulations.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Tampa Electric Company

[Docket No. ER96–1425–000]

Take notice that on March 28, 1996, Tampa Electric Company (Tampa Electric), tendered for filing an umbrella service agreement with Federal Energy Sales Inc. under Tampa Electric's point-to-point transmission service tariff.

Tampa Electric proposes an effective date of March 22, 1996, for the service agreement, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on Federal Energy Sales Inc. and the Florida Public Service Commission.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Northern Indiana Public Service Company

[Docket No. ER96–1426–000]

Take notice that on March 28, 1996, Northern Indiana Public Service Company (Northern Indiana), tendered for filing with the Commission its replacement Point-to-Point Transmission Service Tariff and Network Integration Service Tariff, pursuant to § 35.12 of the Federal Energy Regulatory Commission's Rules and Regulations, 18 CFR 35.12. Northern Indiana states that the Point-to-Point Transmission Service Tariff and Network Integration Service Tariff are intended to conform to the Commission Staff's *pro forma* open access transmission tariffs and to replace those tariffs filed in Docket No. ER96–399–000. Northern Indiana states that there is no change in revenues or rate levels proposed, but the non-rate terms of the tariffs have been modified to conform to the Commission Staff's *pro forma* open access tariffs.

Copies of the filing have been served on the Indiana Utility Regulatory Commission, the Indiana Office of Utility Consumer Counselor and all parties to Docket No. ER96–399–000.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. UNITIL Power Corp.

[Docket No. ER96–1427–000]

Take notice that on March 28, 1996, UNITIL Power Corp. (UPC), tendered for filing UNITIL Power Corp., FERC Electric Tariff, Original Volume No. ———, Wholesale Power Supply Sales to Suppliers of the New Hampshire Retail Competition Pilot Program Participating Customers (Tariff). UPC submitted the Tariff in conjunction with its participation in the New Hampshire Pilot Program. UPC also submitted a service agreement executed by UNITIL Resources, Inc. UPC requests an effective date for the Tariff of May 28, 1996.

UPC states that a copy of the filing was served on the New Hampshire Public Utilities Commission and UNITIL Resources, Inc.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Pennsylvania Power & Light Company

[Docket No. ER96–1428–000]

Take notice that on March 28, 1996, Pennsylvania Power & Light Company (PP&L), tendered for filing under 205 of the Federal Power Act an application requesting the Commission to accept

and place into effect open access point-to-point and network transmission tariffs that substantially conform to the Commission's Notice of Proposed Rulemaking, Docket No. RM95–8–000], 70 FERC ¶ 61,357 (March 29, 1995).

A copy of this filing was served upon John G. Alford, Secretary, Pennsylvania Public Utility Commission.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Concord Electric Company

[Docket No. ER96–1429–000]

Take notice that on March 28, 1996, Concord Electric Company (CECO), tendered for filing transmission rates contained in its Schedule PP, New Hampshire Retail Competition Pilot Program Service, Concord Electric Company, FERC Electric Tariff, Original Volume No. ____. The filing places on file with the Commission those rates for transmission over CECO's network which CECO was requested to file with the Commission by the New Hampshire Public Utilities Commission. CECO requests an effective date for the transmission rates of May 28, 1996.

CECO states that a copy of the filing was served on the New Hampshire Public Utilities Commission.

Comment date: April 19, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–9091 Filed 4–11–96; 8:45 am]

BILLING CODE 6717–01–P

Sunshine Act Meeting

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: April 5, 1966, 61 FR 15243.

PREVIOUSLY ANNOUNCEMENT TIME AND DATE OF MEETING: April 9, 1996, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Nos. have been added on the Agenda scheduled for April 9, 1996.

Item No.	Docket No. and company
CAG–26	IS96–10–000, Milne Point Pile Line Company.
CAG–17	RP93–172–008 and RP94–238–004, Panhandle Eastern Pipe Line Company.

Lois D. Cashell,

Secretary.

[FR Doc. 96–9212 Filed 4–10–96; 11:25 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5415–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed April 01, 1996 Through April 05, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 960149, Draft Supplement, COE, FL, GA, AL, Lake Seminole Hydrilla Action Plan Updated Information to the Lake Seminole and Jim Woodruff Lock and Dam, Operation and Maintenance Project, Implementation, Gadsden and Jackson Counties, FL; Decatur and Seminole Counties, GA and Houston County, AL, Due: May 28, 1996, Contact: Mike J. Eubanks (334) 694–3861.

EIS No. 960150, Draft EIS, AFS, AK, Swanlake-Lake Tyee Intertie Project, Electrical Transmission Line and Associated Facilities Construction and Operation, Northwestern Portion of Revillagigedo Island from Upper Carroll Inlet to Behm Canal and the Northeastern Portion of Cleveland Peninsula from Spacious Bay to Bradfield Canal, Special-Use-Permit Issuance, Tongass, Due: May 28, 1996, Contact: Bill Angelus (907) 225–2148.

EIS No. 960151, Draft EIS, FHW, MI, MI–59 Proposed Right of Way Preservation Project, Right-of-Way Acquisition, I–69 to US 23, Livingston County, MI, Due: May 28, 1996, Contact: James A. Kirschensteiner (517) 377–1880.

EIS No. 960152, Draft EIS, GSA, NV, Las Vegas Federal Building—United States Courthouse Site Selection and Construction, Central Business District, City of Las Vegas, Clark County, NV, Due: May 28, 1996, Contact: John Garvey (415) 522–3489.

EIS No. 960153, Draft EIS, AFS, CA, Whale Rock Analysis Area Multi-Resource Improvement and Management Plan, Implementation, Eldorado National Forest, Pacific Southwest Region, Eldorado County, CA, Due: May 28, 1996, Contact: Don Errington (916) 647–5450.

EIS No. 960154, Draft EIS, NOA, PR, VI, Queen Conch Resources Fishery Management Plan, Implementation, Atlantic Ocean and Caribbean Portions of the Exclusive Economic Zone (EEZ) adjacent to the State Waters of Puerto Rico and the US Virgin Islands, Due: May 28, 1996, Contact: George Cranmore (813) 570–5305.

EIS No. 960155, Final EIS, SFW, WA, Plum Creek Timber Sale, Issuance of a Permit to Allow Incidental Take and Habitat Conservation Plan (HCP) for Threatened and Endangered Species, Implementation, Eastern and Western Cascade Provinces in the Cascade Mountains, King and Kittitas Counties, WA, Due: May 13, 1996, Contact: William O. Vorgel (FWS) (360) 534–9330. The US Department of Interior's, Fish and Wildlife Service (SFW) and the US Department of Commerce's, National Marine Fisheries Service (NMF) are Joint Lead Agencies for this Project. Steven W. Lanadino (360) 534–9330 is the contact for NMF.

EIS No. 960156, Final EIS, NPS, CA, Cabrillo National Monument, General Management Plan/Development Concept Plans, Implementation, San Diego County, CA, Due: May 13, 1996, Contact: Terry DiMattio (619) 557–5450.

EIS No. 960157, Draft Supplement, NPS, AZ, Organ Pipe Cactus National Monument General Plan and Development Concept Plan Implementation, Updated Information on two New Alternatives, Portion of the Sonoran Desert, Pima County, AZ, Due: June 12, 1996, Contact: Dan Olson (415) 744–3968.

EIS No. 960158, Final EIS, AFS, SC, Francis Marion National Forest Land and Resource Management Plan, Implementation, Charleston and Berkeley Counties, SC, Due: May 13, 1996, Contact: David W. Wilson (803) 561–4000.

EIS No. 960159, Final EIS, FAA, WI, Dane County Regional Airport, Air Carrier Runway 3–21 Construction

and Operation and Associated Actions, Airport Layout Plan Approval and Funding, Dane County, WI, Due: May 13, 1996, Contact: John Dougherty (612) 725–4362.

EIS No. 960160, Draft EIS, AFS, CO, Fraser Valley Loop Transmission Line Project, Construction, Operation, Associated Operations and Maintenance Activities, Approval of Permits, Arapaho and Roosevelt National Forests, Grand County, CO, Due: June 11, 1996, Contact: Sally Edwards (970) 407–1106.

EIS No. 960161, Final EIS, FHW, MO, MO–141 Relocation Highway Project, Improvements, South of MO–HH to 1.1 miles south of MO–100 (Job No. J6U0804) and 1.1 miles south of MO–100 to 0.8 miles North of I–44 (Job No. J6U0804B), Funding and COE Section 404 Permit, St. Louis County, MO, Due: May 13, 1996, Contact: Donald Neumann (314) 636–7104.

EIS No. 960162, Draft EIS, FRC, WA, Upriver FERC No. 3074 Hydroelectric Project, Amendment of the Existing License, Spokane River, Spokane County, WA, Due: May 28, 1996, Contact: Jim Hastreiter (503) 326–5858.

EIS No. 960163, Draft EIS, DOE, WA, Hanford Site Tank Waste Remediation Systems (TWRS), Management and Disposal of Radioactive, Hazardous, and Mixed Wastes, NPDES Permit and Approval of Several Permits, in the City of Richland, Grant County, WA, Due: May 28, 1996, Contact: Jackson Kinzer (509) 376–7591.

Amended Notices

EIS No. 960104, Draft EIS, AFS, ID, Targhee National Forest, Implementation, Forest Plan Revisions, Bonneville, Butte, Clark, Fremont, Jefferson, Lemhi, Madison and Teton Counties, ID, Due: June 27, 1996, Contact: Jerry Reese (208) 624–3151. Published FR 04–12–96—Review Period Extended.

Dated: April 9, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–9160 Filed 4–11–96; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–5415–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 25, 1996 through March 29, 1996 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1996 (61 FR 15251).

Draft EISs

ERP No. D–AFS–K61139–CA Trinity Alps Wilderness Plan, Implementation, Shasta-Trinity National Forest, Klamath National Forest and Six Rivers National Forest, Humboldt, Siskiyou and Trinity Counties, CA.

Summary: Due to the federal furlough of December 18, 1995 through January 5, 1996, the Environmental Protection Agency did not review the EIS.

ERP No. D–DOE–G09801–NM Rating LO, Medical Isotopes Production Project (MIPP), Establish and Produce a Continuous Supply of Molybdenum-99 and Related Isotopes, Bernalillo County, NM.

Summary: EPA had no objections to the selection of the preferred alternative.

ERP No. D–FHW–E40355–FL Rating EC2, Miami Intermodal Center (MIC), Construction, Bounded by FL–112 on the north, FL–836 on the south, Miami International Airport landside terminal NW 27th Avenue on the east, along FL–836 that extends West to NW 57th Avenue, Dade County, FL.

Summary: EPA's review found that the document adequately addressed most projected impacts the human environment. Additional information was requested on the air quality analysis and mitigation of impacts.

ERP No. D–FHW–E40766–TN Rating EO2, TN 840 North from I–40 East near Lebanon in Wilson County to I–40 West in Dickson County, Construction, COE Section 404 and CGD Permits, Wilson, Dickson, Sumner, Robertson, Montgomery and Cheatham Counties, TN.

Summary: EPA's review found that the proposed project could have significant direct and induced impacts of forest and water resources. Specific information for potential mitigation of impacts is lacking and should be included in the final EIS.

ERP No. DS–FHW–D40242–VA Rating EU2, Southeastern Expressway Improvements, I–464/I–64 to VA–44 (Norfolk-Virginia Beach Expressway), Updated Information concerning Alternatives Under Consideration, Funding , COE Section 10 and 40 Permits and US Coast Guard Bridge Permit, Cities of Chesapeake and Virginia Beach, York and James City Co., VA.

Summary: EPA finds the potential significant impacts of the candidate build alternatives to wetland (319–406 acres) and important terrestrail (300–400 acres) habitats unsatisfactory. Additionally, the inability of the project to meet its stated purpose and need (primarily to relieve traffic congestion); its failure to meet a project commitment of implementation of a true multi-modal transportation project; and potential impacts on the Federally threatened Dismal Swamp shrew are unsatisfactory. The document also failed to commit to a mitigation plan which would adequately compensate for direct and indirect project impacts.

ERP No. DS–FTA–C51014–NJ Rating LO, Hudson River Waterfront Transportation Corridor Improvements, (officially now referred to as Hudson-Bergen Light Rail Transit System), Funding, Jersey City, Hudson and Bergen Counties, NJ.

Summary: EPA believed that the proposed project will not result in significant adverse environmental impacts; therefore, EPA had no objection to its implementation.

ERP No. D1–FTA–C51014–NJ Rating EC2, Hudson-Bergen Light Rail Transit System, Bayonne Extension, Improvements, Funding, Hudson and Bergen Counties, NJ.

Summary: EPA expressed environmental concerns regarding potential impacts to wetlands and water quality. Accordingly, EPA has requested that additional information be provided in the final EIS to address these issues.

Final EISs

ERP No. F–AFS–A65161–00 Gypsy Moth Management in the United States: A Cooperative Approach, Implementation, US.

Summary: EPA had no objections to the preferred alternative as described in the final EIS.

ERP No. F–AFS–K65164–00 Southwestern Region Amendment of Forest Plans, Implementation, Standard and Guidelines for Northern Goshawk and Mexican Spotted Owl, AZ and NM.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–BOP–C81015–NY New York Federal Detention Center, Construction and Operation, Possible Site Selection, Alboin Site and Batavia Site, NY.

Summary: EPA believed that the proposed project will not result in significant adverse environmental

impacts, therefore, EPA had no objection to its implementation.

ERP No. F–FTA–C40133–PR Tren Urbano Transit Project, Improvement, San Juan Metropolitan Area, Funding, NPDES Permit, US Coast Guard Bridge Permit and COE Section 10 and 404 Permits, PR.

Summary: EPA believed that the proposed project will not result in significant adverse environmental impacts; therefore, EPA had no objection to its implementation.

Dated: April 9, 1996.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 96–9161 Filed 4–11–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Licensee Order To Show Cause

The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him the following matter:

Licensee	City/state	MM docket No.
Diamond State Broadcasting, Inc.	Paris, Arkansas	96–72

(regarding the silent status of Station KCCL(AM))

Pursuant to Section 312(a)(3)(and (4) of the Communications Act of 1934, as amended, Diamond State Broadcasting, Inc. has been directed to show cause why the license for Station KCCL(AM) should not be revoked, at a proceeding in which the above matter has been designated for hearing concerning the following issues:

(1) To determine whether Diamond State Broadcasting, Inc. has the capability and intent to expeditiously resume the broadcast operations of KCCL(AM), consistent with the Commission's Rules.

(2) To determine whether Diamond State Broadcasting, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Diamond State Broadcasting, Inc. is qualified to be and remain the licensee of Station KCCL(AM).

A copy of the complete *Show Cause Order and HDO* in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Stuart B. Bedell,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–9086 Filed 4–11–96; 8:45 am]

BILLING CODE 6712–01–P

Renewal Application Designated for Hearing

1. The Assistant Chief, Audio Services Division, has before him the following application for renewal of broadcast license

Licensee	City/state	File No.	MM docket No.
Fisher Broadcasting, Inc	Henryetta, Oklahoma	BR–900208VF	96–73

(Seeking renewal of the license for KDLB(AM))

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above application has been designated for hearing in a proceeding upon the following issues:

(a) To determine whether Fisher Broadcasting, Inc. has the capability and intent to expeditiously resume the broadcast operations of KDLB(AM), consistent with the Commission's Rules;

(b) To determine whether Fisher Broadcasting, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether grant of the subject renewal of license application would service the public interest, convenience and necessity.

A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Stuart B. Bedell,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–9084 Filed 4–11–96; 8:45 am]

BILLING CODE 6712–01–P

Renewal Application Designated for Hearing

1. The Assistant Chief, Audio Services Division, has before him the following application for renewal of broadcast license

Licensee	City/state	File No.	MM docket No.
Kokomo School Corporation	Kokomo, Indiana	BRED–890330VV	96–71

(Seeking renewal of the license for WHSK(FM))

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above application has been designated for hearing in a proceeding upon the following issues:

(a) To determine whether Kokomo School Corporation has the capability and intent to expeditiously resume the broadcast operations of WHSK(FM), consistent with the Commission's Rules.

(b) To determine whether Kokomo School Corporation has violated Sections 73.561 and/or 73.1750 of the Commission's Rules.

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether grant of the subject renewal of license application

would service the public interest, convenience and necessity.

A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Stuart B. Bedell,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–9087 Filed 4–11–96; 8:45 am]

BILLING CODE 6712–01–P

Licensee Order To Show Cause

The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him the following matter:

Licensee	City/state	MM docket No.
KXSA Radio, Inc. Licensee of KGPL(AM).	Dermott, Arkansas.	96–69

(Regarding the silent status of Station KGPL(AM))

Pursuant to Section 312(a) (3) and (4) of the Communications Act of 1934, as amended, KXSA Radio, Inc. has been directed to show cause why the license for Station KGPL(AM) should not be revoked, at a proceeding in which the above matter has been designated for hearing concerning the following issues:

1. To determine whether KXSA Radio, Inc. has the capability and intent to expeditiously resume broadcast operations of KGPL(AM) consistent with the Commission's Rules.

2. To determine whether KXSA Radio, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commissions Rules.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether KXSA Radio, Inc. is qualified to be and remain the licensee of Station KGPL(AM).

A copy of the complete Show Cause Order and Hearing Designation Order in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 320), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Stuart B. Bedell,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–9089 Filed 4–11–96; 8:45 am]

BILLING CODE 6712–01–P

Licensee Order To Show Cause

The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him the following matter:

Licensee	City/state	MM docket No.
Prather-Breck Broadcasting Inc. of Redding, Licensee of KRDG(AM).	Redding, CA ...	96–68

(Regarding the silent status of Station KRDG(AM))

Pursuant to Section 312(a)(3) and (4) of the Communications Act of 1934, as amended, Prather-Breck Broadcasting Inc. of Redding has been directed to show cause why the license for Station KRDG(AM) should not be revoked, at a proceeding in which the above matter has been designated for hearing concerning the following issues:

1. To determine whether Prather-Breck Broadcasting Inc. of Redding has the capability and intent to expeditiously resume broadcast operations of KRDG(AM) consistent with the Commission's Rules;

2. To determine whether Prather-Breck Broadcasting Inc. of Redding has violated Sections 73.1740 and/or 73.1750 of the Commissions Rule; and

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Prather-Breck Broadcasting Inc. of Redding is qualified to be and remain the licensee of Station KRDG(AM).

A copy of the complete Show Cause Order and Hearing Designation Order in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 320), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Stuart B. Bedell,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–9083 Filed 4–11–96; 8:45 am]

BILLING CODE 6712–01–P

Licensee Order To Show Cause

The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him the following matter:

Licensee	City/state	MM docket No.
Red River Broadcasting, Inc.	Kensett, Arkansas.	96–74

(Regarding the silent status of Station KMOA(AM))

Pursuant to Section 312(a) (3) and (4) of the Communications Act of 1934, as amended, Red River Broadcasting, Inc. has been directed to show cause why the license for Station KMOA(AM) should not be revoked, at a proceeding in which the above matter has been designated for hearing concerning the following issues:

(1) To determine whether Red River Broadcasting, Inc. has the capability and intent to expeditiously resume the broadcast operations of KMOA(AM), consistent with the Commission's Rules;

(2) To determine whether Red River Broadcasting, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules; and

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Red River Broadcasting, Inc. is qualified to be and remain the licensee of Station KMOA(AM).

A copy of the complete Show Cause Order and HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission.

Stuart B. Bedell,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–9085 Filed 4–11–96; 8:45 am]

BILLING CODE 6712–01–P

Licensee Order To Show Cause

The Assistant Chief, Audio Services Division, Mass Media Bureau, has before him the following matter:

Licensee	City/state	MM docket No.
Under His Direction, Inc.	Port Neches, Texas.	96–70

(Regarding the silent status of Station KUHD(AM))

Pursuant to Section 312(a)(3) and (4) of the Communications Act of 1934, as amended, Under His Direction, Inc. has been directed to show cause why the license for Station KUHD(AM) should not be revoked, at a proceeding in which the above matter has been designated for hearing concerning the following issues:

(1) To determine whether Under His Direction, Inc. has the capability and intent to expeditiously resume the broadcast operations of KUHD(AM), consistent with the Commission's Rules.

(2) To determine whether Under His Direction, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Under His Direction, Inc. is qualified to be and remain the licensee of Station KUHD(AM).

A copy of the complete Show Cause Order and HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone 202–857–3800).

Federal Communications Commission

Stuart B. Bedell,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 96–9088 Filed 4–11–96; 8:45 am]

BILLING CODE 6712–01–P

[Report No. 2126]

Petition for Reconsideration of Actions in Rulemaking Proceedings

Petition for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857–3800. Opposition to this petition must be filed April 29, 1996. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHZ Frequency Band (PR Docket No. 93–144, RM–8117, RM–8030, RM–8029).

Implementation of sections 3(n) and 332 of the Communications Act Regulatory Treatment of Mobile Services (GN Docket No. 93–252).

Implementation of Section 309(j) of the Communications's Act—Competitive Bidding (PP Docket No. 93–253).

Number of Petitions Filed: 22.

Subject: Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHZ Frequency Band (PR Docket No. 93–144).

Number of Petition Filed: 1.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–9082 Filed 4–11–96; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:30 a.m., Wednesday, April 17, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 10, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–9209 Filed 4–10–96; 11:24 am]

BILLING CODE 6210–01–P

[Docket No. R–0920]

Privacy Act of 1974; Proposed New System of Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of new system of records; request for comments.

SUMMARY: In accordance with the Privacy Act of 1974 (Privacy Act) and Appendix I of OMB Circular No. A–130, the Board of Governors of the Federal Reserve System (Board) is establishing a new system of records called EEO General Files (BGFRS–24). This system of records contains information regarding race, national origin, sex and disability about current and former Board employees and the records are retrieved by name or special identifier of the individual. Therefore, the Privacy Act requires notice of the system to be published in the Federal Register.

DATES: Comments must be received on or before June 11, 1996.

ADDRESSES: Comments should refer to Docket No. R–0920, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, NW (between Constitution Avenue and C Street) at any time. Comments received will be available for inspection in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m., weekdays, except as provided in 12 CFR 261.8 of the Board's Rules Regarding Availability of Information.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boutilier, Senior Counsel, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452–2418.

SUPPLEMENTARY INFORMATION: The Board is establishing a new system of records pursuant to the Privacy Act, entitled: EEO General Files (BGFRS–24). This system will consist of records regarding race, national origin, sex and disability of current and former employees of the Board. The purpose of the system is to assist the Board in carrying out its responsibilities under the Rehabilitation Act of 1973, Title VII of the Civil Rights Act, and other nondiscrimination statutes.

In accordance with 5 U.S.C. 552a(r), a report of this new system of records is being filed with the President of the Senate, the Speaker of the House of

Representatives, and the Director of the Office of Management and Budget. This new system of records will become effective on June 11, 1996, without further notice, unless the Board publishes a notice to the contrary in the Federal Register.

This rule is exempt from the provisions of Chapter 8 of Title 5, because it is a ''rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.'' 5 U.S.C. 804(3)(C)

Accordingly, the Board proposes the establishment of the following system of records.

BGFRS–24

SYSTEM NAME:

EEO General Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

EEO Programs Office, Board of Governors of the Federal Reserve System, 20th and Constitution, NW, Washington, DC 20551.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Board.

CATEGORIES OF RECORDS IN THE SYSTEM:

Self-identification reports of current and former employees regarding race, national origin, sex and disability; identification by Board staff regarding the race, national origin, sex and disability of those employees who refuse to voluntarily provide the information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Rehabilitation Act of 1973, 29 U.S.C. 791; Title VII of the Civil Rights Act, 42 U.S.C. 2000e *et seq;* Age Discrimination in Employment Act, 29 U.S.C. 621 *et seq;* Equal Pay Act, 29 U.S.C. 206; and section 11 of the Federal Reserve Act, 12 U.S.C. 248(i) and 248(l).

PURPOSE:

To assist the Board in carrying out its responsibilities under the Rehabilitation Act of 1973, Title VII of the Civil Rights Act, and other nondiscrimination statutes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USES AND THE PURPOSES OF SUCH USES:

The information in the records may be used:

a. As a data source for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies.

b. To respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

c. To inform appropriate Board employees regarding any need for assistance by a disabled individual in the event an evacuation is necessary.

d. To provide information to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

e. To provide statistical information to Congress.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and in electronic form.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Access to and the use of these records is limited to those persons whose official duties require such access. Personnel screening is employed to prevent unauthorized access. Electronic files are protected by passwords.

RETENTION AND DISPOSAL:

The records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

EEO Programs Director, Board of Governors of the Federal Reserve System, 20th and Constitution, NW, Washington, DC 20551.

NOTIFICATION PROCEDURE:

Inquiries should be sent to the Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551.

RECORD ACCESS PROCEDURES:

Same as ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

Same as ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains; employees responsible for administering the Board's EEO program.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, April 8, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–9127 Filed 4–11–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93631–96–02]

Developmental Disabilities: Request for Public Comments on Proposed Developmental Disabilities Funding Priority for Projects of National Significance for Fiscal Year 1996

AGENCY: Administration on Developmental Disabilities (ADD), Administration for Children and Families (ACF).

ACTION: Notice of request for public comments on developmental disabilities tentative funding priority for Projects of National Significance for Fiscal Year 1996.

SUMMARY: The Administration on Developmental Disabilities, Administration for Children and Families, announces that public comments are being requested on a tentative funding priority for Fiscal Year 1996 Projects of National Significance prior to being announced in its final form.

We welcome specific comments and suggestions on this proposed announcement and funding priority which will assist in bringing about the increased independence, productivity, integration, and inclusion into the community of individuals with developmental disabilities.

DATES: The closing date for submission of public comments is June 11, 1996.

ADDRESSES: Comments should be sent to: Bob Williams, Commissioner, Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services, Room 329–D, HHH Building, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Adele Gorelick, Program Development Division, Administration on Developmental Disabilities, 202/690–5982.

SUPPLEMENTARY INFORMATION:

Part I. Background

A. Goals of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities is located within the Administration for Children and Families, Department of Health and Human Services (DHHS). Although different from the other ACF program administrations in the specific constituency it serves, ADD shares a common set of goals that promote the economic and social well-being of families, children, individuals and communities. Through national leadership, we see:

- Families and individuals empowered to increase their own economic independence and productivity;
- Strong, healthy, supportive communities having a positive impact on the quality of life and the development of children;
- Partnerships with individuals, front-line service providers, communities, States and Congress that enable solutions which transcend traditional agency boundaries;
- Services planned and integrated to improve client access; and
- A strong commitment to working with Native Americans, individuals with developmental disabilities, refugees and migrants to address their needs, strengths and abilities.

Emphasis on these goals and progress toward them will help more individuals, including those with developmental disabilities, to live productive and independent lives integrated into their communities. The Projects of National Significance Program is one means through which ADD promotes the achievement of these goals.

Two issues are of particular concern with these projects. First, there is a pressing need for networking and cooperation among specialized and categorical programs, particularly at the service delivery level, to ensure continuation of coordinated services to people with developmental disabilities. Second, project findings and successful innovative models of projects need to be made available nationally to policy makers as well as to direct service providers.

B. Purpose of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities is the lead agency within ACF and DHHS responsible for planning and administering programs which promote the self-sufficiency and protect the rights of individuals with developmental disabilities.

The 1994 Amendments (Pub. L. 103–230) to the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 *et seq.*) (the Act) supports and provides assistance to States and public and private nonprofit agencies and organizations to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity and integration and inclusion into the community.

The Act points out that:

- Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity for independence, productivity and inclusion into the community;
- Individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;
- Individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

The Act further finds that:

- Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and often require the provision of services, supports and other assistance to achieve such;
- Individuals with developmental disabilities have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual;
- Individuals with developmental disabilities and their families are the primary decision makers regarding the services and supports such individuals and their families receive; and play decision making roles in policies and programs that affect the lives of such individuals and their families; and
- It is in the nation's interest for individuals with developmental disabilities to be employed, and to live conventional and independent lives as a part of families and communities.

Toward these ends, ADD seeks to enhance the capabilities of families in assisting individuals with developmental disabilities to achieve their maximum potential, to support the increasing ability of individuals with developmental disabilities to exercise greater choice and self-determination, to engage in leadership activities in their communities, as well as to ensure the protection of their legal and human rights.

Programs funded under the Act are:

- Federal assistance to State developmental disabilities councils;
- State system for the protection and advocacy of individual rights;
- Grants to university affiliated programs for interdisciplinary training, exemplary services, technical assistance, and information dissemination; and
- Grants for Projects of National Significance.

C. Description of Projects of National Significance

Under Part E of the Act, demonstration grants (and in some cases, a cooperative agreement) and technical assistance contracts are awarded for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through:

- Data collection and analysis;
- Technical assistance to enhance the quality of State developmental disabilities councils, protection and advocacy systems, and university affiliated programs; and
- Other projects of sufficient size and scope that hold promise to expand or improve opportunities for individuals with developmental disabilities, including:

—Technical assistance for the development of information and referral systems;
—Educating policy makers;
—Federal interagency initiatives;
—The enhancement of participation of racial and ethnic minorities in public and private sector initiatives in developmental disabilities;

—Transition of youth with developmental disabilities from school to adult life; and
—Special pilots and evaluation studies to explore the expansion of programs under part B (State developmental disabilities councils) to individuals with severe disabilities other than developmental disabilities.

Section 162(c) of the Act requires that ADD publish in the Federal Register proposed priorities for grants and contracts to carry out Projects of National Significance. The Act also requires a period of 60 days for public comment concerning such proposed priorities. After analyzing and considering such comments, ADD must publish in the Federal Register final priorities for such grants and contracts, and solicit applications for funding based on the final priorities selected.

The following section presents the proposed priority area for Fiscal Year 1996 Projects of National Significance. We welcome specific comments and suggestions. We would also like to receive suggestions on topics which are timely and relate to specific needs in the developmental disabilities field.

Please be aware that the development of the final funding priority is based on the public comment response to this notice, current agency and Departmental priorities, needs in the field of developmental disabilities and the developmental disabilities network, etc., as well as the availability of funds for this fiscal year.

Part II. Fiscal Year 1996 Proposed Priority Area for Projects of National Significance

ADD is interested in all comments and recommendations which address areas of existing or evolving national significance related to the field of developmental disabilities.

ADD also solicits recommendations for project activities which will advocate for public policy change and community acceptance of all individuals with developmental disabilities and families so that such individuals receive the culturally competent services, supports, and other assistance and opportunities necessary to enable them to achieve their maximum potential through increased independence, productivity, and integration into the community.

ADD is also interested in activities which promote the inclusion of all individuals with developmental disabilities, including individuals with the most severe disabilities, in community life; which promote the interdependent activity of all individuals with developmental disabilities and individuals who are not disabled; and which recognize the contributions of these individuals (whether they have a disability or not), as such individuals share their talents at home, school, and work, and in recreation and leisure time.

No proposals, concept papers or other forms of applications should be submitted at this time. Any such submission will be discarded.

ADD will not respond to individual comment letters. However, all comments will be considered in preparing the final funding solicitation announcement and will be acknowledged and addressed in that announcement.

Please be reminded that, because of possible funding limitations, the proposed priority area listed below may not be published in a final funding solicitation for this fiscal year.

Comments should be addressed to: Bob Williams, Commissioner, Administration on Developmental Disabilities, Department of Health and Human Services, Room 329–D HHH Building, 200 Independence Avenue, SW., Washington, DC 20201.

Fiscal Year 1996 Proposed Priority Area: Ongoing Data Collection and Information Dissemination

The purpose of this priority area is to fund a variety of projects through grants and/or cooperative agreements to collect data on public expenditures, employment and economic status, and other factors as they impact on the independence, productivity, integration and inclusion into the community of persons with developmental disabilities. ADD is particularly interested in the maximum use of already existing data bases and in fostering the broadest dissemination to and use of the data by consumers, families and advocacy audiences. Examples of successful projects that ADD has funded include:

—University of Minnesota: National Recurring Data Set Project on Residential Services—Ongoing National and State-by-State Data Collection and Policy/Impact Analysis on Residential Services for Persons with Developmental Disabilities (Charles Lakin: 612/624–5005)
—University of Illinois at Chicago: Fourth National Study of Public Mental Retardation/Developmental Disabilities Spending (David Braddock: 312/413–1647)
—Boston Children's Hospital: Ongoing National Collection on Data and Employment Services for Citizens with Developmental Disabilities (Bill Kiernan: 617/355–6506).

Examples of projects that ADD will fund include activities which would:

- Identify, collect and disseminate new data bases.
- Modify, expand and/or reformulate existing data bases.
- Project and model the cost-benefit impact of alternative future decisions based on the analysis of discrete programmatic options in the areas of residential services and employment.
- Connect, integrate or analyze available data bases.

(Federal Catalog of Domestic Assistance Number 93.631—Developmental Disabilities—Projects of National Significance)

Dated: March 27, 1996.

Bob Williams,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 96–9117 Filed 4–11–96; 8:45 am]

BILLING CODE 4184–01–P

National Institutes of Health

Notice of Establishment

Pursuant to the Federal Advisory Committee Act, as amended, approved October 6, 1972, (5 U.S.C. Appendix 2) and Section 222 of the Public Health Service Act, as amended (42 U.S.C. 217a), the Director, National Institutes of Health, announces the establishment by the Secretary of Health and Human Services of The Board of Governors of the Warren Grant Magnuson Clinical Center (''Board'').

The Board of Governors of the Warren Grant Magnuson Clinical Center will advise the Director, National Institutes of Health, and the Director, the Warren Grant Magnuson Clinical Center, on all matters relating to the operations of the Clinical Center, including its budget and strategic and annual operating plans. The Board also serves as the governing body for the Clinical Center for clinical activities.

Dated: April 4, 1996.

Harold Varmus,

Director, National Institutes of Health.

[FR Doc. 96–9077 Filed 4–11–96; 8:45 am]

BILLING CODE 4140–01–M

National Eye Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Eye Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Clinical Research.
Date: May 3, 1996.

Time: 11:00 a.m.

Place: Telephone Conference, Executive Plaza South, Room 350.

Contact Person: Andrew P. Mariani, Ph.D., Executive Plaza South, Room 350, 6120 Executive Blvd., Bethesda, MD 20892–7164, (301) 496–5561.

Purpose/Agenda: Review of Grant Applications.

The meeting will be closed in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.867, Vision Research: National Institutes of Health)

Dated: April 5, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–9078 Filed 4–11–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3778–N–80]

Office of the Assistant Secretary for Community Planning and Development; Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the Federal Register, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following address:

Navy: Mr. John Kane, Deputy Division Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474;

Interior: Ms. Lola D. Knight, Department of the Interior, 1849 C Street NW., Mail Stop 5512–MIB, Washington, DC 20240; (202) 208–4080;

Transportation: Mr. Ronald D. Keefer, Director Administrative Services and Property Management, Department of Transportation, 400 7th Street SW., Room 10319, Washington, DC 20590; (202) 366–4246;

GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets NW., Washington, DC 20405; (202) 501–2059; (These are not toll-free numbers).

Dated April 5, 1996.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 04/12/96

Suitable/Available Properties

Buildings (by State)

Montana

Bldg.—Conrad Training Site
15 miles east of the City of Conrad Co: Pondera MT 59425–
Landholding Agency: GSA
Property Number: 189420025
Status: Excess
Comment: 7000 sq. ft., 1-story brick, most recent use—technical training site.

North Dakota

Dickinson Tech. Oper. Site
3 mi South of New England

Dickinson Co: Hettinger ND 58647–
Landholding Agency: GSA
Property Number: 549610009
Status: Excess
Comment: 6900 sq. ft. bldg. in good condition on 10 acres of land GSA Number: 7–D–ND–0497.

Unsuitable Properties

Buildings (by State)

Maryland

Bldg. 6
U.S. Coast Guard Yard, 2401 Hawkins Point Rd.
Baltimore MD 21226–1797
Landholding Agency: DOT
Property Number: 879620001
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
Secured Area.

Bldg. 59
U.S. Coast Guard Yard, 2401 Hawkins Point Rd.
Baltimore MD 21226–1797
Landholding Agency: DOT
Property Number: 879620002
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
Secured Area

New Hampshire

Bldg. 248
Portsmouth Naval Shipyard
Portsmouth NH 03804–5000
Landholding Agency: Navy
Property Number: 779620002
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area.

Bldg. 338
Portsmouth Naval Shipyard
Portsmouth NH 30804–500
Landholding Agency: Navy
Property Number: 779620003
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area.

North Carolina

Bldg. CR115, Camp Lejeune
Camp Lejeune Co: Onslow NC 28542–0004
Landholding Agency: Navy
Property Number: 779620001
Status: Unutilized
Reason: Secured Area
Extensive deterioration.

Virginia

Bldg. 444
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779620004
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area.

Bldg. 459
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779620005
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area.

Bldg. 462
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779620006
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area.

Bldg. 495
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779620007
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area.

Bldg. 761
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779620008
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area.

Bldg. 1438
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779620009
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area.

Bldg. 1442
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779620010
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area.

Land (by State)

Arizona

ARCO Surplus Land
20-foot strip, 53rd Ave.
Phoenix Co: Maricopa AZ 85043–
Landholding Agency: Interior
Property Number: 619620001
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area.

[FR Doc. 96–8976 Filed 4–11–96; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Final Environmental Impact Statement on the Proposed Issuance of a Permit to Authorize Incidental Take of Threatened and Endangered Species on Plum Creek Timber Company, L.P., Lands in the I–90 Corridor, King and Kittitas Counties, Washington

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that the Final Environmental Impact Statement (EIS) on the proposed issuance of a permit to authorize incidental take of threatened and endangered species to Plum Creek Timber Company, L.P. (Applicant), is available for review. The Applicant has applied to the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (together Services) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Applicant has also requested an unlisted species agreement and a provision reflecting the ''Safe Harbor'' concept to cover vertebrate species which may be found in the planning area. The term of the proposed permit, which includes this provision, would be 100 years. The application has been assigned permit number PRT–808398. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act (NEPA) regulations (40 CFR 1506.6).

DATES: Completion of the Record of Decision and permit decision will occur no sooner than May 13, 1996.

ADDRESSES: Individuals wishing copies of the application or Final EIS for review should immediately contact William Vogel, U.S. Fish and Wildlife Service, Pacific Northwest Habitat Conservation Plan Program, 3704 Griffin Lane S.E. Suite 102, Olympia, Washington 98501–2192; (360) 534–9330. Documents will be available for public inspection by appointment during normal business hours (8 am to 5 pm, Monday through Friday) at the above address.

FOR FURTHER INFORMATION CONTACT: William Vogel, U.S. Fish and Wildlife Service, or Steve Landino, National Marine Fisheries Service, at the office listed above.

SUPPLEMENTARY INFORMATION:

Background

Under section 9 of the Act and its implementing regulations, ''taking'' of threatened and endangered species is prohibited. However, the Services, under limited circumstances, may issue permits to take threatened or endangered wildlife species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened and endangered species are in 50 CFR 17.32 and 17.22.

The Applicant has addressed species conservation and ecosystem management on approximately 170,000 acres of its land in the Cascade Mountains of Washington. The subject ownership occurs in a ''checkerboard'' pattern in an area commonly referred to as the I–90 Corridor. The term ''checkerboard'' refers to alternate sections of public and private land.

The Applicant is proposing to implement a Habitat Conservation Plan (HCP) which was designed to complement the Federal Northwest Forest Plan, and includes various forms of mitigation which are integral parts of the HCP. It also includes a schedule of habitat amounts to be provided for the 100-year plan. These habitats include eight stand-structure types (ranging from early-successional stages, such as stand initiation, to late-successional stages, such as old growth) and habitat for northern spotted owls (*Strix occidentalis caurina*) (owls). Owl-habitat projections include projections for nesting, roosting, and foraging habitat and for foraging and dispersal habitat. Mitigation for gray wolves (*Canis lupus*) and grizzly bears (*Ursus arctos = U.a. horribilis*) include avoidance of timber harvest and road construction in certain habitats, limits to road densities, provision of visual cover, and other specific management prescriptions. The Applicant plans to avoid or minimize the take of marbled murrelets (*Brachyramphus marmoratus marmoratus*), but has included murrelets in the permit application in case some incidental take occurs. Minimum prescriptions are also provided for riparian and wetland areas, and watershed analyses will be completed on an accelerated basis. Specific prescriptions will also be implemented for a number of other species and special habitats. The underlying purpose or goal of the proposed action is to develop a management plan for these lands upon which incidental take of listed species can be based so that economic benefits can be realized from those lands while providing necessary habitat for listed and unlisted wildlife species.

Development of the Final EIS

In development of this Final EIS, the Services have initiated action to ensure compliance with the purpose and intent of NEPA. Scoping activities were undertaken preparatory to developing the Draft EIS. A Notice of Intent to prepare the EIS was published in the February 8, 1995, Federal Register (60 FR 7577). This was followed by a Notice of Availability of a Draft EIS and receipt of an Application for an Incidental Take Permit published in the November 17, 1995, Federal Register (60 FR 57722).

Potential consequences, in terms of adverse impacts and benefits associated with the implementation of each alternative, were described in the Draft EIS. Key issues addressed in the Draft and Final EIS are identified as the effects that implementation of the various alternatives would have upon: (1) Threatened and endangered species; (2) other wildlife and their habitats; (3) surrounding and intermingled land uses; and (4) other aspects of the physical and the human environment. Each alternative was evaluated for its potential to result in significant adverse impacts, and the adequacy or inadequacy of the proposed measures to avoid, minimize, and substantially reduce the effects.

The Services received 166 letters (representing 260 groups and individuals) and 424 pre-printed cards (representing 477 individuals) providing comment on the Draft EIS. A total of 737 signatures were represented in letters, cards, and attached petitions. Comments were varied. Topics covered in the comments included the range of alternatives, length of the comment period, adequacy of mitigation, credibility of the science relied upon in developing conservation strategies, adequacy of the impacts analysis, population viability of the subject species, uncertainty surrounding alternatives, assurances provided to the Applicant, and permit issuance criteria. The Final EIS contains summaries of, and responses to, all comments received during the comment period. Issues and potential consequences remain constant from the Draft to the Final EIS.

Alternatives Analyzed In the Final EIS

The Draft EIS considered nine alternatives, but only advanced four for further detailed study. Alternatives considered but not advanced for detailed analysis included the following: (1) no harvest on Plum Creek land; (2) compliance with Federal Aquatic Conservation Strategies; (3) land exchanges; (4) retention of unroaded areas in Plum Creek ownership; and (5) inclusion of all Plum Creek properties within the general planning area. Four alternatives were advanced for detailed analysis. Under the No-action Alternative, the Applicant would avoid the take of any and all Federally listed species and no permit would be issued. Under the Riparian Alternative, emphasis for conservation of fish and wildlife species would be placed in riparian and wetland areas; other portions of the ownership would be managed for aggressive timber harvest. Under the Dispersal Alternative, riparian areas would continue to be managed for fish and wildlife; but, in addition, upland areas would be managed to provide dispersal habitat for owls. The Proposed Action builds upon the benefits of the previous alternatives. It, too, places emphasis for conservation on riparian and wetland areas; but, in addition, commits to implementation of the Applicant's Environmental Principles; provision of nesting, roosting, and foraging habitat for owls; and provision of habitat deferrals for owls and northern goshawks. It includes specific mitigation for other wildlife such as the gray wolf, grizzly bear, Larch Mountain salamander, and other species and special habitats. The Proposed Action remains the Services' preferred alternative.

The Final EIS contains minor modifications to the Draft EIS and also highlights minor changes made to the HCP in response to public comments. Additional information regarding these changes may be obtained from the Services at the above address.

Dated: March 26, 1996.

Thomas J. Dwyer,

Deputy Regional Director, Region 1, Portland, Oregon.

[FR Doc. 96–8914 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–55–P

Bureau of Land Management

[OR–050–1220–00:G6–0107]

Closure of Public Lands; Oregon

April 3, 1996.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice is hereby given that effective immediately, the area as legally described below is closed to all motorized vehicle use year-long.

LEGAL DESCRIPTION: This closure order applies to all areas within Township 17

South, Range 22 East, Section 24, NE of the SE; and Section 24, SE of the SE.

The areas described above are closed to all motorized vehicle use year-long. The purpose of this closure is to protect wildlife resources. More specifically, this closure is ordered to protect a Bureau sensitive species from human disturbance. Current uses at this location jeopardize the continued presence of this species at this site; restricted use will reduce or eliminate these impacts. Exemptions to this closure will apply to administrative personnel of the Bureau of Land Management. Other exemptions to this closure order may be made on a case-by-case basis by the authorized officer. The authority for this closure is 43 CFR 8364.1: Closure and restriction orders.

FOR FURTHER INFORMATION CONTACT: Sarah Nichols, Wildlife Biologist, BLM, Prineville District, P.O. Box 550, Prineville, Oregon 97754, telephone (541) 416–6725.

SUPPLEMENTARY INFORMATION: Violation of this closure order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months as provided in 43 CFR 8360.0–7.

Dated: April 3, 1996.

Harry R. Cosgriffe,

Central Oregon Area Management, Prineville District.

[FR Doc. 96–9104 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–33–M

[CO–010–1020–00–241A]

Call for Nominations on Resource Advisory Councils

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to solicit public nominations for a limited number of seats on each of three Bureau of Land Management (BLM) Resource Advisory Councils currently assisting BLM in Colorado. The three councils, the Northwest, Southwest and Front Range were established in 1995 by the Secretary of the Interior, provide advice to BLM on management of the public lands. Nominations should be received 45 days from the publication date of this notice. In making appointments to Resource Advisory Councils, the Secretary will also consider nominations made by the Governor of the State or States affected.

The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to establish advisory councils to provide advice on land use planning and issues related to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory council that are established and authorized consistent with the requirements of the Federal Advisory Committee Act (FACA). In order to reflect a fair balance of viewpoints, the membership of Resource Advisory Councils must be representative of the various interests concerned with the management of the public lands. These include three categories:

Category One—

• holders of federal grazing permits, representatives of energy and mining development, transportation or rights of way, timber industry, off-road vehicle use or developed recreation;

Category Two—

• representatives of environmental and resource conservation organizations, dispersed recreation interests, archeological and historic interests, or wild horse and burro groups;

Category Three—

• representatives of State and local government, employees of State agencies responsible for the management of natural resources, land, or water, Native American tribes, academicians involved in natural sciences, or the public at large.

The Northwest Resource Advisory Council has two openings in Category One, one opening in Category Two, and two openings in Category Three (one of these two openings must be filled by an elected official).

The Southwest Resource Advisory Council has three openings in Category One, two openings in Category Two, and one opening in Category Three opening.

The Front Range Resource Advisory Council has one opening in Category One, two openings in Category Two, and two in Category Three (one of these two openings must be filled by an elected official).

Individuals may nominate themselves or others. Nominees must be residents of the State in which the council has jurisdiction. Nominees will be evaluated based on their education, training, and experience of the issues and knowledge of the geographical area of the Council. Nominees should have demonstrated a commitment to collaborative resource decision making. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination form, as well as any other information that speaks to the nominee's qualifications.

The nomination period will also be announced through press releases issued by the BLM Colorado offices. Nominations for Resource Advisory Councils should be sent to the appropriate BLM offices listed below:

Northwest Resource Advisory Council, Attention: Lynda Boody, 2815 H Road, Grand Junction, CO 81506

Southwest Resource Advisory Council, Attention: Roger Alexander, 2465 S. Townsend Ave., Montrose, CO 81401

Front Range Resource Advisory Council, Attention: Ken Smith, 3170 E. Main St., Canon City, CO 81212

DATES: All nominations should be received by the appropriate BLM Office on or before May 28, 1996.

FOR FURTHER INFORMATION AND APPLICATION FORMS CONTACT: Northwest Resource Advisory Council: Lynda L. Boody, (970) 244–3000. Southwest Resource Advisory Council: Roger Alexander, (970) 249–7791 (after April 21, 1996, please dial 970–240–5300). Front Range Resource Advisory Council: Ken Smith, (719) 269–8500.

Completed Nomination/Background Forms should be returned to the same addresses listed above.

Dated: April 5, 1996.

Mark T. Morse,

District Manager.

[FR Doc. 96–9099 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–JB–M

[UT–040–1020]

Management Framework Plans, etc.; Utah; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Correction.

CORRECTION: This notice serves to inform the public that the correct address for protest to the Director of the Bureau of Land Management regarding the Proposed Amendment to the Virgin River Management Framework Plan of the Dixie Resource Area, Cedar City District is as follows: Director (480), Resource Planning Team, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Jim Crisp, Area Manager, Dixie Resource Area, Cedar City District, at 345 East Riverside Drive, St. George, Utah 84770, (801) 673–4654.

Samuel D. Montgomery,

Branch Chief, Planning and Environmental Coordination.

[FR Doc. 96–9157 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–DQ–P

[ID–990–06–1020–00]

Lower Snake River District Resource Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Lower Snake River District Resource Advisory Council will meet May 14, 1996 at 9:00 a.m. The primary agenda item for the meeting will be to review consolidated statewide standards for rangeland health and guidelines for managing livestock grazing on federal public lands in Idaho. A public comment period will be held at 9:30 a.m.

DATES: May 14, 1996 beginning at 9:00 a.m.

ADDRESSES: The meetings will be held in the main conference room at the National Interagency Fire Center administration building, 3833 S. Development Ave., Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Lower Snake River District Office, 3948 Development Avenue, Boise, Idaho 83705, (208) 384–3393.

Dated: April 5, 1996.

Barry Rose,

Acting District Manager.

[FR Doc. 96–9101 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–GG–P

[NV–030–96–1020–00–24–1 A]

Sierra Front/Northwest Great Basin Resource Advisory Council—Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management.

ACTION: Resource advisory council meeting locations and times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the Department of the Interior, Bureau of Land Management (BLM) Council meetings will be held as indicated below. The agenda includes a field trip, public meeting, discussion of laws and regulations that pertain to grazing, a statewide update of standards and guidelines and determination of the subject matter for future meetings.

All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will have a time allocated for hearing public comments. The public comment period for the council meeting is listed below. Depending on the number of persons wishing to comment, and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Joan Sweetland at the Carson City District Office, 1535 Hot Springs Road, Carson City, NV 89706, telephone (702) 885–6000.

DATES, TIMES: Dates are May 9 and 10, 1996. The council will meet at the Bureau of Land Management, 5100 East Winnemucca Blvd., Winnemucca, NV 89445 on May 9th at 7:30 a.m. and will depart at 8:00 a.m. for a field trip to Paradise Valley to tour allotments. Individuals who want to attend the field trip must provide their own transportation and lunch. A schedule for the field trip will be available prior to departure. On May 10th the council will meet at the Bureau of Land Management office at 8:00 a.m. to approximately 5:00 p.m.

There will be a public scoping meeting on May 10th from 7:00 p.m. to 9:00 p.m. at the BLM office, to comment on the proposal to potentially amend affected Resource Management Plans. Public comment is sought on the issues to be analyzed, the alternatives that may be considered, the standards and guidelines to be addressed, as well as the level of analysis which would be appropriate under the National Environmental Policy Act (NEPA). Implementation of Standards and Guidelines may require some form of planning modification, ranging from simple plan maintenance to plan amendment. It is uncertain what level of plan modification will be needed, if any.

SUPPLEMENTARY INFORMATION: The purpose of the council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of the public lands.

FOR FURTHER INFORMATION CONTACT: Joan Sweetland, Public Affairs Specialist, Carson City District, telephone (702) 885–6000.

Dated: April 3, 1996.

John O. Singlaub,

District Manager.

[FR Doc. 96–9097 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–HC–M

[OR–030–06–1220–00: GP6–0116]

Notice of Meeting of Southeastern Oregon Resource Advisory Council Rangeland Health Standards and Guides Subgroup

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of Meeting of Southeastern Oregon Resource Advisory Council, Rangeland Health Standards and Guides subgroup; teleconference, April 22, 1996.

SUMMARY: A meeting of the Southeastern Oregon Resource Advisory Council's Rangeland Health Standards and Guides subgroup will be held by teleconference on April 22, 1996 from 9:00 to 11:00 a.m. (Mountain Time). Members of the public may observe this meeting by going to the Vale District Office, Bureau of Land Management, 100 Oregon Street, Vale, Oregon. The Subcommittee will discuss standards and guidelines for livestock grazing on public lands.

DATES: The teleconference will begin at 9:00 a.m. to 11:00 a.m. (Mountain Time) April 22, 1996.

ADDRESSES: The teleconference can be observed at the Vale District Office, Bureau of Land Management, 100 Oregon Street, Vale, Oregon.

FOR FURTHER INFORMATION CONTACT: Jonne Hower, Bureau of Land Management, Vale District, 100 Oregon Street, Vale, OR 97918, (Telephone 541 473–3144).

James E. May,

District Manager.

[FR Doc. 96–9098 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–33–P

[CO–934–96–1310–01; COC50284]

Colorado; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease COC50284, Garfield County, Colorado, was timely filed and was accompanied by all required rentals and royalties accruing from November 1, 1995, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The lessee

has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the cost of this Federal Register notice.

Having met all the requirements for reinstatement of the lease as set out in Section 13 (d) and (e) of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 188 (d) and (e), the Bureau of Land Management is proposing to reinstate the lease effective November 1, 1995, subject to the original terms and condition of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Milada Krasilinec of the Colorado State Office (303) 239–3767.

Dated: March 21, 1996.

Milada Krasilinec,

Land Law Examiner, Oil and Gas Lease Management Team.

[FR Doc. 96–9102 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–JB–M

[CO–934–96–1310–01; COC50291]

Colorado; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease COC50291, Garfield County, Colorado, was timely filed and was accompanied by all required rentals and royalties accruing from November 1, 1995, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the cost of this Federal Register notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 188 (d) and (e), the Bureau of Land Management is proposing to reinstate the lease effective November 1, 1995, subject to the original terms and condition of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Milada Krasilinec of the Colorado State Office (303) 239–3767.

Dated: March 21, 1996.

Milada Krasilinec,

Land Law Examiner, Oil and Gas Lease Management Team.

[FR Doc. 96–9103 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–JB–M

[AZ–942–06–1420–00]

Arizona State Office; Notice of Filing of Plats of Survey

April 1, 1996.

1. The plats of survey of the following described lands were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat representing the dependent resurvey of a portion of Exchange Survey Number 677, and a metes-and-bounds survey in section 27, Township 22 North, Range 2 East, Gila and Salt River Meridian, Arizona, was approved January 31, 1996, and officially filed February 8, 1996.

A plat representing the dependent resurvey of the west and north boundaries, and the subdivision lines of Township 19 North, Range 27 East, Gila and Salt River Meridian, Arizona, was approved January 31, 1996, and officially filed February 8, 1996.

A supplemental plat showing amended lottings, in section 33, Township 16 South, Range 23 East, Gila and Salt River Meridian, Arizona, was approved January 31, 1996, and officially filed February 8, 1996.

A supplemental plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys and the cancellation of Mineral Surveys 4284 and portion of 4256A, in section 12, Township 4 South, Range 28 East, Gila and Salt River Meridian, Arizona, was approved February 15, 1996, and officially filed February 22, 1996.

A supplemental plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys and the cancellation of certain lodes in Mineral Survey 4224A, in section 1, Township 4 South, Range 29 East, Gila and Salt River Meridian, Arizona, was approved February 14, 1996, and officially filed February 22, 1996.

A supplemental plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys, in section 5, Township 4 South, Range 29 East, Gila and Salt River Meridian, Arizona, was approved February 14, 1996, and officially filed February 22, 1996.

A supplemental plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys and the cancellation of Mineral Surveys 3175 and 3343, in section 6, Township 4 South, Range 29 East, Gila and Salt River Meridian, Arizona, was approved February 14, 1996, and officially filed February 22, 1996.

A supplemental plat showing amended lottings of fractional areas created by segregation of patented mineral surveys and the cancellation of Mineral Surveys 3175 and a portion of 4256A, in section 7, Township 4 South, Range 29 East, Gila and Salt River Meridian, Arizona, was approved February 15, 1996, and officially filed February 22, 1996.

A supplemental plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys, in section 8, Township 4 South, Range 29 East, Gila and Salt River Meridian, Arizona, was approved February 15, 1996, and officially filed February 22, 1996.

A supplemental plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys and the cancellation of portions of Mineral Surveys 1865, 4243, and 4245, in section 12, Township 4 South, Range 29 East, Gila and Salt River Meridian, Arizona, was approved February 15, 1996, and officially filed February 22, 1996.

A supplemental plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys in section 17, Township 4 South, Range 29 East, Gila and Salt River Meridian, Arizona, was approved February 15, 1996, and officially filed February 22, 1996.

A supplemental plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys and the cancellation of a portion of Mineral Surveys 4282 and 4283, in section 18, Township 4 South, Range 29 East, Gila and Salt River Meridian, Arizona, was approved February 15, 1996, and officially filed February 22, 1996.

A supplemental plat showing amended lottings of fractional areas created by the segregating of patented mineral surveys, in section 19, Township 4 South, Range 29 East, Gila and Salt River Meridian, Arizona, was approved February 15, 1996, and officially filed February 22, 1996.

A supplemental plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys, in section 28, Township 3 South, Range 29 East, Gila and Salt River Meridian, Arizona, was approved February 20, 1996, and officially filed February 27, 1996.

A supplemental, in 2 sheets, plat showing amended lottings of fractional areas created by the segregation of patented mineral surveys, in section 20, Township 4 South, Range 29 East, Gila and Salt River Meridian, Arizona, was

approved February 20, 1996, officially filed February 27, 1996.

A supplemental plat showing amended lottings, of original lots 8 and 9, in section 5, Township 10 North, Range 11, Gila and Salt River Meridian, Arizona, was approved February 20, 1996, and officially filed February 27, 1996.

A supplemental plat creating lot 1 in a portion of the south east ¼ of section 36, Township 22 North, Range 1 East, Gila and Salt River Meridian, Arizona, was approved March 4, 1996, and officially filed March 7, 1996.

A plat representing the dependent resurvey of portions of the south and west boundaries, a portion of the subdivisional lines, and a portion of Homestead Entry Survey Number 630, the subdivision of section 31 and metes-and-bounds surveys, in section 31, Township 22 North, Range 2 East, Gila and Salt River Meridian, Arizona, was approved March 1, 1996, and officially filed March 7, 1996.

A plat representing the dependent resurvey of a portion of the south boundary and a portion of the subdivisional lines and the subdivision of certain sections, and a metes-and-bounds survey in section 21, Township 13 South, Range 16 East, Gila and Salt River Meridian, Arizona, was approved February 29, 1996, and officially filed March 7, 1996.

A supplemental plat correction the assignment of lot numbers in the northwest ¼ of section 7, Township 4 South, Range 29 East, Gila and Salt River Meridian, was approved February 29, 1996, and officially filed March 7, 1996.

A supplemental plat showing amended lottings in section 1, Township 11 South, Range 25 West, Gila and Salt River Meridian, Arizona, was approved March 12, 1996, and officially filed March 21, 1996.

A plat representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 20, and a metes-and-bounds survey in section 20, Township 20 North, Range 22 West, Gila and Salt River Meridian, was approved March 11, 1996, and officially filed March 21, 1996.

2. These plats will immediately become the basic records for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

3. All inquiries relating to these lands should be sent to the Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

Lanny K. Talbot,

Acting Chief Cadastral Surveyor of Arizona.

[FR Doc. 96–9156 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–32–M

[ID–957–1110–00]

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., April 2, 1996.

The plat representing the dependent resurvey of portions of the south and west boundaries, of the subdivisional lines, and of the subdivision of section 31, T. 11 S., R. 21 E., Boise Meridian, Idaho, Group No. 921, was accepted, April 2, 1996.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. 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 American Terrace, Boise, Idaho, 83706–2500.

Dated: April 2, 1996.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 96–9100 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–GG–M

National Park Service

30 Day Notice of Submission to OMB, Opportunity for Public Comment

AGENCY: National Park Service.

ACTION: Notice of submission to OMB and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 195 (Public Law 104–13, 44 U.S.C. Chapter 3507 (a)(1)(D)) the National Park Service invites public comments on a proposed information collection request (ICR), which has been submitted to OMB for approval. Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including use of automated collection techniques or other forms of information technology.

The Primary Purpose of the Proposed ICR: To identify characteristics, use patterns, perceptions and preferences of visitors within Mount Rushmore National Memorial and Perry's Victory International Peace Memorial. Results will be used by managers in ongoing planning and management to improve services, protect resources and better serve the visitors.

DATES: Public comments will be accepted for thirty days from April 12, 1996.

ADDRESSES: Send comments to David W. Lime, Ph.D., Senior Research Associate, Cooperative Park Studies Unit, Department of Forest Resources, University of Minnesota, 115 Green Hall 1530 N. Cleveland Ave., St. Paul, MN 55108.

All responses to this notice will be summarized and given to OMB. All comments will become a matter of public record. Copies of the proposed ICR requirement can be obtained from David W. Lime, Ph.D., Senior Research Associate, Cooperative Park Studies Unit, Department of Forest Resources, University of Minnesota, 115 Green Hall 1530 N. Cleveland Ave., St. Paul, MN 55108.

FOR FURTHER INFORMATION CONTACT: Dave Lime, 624–2250.

SUPPLEMENTARY INFORMATION:

Title: Rock Climbing and Visitor Use Study at Mount Rushmore National Memorial.

Form: None.

OMB Number: _____

Expiration date: _____

Type of request: Vistori use survey.

Description of need: For Park planning and management.

Description of respondents: Individuals who rock climb in Mount Rushmore National Memorial.

Estimated annual reporting burden: 106 burden hours.

Estimated average burden hours per response: 20 minutes.

Estimated average number of respondents: 400.

Estimated frequency of response: Once.

Dated: April 6, 1996.

Terry N. Tesar,

Information Collection Clearance Officer, Audit and Accountability Team Office, National Park Service.

[FR Doc. 96–9143 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–70–M

Concession contract Negotiations; Voyageurs National Park, MN

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to extend the deadline for the receipt of offers for a concession contract authorizing continued operation of historic resort hotel and villas, with food service, boat portaging, and water-related services for the public at Kettle Falls in Voyageurs National Park, Minnesota. The proposed contract term will be for a period of approximately ten (10 years from May 1, 1996, through December 31, 2005.

EFFECTIVE DATE: Offers in response to this notice must be received no later than April 26, 1996.

ADDRESSES: Interested parties should contact the Superintendent, Voyageurs National Park, 3131 Highway 53 South, International Falls, Minnesota 56649, to obtain a copy of the prospectus describing the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This concession opportunity was first announced in the Federal Register on January 30, 1996. However, the publication of a concurrent notice in the Commerce Business Daily was delayed. Therefore, to provide equal opportunity to all interested parties, the National Park Service has extended the deadline for the receipt of offers. Individuals who have submitted offers in response to the previous notice will be allowed to submit revised offers.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared. There was an existing concessioner for this operation under a previous contract which expired on October 8, 1995, but that concessioner is not entitled to a right of preference in the negotiation of the new contract. This means that the contract will be awarded to the party submitting the best offer.

The Secretary will consider and evaluate all offers received as a result of this notice. All offers must be received by the Superintendent, Voyageurs National park, not later than fourteen (14) days after date of publication of this notice to be considered and evaluated.

Dated: April 5, 1996.

David Given,

Acting Field Director, Midwest Field Area.

[FR Doc. 96–9142 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–70–M

General Management Plan Cabrillo National Monument San Diego, California Notice of Availability of Final Environmental Impact Statement

SUMMARY: Pursuant to Section 102 (2) (C) of the National Environmental Policy Act of 1969 (Pub L 91–190 as amended), the National Park Service, Department of the Interior, has prepared a Final Environmental Impact statement (FEIS) assessing the potential impacts of the proposed General Management Plan for Cabrillo National Monument, San Diego County, California.

The Proposal (Alternative B), the National Park Service general management plan for the monument, would add staff and facilities to adequately protect and interpret the Monument's significant resources. Resource management programs would be increased to protect the tidepool ecosystem and coastal sage scrub habitat and to open safe military defense structures to public use and enjoyment. The Proposal would result in a broader range of visitor choices and experiences within the Monument than is available now by refurbishing and opening appropriate historic military defense sites, adding an interpretation building at the Old Point Loma Lighthouse, converting a Marine Sciences facility to a tidepool interpretation center (only if excess to the Navy's needs), relocating the entrance station, replacing the Whale Overlook, extending the Bayside Trail, and improving group seating at the Ballast View Rest Area. In response to concerns raised during review of the Draft Environmental Impact Statement, the preferred option for development of the entrance station has been changed from Option 1 to Option 2 as presented in the draft plan. Added administrative and storage space would increase staff efficiency and effectiveness and allow better care for museum artifacts and resources.

Other alternatives described in the document include No Action (Alternative A), Minimum Requirements (Alternative C), and Enhanced Visitor Use (Alternative D). Alternative C would improve resource management, relocate the entrance station, improve the outdoor educational facility, and open some defense structures to the public, but would not include adding interpretive facilities at the lighthouse or the tidepools or extending the Bayside Trail. Administrative or storage needs would only be partially met. Alternative D is similar to the Proposal, but includes construction of an amphitheater at the Ballast View rest area as the outdoor educational facility and considers an alternative location for the lighthouse interpretive facility.

The environmental consequences of the proposed action and other alternatives were addressed in the Draft Environmental Impact Statement and are presented with the addition of extensive air quality analysis in the FEIS. No significant adverse environmental impacts are anticipated.

DATES: The no-action period for the plan will commence when the Environmental Protection Agency formally announces the availability of the FEIS in the Federal Register, and end 60 days thereafter.

ADDRESSES: Inquiries and comments on the FEIS should be directed to: Superintendent, Cabrillo National Monument, 1800 Cabrillo Memorial Drive, San Diego, CA 92106. The telephone number for the park is (619) 557–5450.

Copies of the plan and FEIS are available at the park headquarters at the above address. Copies are also available for inspection at libraries located in the Park's vicinity.

Date: April 4, 1996.

Stanley T. Albright,

Field Director, Pacific West Area.

[FR Doc. 96–9138 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–70–P

Draft General Management Plan/ Development Concept Plans Organ Pipe Cactus National Monument, Arizona; Notice of Availability of Supplemental Environmental Impact Statement

SUMMARY: The National Park Service, Department of the Interior, prepared a draft environmental impact statement/ general management plan for Organ Pipe Cactus National Monument in 1995. In response to public comments on that draft, a supplement to the draft environmental impact statement (SEIS) is now being released for additional comment. This supplement presents two additional alternatives for managing the monument, including a new proposed action.

COMMENTS: Comments on the SEIS must be postmarked no later than 60 days after the Environmental Protection Agency's (EPA) notice stating that this document is available is published in the Federal Register. Written comments should be submitted to the

Superintendent, Organ Pipe Cactus National Monument, Route 1, Box 100, Ajo, AZ 85321.

PUBLIC MEETING: A public meeting will be held in Ajo, Arizona after EPA's notice is published. The specific date, location and time of this meeting will be advertised locally. Information can also be obtained from the superintendent at the above address or by phoning (520) 387–7661, or from the Planning Team Leader, Organ Pipe Cactus General Management Plan, National Park Service, Denver Service Center - RP, P.O. Box 25287, Denver, CO 80225–0287, (303) 969–2273.

REVIEW COPIES: Copies of the SEIS will be available for on-site review at three locations: (1) Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW, Washington, DC 20240, (202) 208–6843; (2) Denver Service Center, National Park Service, 12795 W. Alameda Parkway, Denver, CO 80225–0287, (303) 969–2273; and (3) Headquarters, Organ Pipe Cactus National Monument, Route 1, Box 100, Ajo, AZ 85321, (520) 387–7661. A limited number of copies for distribution are available on request from either the superintendent or planning team leader.

SUPPLEMENTARY INFORMATION: In the SEIS, discussion of the original two alternatives of the 1995 DEIS remain essentially as described in the DEIS. The names of these earlier alternatives have been changed to Existing Conditions/No Action Alternative and Former Preferred Future Alternative. The new alternatives in the SEIS are the New Ideas Alternative and the New Proposed Action Alternative. In response to public comment, no tolls, traffic re-routes, or speed limit reductions are proposed for State Route 85 in any of the alternatives. The official responsible for a decision on the alternatives presented in the SEIS is the Field Director, Pacific West Area, National Park Service. After final approval of the General Management Plan, the officials responsible for implementation will be the Field Director, Intermountain Field Area and the Superintendent, Organ Pipe Cactus National Monument.

Dated: April 3, 1996.

Stanley T. Albright,

Field Director, Pacific West Area.

[FR Doc. 96–9139 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–70–P

Gettysburg National Military Park Advisory Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the eighteenth meeting of the Gettysburg National Military Park Advisory Commission.

DATE: The Public meeting will be held on April 18, 1996, from 2:00 p.m.–5:00 p.m.

LOCATION: The meeting will be held at Gettysburg Cyclorama Auditorium, 125 Taneytown Road, Gettysburg, Pennsylvania 17325.

AGENDA: Sub-Committee Reports, Facilities Development Planning Process, Operational Update on Park Activities, and Citizens Open Forum.

FOR FURTHER INFORMATION, CONTACT: John A. Latschar, Superintendent, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Advisory Commission, Gettysburg National Military Park, 97 Taneytown Road, Gettysburg, Pennsylvania 17325. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Gettysburg National Military Park located at 97 Taneytown Road, Gettysburg, Pennsylvania 17325.

Dated: April 1, 1996.

Warren D. Beach,

Associate Field Director, NEFA.

[FR Doc. 96–9140 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–70–M

Jean Lafitte National Historical Park and Preserve; Delta Region Preservation Commission; Notice of Advisory Commission Meeting

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7 p.m., at the following location and date.

DATES: April 24, 1996.

LOCATION: University Center, Room 211A, University of New Orleans, Lakefront, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Belous, Superintendent, Jean Lafitte National Historical Park and Preserve, 365 Canal Street, Suite 3080, New Orleans, Louisiana 70130–1142, (504) 589–3882.

SUPPLEMENTARY INFORMATION: The Delta Region Preservation Commission was established pursuant to Section 907 of Public Law 95–625 (U.S.C. 230f), as amended, to advise the Secretary of the Interior in the selection of sites for inclusion in the Jean Lafitte National Historical Park and Preserve, and in the implementation and development of a general management plan and of a comprehensive interpretive program of natural, historic and cultural resources of the Region.

Matters to be discussed at the meeting in addition to old business and new business will include a general park update and a presentation by Attorney David L. Loeb of Molaison and Loeb. This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: April 1, 1996.

Stuart K. Johnson,

Acting Superintendent, Gulf Coast System Support Office.

[FR Doc. 96–9141 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–70–M

Notice of Inventory Completion for an Associated Funerary Object in the Possession of the Santa Cruz City Museum of Natural History, Santa Cruz, CA

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003(d), of the completion of an inventory of an associated funerary object in the control of the Santa Cruz City Museum of Natural History, Santa Cruz, CA.

A detailed assessment of the associated funerary object was made by Santa Cruz City Museum professional staff in consultation with representatives of *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei*, the *Maui/Lana'i* Islands Burial Council, and the Office of Hawaiian Affairs.

In 1904, a piece of scalp with hair representing one individual was donated to the City of Santa Cruz by Ms. Laura Hecox. No known individual was identified.

During the 1890s, this human remain was collected by Dr. Alex H. Bailey.

Information provided by Dr. Bailey indicates this human remain was one of many distributed during the mourning period for Queen Emma Kaleleonalani Rooke. Following the death of a greatly respected leader, Native Hawaiian mourners would contribute small scalplocks to be worn throughout the community during a mourning period. After the mourning period, the leader would be interred with these scalplocks of mourners. Consultation evidence presented by *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei* indicates this human remain was ''intended to accompany Queen Emma Kaleleonalani Rooke to heaven.''

Based on the above mentioned information, officials of the Santa Cruz City Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the one object listed above is reasonably believed to be an item exclusively made for burial purposes and therefore considered an associated funerary object. Officials of the Santa Cruz City Museum of Natural History have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between this associated funerary object and *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei* and the *Maui/Lanai'i* Islands Burial Council.

This notice has been sent to officials of *Hui Mālama I Nā Kūpuna 'O Hawai'i Nei*, *Maui/Lana'i* Islands Burial Council, and the Office of Hawaiian Affairs. Representatives of any other Indian tribe or Native Hawaiian organization that believes itself to be culturally affiliated with this associated funerary objects should contact Ms. Sally Legakis, Registrar, Santa Cruz City Museum of Natural History, 1305 E. Cliff drive, Santa Cruz, CA 95062, telephone (408) 429–3760, before May 13, 1996. Repatriation of the associated funerary object may begin after that date if no additional claimants come forward.

Dated: April 5, 1996.

Veletta Canouts,

Acting Departmental Consulting Archeologist, Deputy Chief, Archeology & Ethnography Program.

[FR Doc. 96–9131 Filed 4–11–96; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF JUSTICE

Notice of Lodging of Stipulated Agreement and Order Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Stipulated Agreement and Order in *United States* v. *District of Columbia,* Civil Action No. 96–669, was lodged on April 5, 1996 with the United States District Court for the District of Columbia. The proposed Stipulated Agreement and Order resolves the claims brought in a Complaint filed the same day under the Clean Water Act (''Act'') against the District of Columbia, which owns and operates the Blue Plains Wastewater Treatment Works facility in Washington, D.C.

The proposed Stipulated Agreement and Order requires the District of Columbia to conduct construction and maintenance projects at the Blue Plains facility which satisfy the claims in the Complaint alleging violations of the Operation and Maintenance provision of the District's National Pollutant Discharge Elimination System Permit. The proposed Agreement also provides for relief which satisfies the claims in the Complaint alleging violations of Title II of the Act and the conditions of EPA construction grant agreements, which require a grantee to implement a user charge system ensuring the proper and efficient operation and maintenance of the wastewater treatment facility.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Stipulated Agreement and Order. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *District of Columbia,* DOJ Ref. 90–5–1–1–3598A.

The proposed Stipulated Agreement and Order may be examined at the Office of the United States Attorney, District of Columbia, 555 4th Street, NW., Washington, DC 20001; the Region III Office of the Environmental Protection Agency, 941 Chestnut Street, Philadelphia, PA 19107; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed Stipulated Agreement and Order may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $7.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–9125 Filed 4–11–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Resource Conservation and Recovery Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree amendment in *United States* v. *Eljer Industries, Inc. and Eljer Manufacturing, Inc.,* Civil Action No. C87–2693Y, was lodged on March 14, 1996 with the United States District Court for the Southern District of Ohio. The proposed consent decree amendment will resolve claims against Eljer for stipulated penalties accruing under the terms of a 1990 consent decree that settled claims for violations of the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.,* at Eljer's Salem Ohio plant. Under the proposed Consent Decree amendment, Eljer agrees to pay $175,000 in stipulated penalties, and provisions in the 1990 decree relating to liability coverage for closure work at the Salem plant are modified to provide a ''best efforts'' commitment to obtain liability coverage.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Eljer Industries, Inc. and Eljer Manufacturing, Inc.,* Civil Action No. C87–2693Y, and the Department of Justice Reference No. 90–7–1–431A.

The proposed consent decree may be examined at the Office of the United States Attorney, Northern District of Ohio, 208 Federal Building, 2 South Main Street, Akron, Ohio 44308; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose

a check in the amount of $2.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources division.

[FR Doc. 96–9120 Filed 4–11–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Modified Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Modified Consent Decree in *United States* v. *City of Hindman, Kentucky, and the Commonwealth of Kentucky,* Civil Action No. 89–39 was lodged on March 26, 1996, with the United States District Court for the Eastern District of Kentucky, Pikeville Division. This Modified Consent Decree replaces a Consent Decree previously entered in this matter on May 18, 1989. The 1989 Consent Decree resolved the United States' claims alleging violations of the Clean Water Act, 33 U.S.C. 1251 *et seq.,* and its implementing regulations, and provided for a civil penalty and injunctive relief.

The Modified Consent Decree obligates the City to construct a wastewater treatment facility (the ''facility'') to insure consistent compliance by the City with its NPDES Permit. The City has also agreed to pay $1,000.00 in stipulated penalties for violations of the 1989 Consent Decree.

The Modified Consent Decree sets forth a schedule to begin construction of the facility by July 1, 1996, complete construction of the facility by December 1, 1996, and achieve and maintain continuous compliance with all NPDES permit effluent limitations by March 1, 1997.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Modified Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Hindman, Kentucky, et al.,* DOJ Ref. #90–5–1–1–2928A.

The proposed Modified Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Kentucky, 110 W. Vine St., Suite 400, Lexington, Kentucky 40507; Office of the U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365; and at the Consent Decree Library, 1120 G Street, NW., Washington, DC 20005, 202–624–0892. A copy of the proposed Modified Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $6.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–9122 Filed 4–11–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree in Action to Enjoin Violations of the Clean Air Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a Consent Decree in *United States* v. *Louisiana-Pacific Corporation,* Civil Action No. C–96–1172 SAW, was lodged with the United States District Court for the Northern District of California on March 29, 1996.

The Consent Decree resolves claims brought by the United States pursuant to the Clean Air Act, 42 U.S.C. 7401 *et seq.,* against the Louisiana-Pacific Corporation. The complaint alleges that Louisiana-Pacific violated the Prevention of Significant Deterioration (''PSD'') Regulations promulgated pursuant to Section 165(a) of the Clean Air Act, 42 U.S.C. 7475(a), and codified at 40 CFR 52.21(a)–(w), when it failed to obtain a PSD permit prior to construction of a new recovery boiler at its Samoa, California pulp mill. The complaint also alleges that Louisiana-Pacific violated the emissions limits set forth in its Authority to Construct permit, issued by the State of California for the new recovery boiler.

The Decree requires Louisiana—Pacific to pay a $97,500 civil penalty for violations of the PSD regulations. The Decree also requires Louisiana-Pacific to comply prospectively with the PSD regulations and to submit quarterly self-monitoring data for a period of one year after Louisiana-Pacific receives an approved PSD permit.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Louisiana-Pacific Corporation,* DOJ Ref. No. 90–5–2–1–1758.

The Consent Decree may be examined at the Office of the United States Attorney, Northern District of California, Federal Building, 450 Golden Gate Avenue, San Francisco, California; at the Region IX Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC, (202) 624–0892. A copy of the proposed consent decree may be obtained in person of by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–9124 Filed 4–11–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Amended Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed amended consent decree in United States versus Ohio Power Company, Civil Action No. 5:94–CV–100, was lodged on April 8, 1996, with the United States District Court for the Northern District of West Virginia. The proposed amended consent resolves this action brought under the Clean Air Act against Ohio Power Company, the owner and operator of an electrical generation facility, known as the Kammer Power Plant, located near Moundsville, West Virginia.

The proposed amended consent decree, which supersedes and replaces the partial consent decree entered in the same court on January 23, 1995, extends until November 1998 the final deadline for defendant's compliance with the sulfur dioxide (''SO_2'') emission limitation of its West Virginia State Implementation Plan (''SIP''), in order to allow West Virginia time to submit to EPA a comprehensive, multiple-source SIP revision request. The decree also sets interim SO_2 limits; requires defendant to perform two supplemental environmental projects consisting of the installation of two low nitrogen oxide (''NO_X'') burners in another facility owned by defendant; and provides for the payment of a cash penalty of $200,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the amended consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to United States versus Ohio Power Company, DOJ Ref. 90–5–2–1–1958.

The proposed amended consent decree may be examined at the Office of the United States Attorney, Northern District of West Virginia, 1125–1141 Chapline Street, Room 238, Wheeling, WV 26003; the Region III Office of the Environmental Protection Agency, 941 Chestnut Street, Philadelphia, PA 19107; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed amended consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $16.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–9121 Filed 4–11–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 et seq.

Notice is hereby given that two proposed consent decrees in *United States* v. *Philips Electronics North America Corporation, et al.*, Civil Action No. 3:96CV0228RM, were lodged on March 29, 1996, with the United States District Court for the Northern District of Indiana, South Bend Division. The proposed consent decrees provide for payments totaling $341,000 to the United States which resolve the United States' claims against the settling parties regarding certain response costs incurred or to be incurred in connection with the Elkhart River Solvent Release Site, located in Elkhart, Indiana, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.*

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Philips Electronics North America Corporation, et al.*, DOJ Ref. #90–11–2–969.

The proposed consent decrees may be examined at the office of the United States Attorney, Northern District of Indiana, South Bend Division, M–1 Federal Bldg., 204 S. Main Street, South Bend, Indiana, 46601; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the two proposed consent decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $10.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–9123 Filed 4–11–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993, Auto Body Consortium 2

Notice is hereby given that, on September 22, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Auto Body Consortium 2 filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notification was filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Auto Body Consortium 2 advised that Ansys, Inc., Houston, PA and InTech R&D, Columbus, OH are now members of the Consortium. The Consortium further advised that Square D, Troy, MI is no longer a member.

No other changes have been made in either the membership or planned activity of the Consortium. Membership in this Consortium remains open, and the Consortium intends to file additional written notification disclosing all changes in membership.

On September 18, 1995, the Consortium filed its original notification pursuant to Section 6(a) of the Act of December 6, 1995, (60 FR 62476).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–9119 Filed 4–11–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993, Universal Instruments Corporation

Notice is hereby given that, on February 27, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Universal Instruments Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. The following are new members: Northern Telecom Limited, Ontario, CANADA; Sandia National Labs, Albuquerque, NM; and SGS—Thomson Microelectronics, Ltd., Carrollton, TX.

No other changes have been made in either the membership or the planned activity of the group research project. Membership in the venture remains open, and the parties intend to file additional written notifications disclosing all changes in the membership or planned activities.

On January 16, 1995, Universal Instruments Corporation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on July 20, 1995 (61 FR 7020).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–9126 Filed 4–11–96; 8:45 am]

BILLING CODE 4410–01–M

Office of Justice Programs

National Institute of Justice

[OJP (NIJ) No. 1076]

RIN 1121–ZA31

National Institute of Justice Solicitation for an Evaluation of the Jackson County, Missouri Community-Backed Anti-Drug Tax (COMBAT) Initiative

AGENCY: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice.

ACTION: Announcement of the availability of the National Institute of Justice Solicitation ''COMBAT Program Evaluation''.

ADDRESSES: National Institute of Justice, 633 Indiana Avenue, NW., Washington, DC 20531.

DATES: The deadline for receipt of proposals is close of business on June 28, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Pamela K. Lattimore at (202) 307–2961, National Institute of Justice, 633 Indiana Avenue, NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION: The following supplementary information is provided:

Authority.

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, Sections 201–203, as amended, 42 U.S.C. 3721–3723 (1988).

Background

The National Institute of Justice (NIJ) is soliciting proposals to conduct an evaluation of the Jackson County, Missouri Community-Backed Anti-drug Tax (COMBAT) initiative, a locally funded effort designed to fight drugs in the county through law enforcement, prosecution, and prevention efforts. It is funded through a voter-approved supplement to the County sales tax, to be used exclusively to support intensive anti-drug efforts.

The National Institute of Justice anticipates a single award of up to $500,000.

Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of NIJ's ''COMBAT Program Evaluation.'' (refer to document no. SL000140). The solicitation is available electronically via the NCJRS Bulletin Board, which can be accessed via Internet. Telnet to ncjrsbbs.ncjrs.org, or gopher to ncjrs.org:71. For World Wide Web access, connect to the NCJRS Justice Information Center at http://www.ncjrs.org. Those without Internet access can dial the NCJRS Bulletin Board via modem: dial 301–738–8895. Set modem at 9600 baud, 8–N–1.

Jeremy Travis, Director,

National Institute of Justice.

[FR Doc. 96–9170 Filed 4–11–96; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determination Issued Under the Davis-Bacon and related Acts'' are listed by Volume and State:

Volume II

Virginia
VA960107 (Apr. 12, 1996)
VA960108 (Apr. 12, 1996)

Volume V

Oklahoma
OK960031 (Apr. 12, 1996)
OK960032 (Apr. 12, 1996)
OK960033 (Apr. 12, 1996)
OK960034 (Apr. 12, 1996)
OK960035 (Apr. 12, 1996)
OK960036 (Apr. 12, 1996)
OK960037 (Apr. 12, 1996)
OK960038 (Apr. 12, 1996)
OK960039 (Apr. 12, 1996)
OK960040 (Apr. 12, 1996)
OK960041 (Apr. 12, 1996)

OK960042 (Apr. 12, 1996)
OK960043 (Apr. 12, 1996)
OK960044 (Apr. 12, 1996)
OK960045 (Apr. 12, 1996)

Volume VI

California
CA960049 (Apr. 12, 1996)
CA960050 (Apr. 12, 1996)
CA960051 (Apr. 12, 1996)
CA960052 (Apr. 12, 1996)
CA960053 (Apr. 12, 1996)
CA960054 (Apr. 12, 1996)
CA960055 (Apr. 12, 1996)
CA960056 (Apr. 12, 1996)
CA960057 (Apr. 12, 1996)
CA960058 (Apr. 12, 1996)
CA960059 (Apr. 12, 1996)
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CA960061 (Apr. 12, 1996)
CA960062 (Apr. 12, 1996)
CA960063 (Apr. 12, 1996)
CA960064 (Apr. 12, 1996)
CA960065 (Apr. 12, 1996)
CA960066 (Apr. 12, 1996)
CA960067 (Apr. 12, 1996)
CA960068 (Apr. 12, 1996)
CA960069 (Apr. 12, 1996)
CA960070 (Apr. 12, 1996)
CA960071 (Apr. 12, 1996)
CA960072 (Apr. 12, 1996)
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CA960075 (Apr. 12, 1996)
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CA960089 (Apr. 12, 1996)
CA960090 (Apr. 12, 1996)
CA960091 (Apr. 12, 1996)
CA960092 (Apr. 12, 1996)
CA960093 (Apr. 12, 1996)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Connecticut
CT960001 (Mar. 15, 1966)
CT960003 (Mar. 15, 1996)
CT960004 (Mar. 15, 1996)
CT960005 (Mar. 15, 1996)
Massachusetts
MA960003 (Mar. 15, 1996)
MA960019 (Mar. 15, 1996)
New Jersey
NJ960003 (Mar. 15, 1996)
NJ960007 (Mar. 15, 1996)
Rhode Island
RH960001 (Mar. 15, 1996)

Volume II

Delaware
DE960002 (Mar. 15, 1996)
DE960005 (Mar. 15, 1996)
DE960009 (Mar. 15, 1996)
Maryland
MD960056 (Mar. 15, 1996)
MD960057 (Mar. 15, 1996)
Pennsylvania
PA960006 (Mar. 15, 1996)
PA960024 (Mar. 15, 1996)
PA960029 (Mar. 15, 1996)
PA960033 (Mar. 15, 1996)
PA960051 (Mar. 15, 1996)
PA960053 (Mar. 15, 1996)
PA960065 (Mar. 15, 1996)
Virginia
VA960017 (Mar. 15, 1996)
VA960063 (Mar. 15, 1996)
VA960068 (Mar. 15, 1996)
VA960069 (Mar. 15, 1996)
VA960080 (Mar. 15, 1996)
VA960085 (Mar. 15, 1996)

Volume III

Alabama
AL960006 (Mar. 15, 1996)
AL960008 (Mar. 15, 1996)
AL960034 (Mar. 15, 1996)
AL960052 (Mar. 15, 1996)
Florida
FL960001 (Mar. 15, 1996)
FL960032 (Mar. 15, 1996)
FL960034 (Mar. 15, 1996)
FL960100 (Mar. 15, 1996)
Georgia
GA960040 (Mar. 15, 1996)

Volume IV

Illinois
IL960001 (Mar. 15, 1996)
IL960002 (Mar. 15, 1996)
IL960003 (Mar. 15, 1996)
IL960004 (Mar. 15, 1996)
IL960005 (Mar. 15, 1996)
IL960006 (Mar. 15, 1996)
IL960007 (Mar. 15, 1996)
IL960008 (Mar. 15, 1996)
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IL960011 (Mar. 15, 1996)
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IL960036 (Mar. 15, 1996)
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IL960046 (Mar. 15, 1996)
IL960048 (Mar. 15, 1996)
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IL960055 (Mar. 15, 1996)
IL960063 (Mar. 15, 1996)
IL960065 (Mar. 15, 1996)
IL960066 (Mar. 15, 1996)
IL960067 (Mar. 15, 1996)
IL960068 (Mar. 15, 1996)
IL960069 (Mar. 15, 1996)
Wisconsin
WI960016 (Mar. 15, 1996)

Volume V

Kansas
KS960006 (Mar. 15, 1996)
KS960012 (Mar. 15, 1996)
Missouri
MO960001 (Mar. 15, 1996)
Oklahoma
OK960003 (Mar. 15, 1996)
OK960006 (Mar. 15, 1996)
OK960010 (Mar. 15, 1996)
OK960012 (Mar. 15, 1996)
OK960014 (Mar. 15, 1996)
OK960023 (Mar. 15, 1996)
OK960024 (Mar. 15, 1996)
OK960026 (Mar. 15, 1996)
OK960027 (Mar. 15, 1996)
OK960028 (Mar. 15, 1996)

Volume VI

California
CA960001 (Mar. 15, 1996)
CA960002 (Mar. 15, 1996)
CA960004 (Mar. 15, 1996)
CA960028 (Mar. 15, 1996)
CA960029 (Mar. 15, 1996)
CA960030 (Mar. 15, 1996)
CA960031 (Mar. 15, 1996)
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CA960045 (Mar. 15, 1996)
CA960046 (Mar. 15, 1996)
CA960047 (Mar. 15, 1996)
CA960048 (Mar. 15, 1996)
Colorado
CO960002 (Mar. 15, 1996)
CO960004 (Mar. 15, 1996)
CO960006 (Mar. 15, 1996)
CO960007 (Mar. 15, 1996)
CO960008 (Mar. 15, 1996)
CO960009 (Mar. 15, 1996)
CO960010 (Mar. 15, 1996)
CO960024 (Mar. 15, 1996)
CO960025 (Mar. 15, 1996)
Washington
WA960004 (Mar. 15, 1996)
WA960008 (Mar. 15, 1996)

WA960021 (Mar. 15, 1996)
WA960023 (Mar. 15, 1996)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued is January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC. this 5th day of April 1996.

Philip J. Gloss,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 96–8886 Filed 4–11–96; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL CREDIT UNION ADMINISTRATION

Information Collection Under Review

April 12, 1996.

The National Credit Union Administration (NCUA) intends to submit the following new public information collection request to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). The proposed information collection is published to obtain comments from the public. Public comments are encouraged and will be accepted for 60 days from the date listed at the top of this page in the Federal Register.

Copies of the information collection request, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, Suzanne Beauchesne, (703–518–6412). Comments and/or suggestions regarding the information collection request should be directed to Ms. Beauchesne, at the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428; Fax No. (703) 518–6433; E-Mail Address: SUEB@NCUA.GOV within 60 days from the date of this publication in the Federal Register. Comments should also be sent to the OMB Desk Officer at the following address: Mr. Milo Sunderhauf, OMB Reports Management Branch, New Executive Office Building, Room 10202, Washington DC 20530.

National Credit Union Administration

OMB Number: None.

Form Number: None.

Type of Review: New Collection.

Title: Examination Survey.

Description: Sections 106 and 204 of the Federal Credit Union Act, 12 U.S.C. §§ 1754 and 1784, authorize the NCUA to examine federal credit unions (FCU). NCUA examines each FCU at least once a year. The purpose of the information collection is to provide FCUs with an opportunity to give NCUA feedback on its examiners and examination procedures. NCUA would use the information contained in the survey to evaluate and improve the examination process.

Respondents: Federal credit unions.

Estimated Number of Respondents/Recordkeepers: 7,348.

Estimated Burden Hours Per Response: 5 minutes

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 612 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on April 8, 1996.

Hattie Ulan,

Acting Secretary of the Board.

[FR Doc. 96–9166 Filed 4–11–96; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

Commonwealth Edison Company (LaSalle County Station, Unit Nos. 1 and 2)

[Docket Nos. 50–373, 50–374]

Exemption

I

The Commonwealth Edison Company (ComEd, the licensee), is the holder of Facility Operating License Nos. NPF–11 and NPF–18, which authorize operation of the LaSalle County Station, Units 1 and 2 (the facilities). The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities consist of two boiling water reactors located at the licensee's site in LaSalle County, Illinois.

II

Section 50.54(o) of 10 CFR Part 50 requires that primary reactor containments for water-cooled power reactors meet the leakage rate test requirements in either Option A or B of Appendix J, to 10 CFR Part 50. Appendix J, Option B, ''Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors,'' contains performance-based requirements, schedules, and acceptance criteria for tests of the leak tight integrity of the primary reactor containment and the systems and components which penetrate the primary containment. The Commission, in its letter dated March 11, 1996, authorized the licensee to adopt Option B of Appendix J for the LaSalle Station. Section III.B of Appendix J, Option B, requires, in part, that leak rate testing must demonstrate that the sum of the leakage rates at accident pressure (P_a) of Type B tests, and pathway leakage rates from Type C tests, is less than the performance criterion (i.e., L_a) with margin, as specified in a plant's Technical Specifications (TSs).

The version of Appendix J in effect at the operating license review stage for the LaSalle Station is now identified as Option A of Appendix J. Both Options A and B of this appendix implicitly require that the measured leakage past the inboard and outboard main steamline isolation valves (MSIVs) be included in the evaluation of the Type B and C tests. This combination of measured leakages is identified as the combined local leak rate test results.

When LaSalle was originally licensed, ComEd requested an exemption from

this requirement which the staff granted in March 1981. The LaSalle, Units 1 and 2, Safety Evaluation Report (SER) (NUREG–0519) discusses the current exemption from 10 CFR Part 50, Appendix J, Option A, Sections III.C.2(a) and III.C.3, which is based on the conclusions that: (1) The MSIV leak testing methods for the LaSalle Station were acceptable alternatives to the cited requirements of Appendix J; and (2) the measured MSIV leakage rates could be excluded from the evaluation of the Type B and C tests. These conclusions and their bases are presented in Section 6.2.6.1 of the LaSalle SER.

Specifically, the LaSalle SER described that in the event of a loss-of-coolant-accident (LOCA), the LaSalle MSIV leakage control system (LCS) would maintain a negative pressure between the inboard and outboard MSIVs and that the effluent from the LCS will be discharged into the standby gas treatment system (SGTS) in the reactor building before being released through a stack to the environment. In evaluating the licensee's requested exemption in the LaSalle SER, the staff based its decision to grant the exemption on the results of its independent radiological analysis assuming a TS leak rate limit of 11.5 standard cubic feet per hour (scfh). This TS limit and the subject exemption were subsequently modified in Supplement No. 6 to the LaSalle SER (issued in November 1983) to raise the TS allowable MSIV leakage rate for each of the four main steamlines to 25 scfh. The subject exemption, its description, and conditions have remained in force from that time to the present.

The staff concluded in the LaSalle SER that the LaSalle Station testing procedure, in which two MSIVs on one steamline are tested simultaneously using a reduced test pressure of 20.2 pounds per square inch gage (psig) applied between the inboard and outboard MSIVs, was also acceptable. The use of this LaSalle MSIV test procedure was thereby granted as an exemption from certain of the testing requirements of Appendix J, Option A, to 10 CFR Part 50.

In summary, the staff concluded that the current exemption granted in March 1981, as modified in November 1983, was acceptable based on: (1) The method of MSIV testing; (2) a radiological analysis that assumed a 25 scfh MSIV leak rate for each of the four main steamlines and whose radiological consequences for all primary containment leakage were within the radiation exposure guidelines of 10 CFR Part 100 and met the requirements of 10 CFR Part 50, Appendix A, General Design Crierion (GDC) 19; and (3) the licensee's commitment to periodically test the MSIVs to ensure that the measured MSIV leakage did not exceed the TS allowable MSIV leakage rates.

The deletion of the MSIV LCS and use of an alternate leakage treatment (ALT) pathway (i.e., the main steamlines, the steam drainlines and the main condenser) as proposed in the licensee's letter dated August 28, 1995, as well as the licensee's proposal to raise the TS allowable MSIV leak rates, affects the description of one part of the subject exemption; i.e., that part which allows the exclusion of the measured leakage from the evaluation of the combined local leak rate test results. Accordingly, the licensee requested in its letter dated August 28, 1995, as supplemented in its letter dated March 4, 1996, a modification to part of the subject exemption from the Commission's regulations in Appendix J. The proposed modification to the subject exemption is from the requirements of 10 CFR Part 50, Appendix J, Option B, Section III.B. which would allow the licensee to (1) continue using a reduced test pressure for the leakage testing of the MSIVs, and (2) continue to exclude the measured MSIV leakage from the combined local leak rate test results.

The licensee also submitted in its letter dated August 28, 1995, a request for license amendments for the LaSalle Station in conjunction with the proposed modification of the existing exemption. The proposed license amendment would revise the LaSalle TSs to reflect the deletion of the MSIV LCS, utilize an ALT pathway and raise the TS allowable MSIV leakage. This proposal is based on the Boiling Water Reactor Owners Group (BWROG) method summarized in General Electric Report NEDC–31858P, Revision 2, ''BWROG Report for Increasing MSIV Leakage Rate Limits and Elimination of Leakage Control System,'' dated September 1993. When the license amendments are granted, part of the original exemption from the Appendix J leakage test requirements will not be applicable because the description and conditions of the original exemption will be significantly altered.

An important element in the evaluation of the licensee's request to delete the MSIV LCS is whether the components of the proposed ALT pathway for MSIV leakage remain functional under design basis accident (DBA) conditions. In this regard, the staff reviewed the capability of the ALT pathway to withstand the seismic loads resulting from a safe shutdown earthquake (SSE) and remain functional. The staff's review of this aspect found that there was sufficient margin in all ALT components against gross failure under SSE conditions. Further, the staff found that the two redundant paths leading from the MSIVs to the main condenser provided an acceptable level of reliability for the proposed ALT pathway. Finally, the staff found that motor operated valves which define the boundaries of the ALT pathway either have: (1) reliable power sources; (2) will remain in their required open or closed position; or (3) will be administratively controlled. On this basis, the staff found that the proposed ALT pathway would remain functional under DBA conditions.

The staff performed an independent assessment of the radiological consequences of the licensee's proposal to delete the present LCS and establish an ALT pathway to control and process the leakage past the MSIVs as well as the licensee's proposal to increase the TS allowable MSIV leakage rate. This radiation dose assessment evaluated the effect of the proposed hardware modifications and TS revisions separately and then combined these doses with those resulting from all other leakages from the LaSalle primary containment. The staff found in its radiological assessment of the proposed modification of the existing exemption that the potential offsite and control room doses to personnel remain within the applicable criteria of 10 CFR Part 50, Appendix A, GDC–19 and 10 CFR Part 100 and is consistent with the guidance in Standard Review Plan (SRP) Section 6.4.

The proposed hardware and TS changes associated with deletion of the MSIV LCS do not affect the bases for part of the current exemption. The modification and implementation of the TS change requests will not alter the procedure for MSIV testing (i.e., the test may be performed at a minimum pressure of 20.2 psig applied between the inboard and outboard MSIVs). Furthermore, when Option B was added to Appendix J in September 1995 (60 FR 49495 (1995)), this version stated in Section V.B.1 that specific exemptions to Option A that have been formally approved by the NRC, are still applicable. On this basis, the staff finds that the portion of the existing exemption (i.e., the application of test pressure to its MSIVs) remains in force and no further consideration is required for this portion of the subject exemption request.

As part of its evaluation of the TS change to delete the MSIV LCS, the NRC staff concluded that there is reasonable assurance that: (1) the current MSIV leak testing method (i.e., a minimum

test pressure of 20.2 psig applied between the inboard and outboard MSIVs) is an acceptable method for testing MSIV leakage; (2) the proposed MSIV leakage ALT pathway will withstand the seismic loads from an SSE and remain functional; and (3) the calculated radiation doses assuming an MSIV leakage rate limit of 100 scfh per main steamline, not to exceed 400 scfh for all four main steamlines, are within the radiation exposure guidelines in 10 CFR Part 100, meet the requirements of GDC–19 of Appendix A to 10 CFR Part 50 and are consistent with SRP Section 6.4. On this basis, the staff finds it acceptable to continue to exempt LaSalle, Units 1 and 2, from the 10 CFR Part 50, Appendix J, Option B, requirements to include the measured MSIV leakage rate from the combined local rate tests since the radiological consequences of the MSIV leakage are acceptable and continue to meet the underlying intent of the rule. Therefore, the staff finds that the requested modification to the existing exemption in the licensee's submittal dated August 28, 1995, as supplemented on March 4, 1996, may be granted.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when: (1) the exemptions are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule * * *.''

The underlying purpose of the rule is to assure leakage through the primary reactor containment, and systems and components penetrating primary containment do not exceed allowable leakage rate values and that periodic surveillance is performed so that proper maintenance and repair are made. The staff analysis has demonstrated that an adequate margin can be maintained even if leakage past the MSIVs through the ALT pathway occurs at the TS allowable MSIV leakage rates of 100 scfh for each main steamline, not to exceed a total of 400 scfh for all four main steamlines.

IV

Accordingly, the Commission has determined that, pursuant to Section 50.12 of 10 CFR Part 50, an exemption is authorized by law and will not present an undue risk to public health and safety, and that there are special circumstances present, as specified in 10 CFR 50.12(a)(2). An exemption is hereby granted from the requirements of Sections III.B, of Appendix J, Option B, to 10 CFR Part 50 regarding testing the MSIVs at accident pressure and including MSIV leakage rates in the sum of the Type B and C leakage rates. The exemption allows: (1) leakage testing of the MSIVs using a minimum test pressure of 20.2 psig applied between MSIVs and a TS leakage rate limit of 100 scfh per main steamline past the MSIVs, not to exceed 400 scfh for all four main steamlines; and (2) exclusion of the measured MSIV leakage rate from the evaluation of the combined local leak rate tests.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (61 FR 14837).

This exemption is effective upon issuance and will be implemented prior to startup of LaSalle, Unit 1, from its present refueling outage and implemented for LaSalle, Unit 2, prior to startup from its refueling outage scheduled to start in September 1996.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 5th day of April 1996.

Jack W. Roe,

Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–9145 Filed 4–11–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–395]

South Carolina Electric & Gas Company and South Carolina Public Service Authority; Virgil C. Summer Nuclear Station, Unit No. 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority, (the licensee), for operation of the Virgil C. Summer Nuclear Station, Unit No. 1 (VCSNS), located in Fairfield County, South Carolina.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow the licensee to increase allowed core power level from 2775 Megawatts thermal (MWt) to 2900 MWt which is a 4.5% increase in rated core power.

The proposed action is in accordance with the licensee's application for amendment dated August 18, 1995, as supplemented on November 1, 1995, February 14, March 14 (there are two supplemental letters dated March 14), and March 25, 1996.

The Need for the Proposed Action

The proposed action is needed to allow the licensee to increase the electrical output of VCSNS by approximately 64 MW and thus provide additional electrical power to the grid which serves commercial and domestic areas in the State of South Carolina.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that a slight change in the environmental impact can be expected for the proposed increase in power. The proposed core uprate is projected to increase the heat rejected to the environment by approximately 3 percent to a maximum of 6.4 (10^9) British thermal units per hour (Btu/hr).

In the Final Environmental Statement (FES) related to the operation of Virgil C. Summer Nuclear Station, Unit No. 1 (NUREG–0719), the staff evaluated a heat rejection rate of 6.7 (10^9) Btu/hr. Thus, the additional thermal rejection resulting from the power uprate is bounded by the heat rejection rate evaluated and found acceptable in the FES.

Additionally, the licensee stated they will not exceed the 113°F maximum circulating water discharge temperature as specified in their National Pollutant Discharge Elimination System (NPDES) permit. The licensee has administrative procedures in place to reduce power as necessary to ensure the temperature limit is not exceeded. Also, to limit the heat load rejected to the Monticello Reservoir, the licensee will be installing a closed cycle cooling water system that will reject heat to the atmosphere via a mechanical draft cooling tower. The total circulating water system flow rate is predicted to decrease slightly (from approximately 538,000 gallons per minute (gpm) to approximately 530,000 gpm) due to the addition of the cooling tower. Therefore, water velocity at the intake structure will continue to remain below the velocity of 0.5 feet per second

that was assumed in the Federal Water Pollution Control Act, Section 316(b), entrainment and impingement study performed by the licensee for initial plant licensing.

The licensee also concluded that the increased heat load rejected to the Monticello Reservoir will not cause the thermal component of the effluent to exceed the NPDES condition for maximum surface temperature or maximum plume temperature rise.

The heatload rejected by the cooling tower was calculated by the licensee to be 60.66 MBtu/hr at 100% capacity. The cooling tower effluents, including salt drift and chemical discharges, have been determined by the licensee to have a negligible effect on all VCSNS structures and systems. The dispersant and anti-fouling chemicals added to the cooling tower raw water will be sufficiently diluted to preclude any significant environmental impact. Limits on the release of these chemicals will be determined by the South Carolina Department of Health and Environmental Control, and will be included in the licensee's NPDES permit. Since circulating water flow is critical for adequate dilution, the licensee will establish procedures to control the release of these chemicals. The required controls are listed in the licensee's March 25, 1996 letter. The cooling tower will be constructed outside the protected area fence in an empty field at the northwest corner of the site. Any environmental effects of the cooling tower construction will be confined to onsite areas previously disturbed during initial plant construction.

The staff previously evaluated the radiological impact of operating at 2900 MWt in a November 18, 1994 safety evaluation (SE) supporting issuance of License Amendment No. 119. This amendment was requested to support the licensee's steam generator (SG) replacement project. The majority of the licensee's SG replacement analyses were written for the planned uprate power of 2900 MWt. The staff discussed the radiological considerations of operation at the uprated power in Section 2.5 of the SE. The staff concluded that ''* * * the doses would not exceed the dose guidelines presently contained in the Standard Review Plans, 10 CFR Part 100 or GDC 19 of 10 CFR Part 50, Appendix A for either offsite locations or control room operators.'' Therefore, the radiological consequences of the proposed uprate have been previously evaluated by the staff.

The uprate conditions will also result in storage of spent fuel with a higher irradiation. By letter dated, December 13, 1993, as supplemented February 2, and March 11, 1994, the licensee requested a license amendment to allow the use and subsequent storage of fuel with an initial enrichment to 5.0 weight percent Uranium-235. This request was made, in part, to support the core power uprate to 2900 MWt. On August 15, 1994, (59 FR 41799) the staff published its ''Environmental Assessment and Finding of No Significant Impact,'' which concluded the proposed action will not have a significant effect on the quality of the human environment. Therefore, the environmental impacts of this aspect of the licensee's power uprate proposal has been previously evaluated by the Commission.

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.

Except for heat load, which is bounded by previous analysis as discussed above, the amendment does not significantly 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 significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Virgil C. Summer Nuclear Station, Unit 1.

Agencies and Persons Consulted

In accordance with its stated policy, on February 26, 1996, the staff consulted with the South Carolina State official, Mr. Virgil Autry of the Bureau of Solid and Hazardous Waste Management, Department of Health and Environmental Control, 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 letters dated August 18, 1995, as supplemented on November 1, 1995 February 14, March 14 (the licensee submitted two supplemental letters dated March 14, 1996) and March 25, 1996, which are 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 Fairfield County Library, 300 Washington Street, Winnsboro, SC.

Dated at Rockville, Maryland, this 8th day of April, 1996.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II–3, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–9144 Filed 4–11–96; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Request for Review of Part B Medicare Claim; OMB 3220–0100 Under Section 7(d) of the Railroad Retirement Act (RRA), the RRB administers the Medicare program for persons covered by the railroad retirement system.

The RRB utilizes Forms G–790 and G–791 to provide railroad retirement beneficiaries who are claimants for Part B Medicare benefits with the means for requesting the MetraHealth Insurance Company, the RRB's current Medicare carrier, to review claims determinations or to hold hearings on the review determinations. Completion is required to obtain a benefit. One response is requested of each respondent.

The RRB proposes minor editorial changes to both the G–790 and G–791 to incorporate language required by the Paperwork Reduction Act of 1995. The completion time for both the G–790 and the G–791 is estimated at 15 minutes.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–9105 Filed 4–11–96; 8:45 am]

BILLING CODE 7905–01–M

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Request for Medicare Payment; OMB 3220–0131 Under Section 7(d) of the Railroad Retirement Act, the RRB administers the Medicare program for persons covered by the railroad retirement system. The collection obtains the information needed by the MetraHealth Insurance Company, the Medicare carrier for railroad retirement beneficiaries, to pay claims for payments under Part B of the Medicare program. Authority for collecting the information is prescribed in 42 CFR 424.32.

The RRB currently utilizes Forms G–740B, G–740S and HCFA 1500 to secure the information necessary to pay Part B Medicare Claims. One response is completed for each claim. Completion is required to obtain a benefit.

The RRB proposes to expand the use of Form HCFA–1500, (in accordance with Section 1848(G)(4) of the Social Security Act) which will result in the obsolescence of Form G–740B. Non-burden impacting changes to RRB Form G–740s including the addition of a burden statement are also being proposed.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form No.(s)	Annual responses	Time (Min.)
G–740S	100	15

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–9106 Filed 4–11–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

AGENCY MEETING: Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following open meeting during the week of April 15, 1996.

An open meeting will be held on Tuesday, April 16, 1996, at 10:00 a.m., in Room 1C30.

The subject matter of the open meeting scheduled for Tuesday, April 16, 1996, at 10:00 a.m., will be:

The Commission will meet with representatives from the American Society of Corporate Secretaries to discuss a number of issues of mutual interest, including the shareholder proposal rules, the Report of the Task Force on Disclosure Simplification, the Section 16 rules, proposed disclosure requirements concerning derivative financial instruments, the Securities Litigation Reform Act of 1995, developments in electronic communications to shareholders, and company registration. For further information, please contact Joseph P. Babits at (202) 942–2910.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: April 9, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–9230 Filed 4–10–96; 11:26 am]

BILLING CODE 8010–01–M

[Release No. 34–37067; File No. SR–CHX–96–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Examinations

April 4, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 6, 1996, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change, on March 18, 1996, filed Amendment No. 1 to the proposed rule change,[1] and on April 4, 1996, filed Amendment No. 2 to the proposed rule change,[2] as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

[1] *See* Letter from David T. Rusoff, Foley & Lardner, to Elisa Metzger, SEC dated March 14, 1996 (''Amendment No. 1'').

[2] *See* Letter from Charles R. Haywood, Foley & Lardner, to Elisa Metzger, SEC dated April 4, 1996 (''Amendment No. 2'').

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rules 2 and 3 of Article VI (and the interpretations and policies thereunder) to clarify existing rules, adopt a new Floor Membership Exam, adopt a new Market Maker Exam, adopt a new Co-Specialist Exam, and adopt examinations applicable to persons conducting a customer business from the CHX trading floor. The Exchange also proposes to adopt the Content Outline for the Examination Module for Floor Members Engaged in a Public Business with Professional Customers and the Content Outline for the Examination Module for Floor Clerks of Members engaged in a Public Business with Professional Customers (collectively, the ''Content Outline'').[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statement concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CHX Rule 3, Article VI authorizes the Exchange to require the successful completion of an examination in connection with the registration of partners, officers, options principals, branch officer managers and registered representatives of member firms and member corporations. Pursuant to this Rule, in 1987 the Commission approved the use of the Series 7 examination by the CHX to qualify persons seeking registration as general securities representatives. The purpose of the proposed rule change is to (1) Adopt the requirement that members located on the floor of the CHX who wish to accept orders directly from the public must take and pass the Series 7 examination; (2) allow members located on the floor of the CHX to accept orders directly from professional investors for execution on the trading floor without taking the Series 7 exam so long as they take and pass the Series 7A exam; (3) allow floor clerks/ floor employees to accept orders from professional customers in support of members or member organizations previously approved to conduct a public business so long as they take and pass the Series 7B exam, (4) codify the existing requirement that all potential floor members successfully complete a ''Floor Membership Exam'' (5) codify the existing requirement that all potential market makers successfully complete a ''Market Maker Exam'' in addition to the Floor Membership Exam; and (6) codify the existing requirement that all potential co-specialists successfully complete a ''Co-Specialist'' exam in addition to the Floor Membership Exam, all as more fully described below.

Series 7

All floor members that accept orders directly from non-broker-dealer will be deemed to be transacting business with the public. As such, except as provided below, any person accepting such orders must successfully complete the Series 7 examination. This requirement is in proposed interpretation and policy .01(d) to Rule 3 of Article VI of the CHX Rules.

Series 7A

The level of knowledge, skills and abilities required to perform the activities engaged in by Exchange members who conduct a public business that is limited to accepting orders from professional investors is less than needed to conduct a full service business with retail customers. As a result, the NYSE has developed the Series 7A Examination as a module of the General Securities Registered Representative Examination (''Series 7'') to test the knowledge of relevant securities laws and Exchange rules required of members who accept orders from professional customers[4] for execution on the trading floor. The CHX proposes to amend its Interpretations and Policies to Rule 3, Article VI to establish a new limited registration category for floor members who have successfully completed the Series 7A examination.

This new limited registration will simplify the procedure for CHX members to conduct business with non-broker-dealer professional customers. The Exchange believes that the new examination is appropriate, in lieu of the Series 7, because it nevertheless tests knowledge relevant to conducting a public business. For example, the rules governing customer accounts including rules on excessive trading, approval of accounts and discretionary transactions would be covered by the new exam.

Conducting a professional customer business from off the CHX trading floor would still require a full Series 7 registration. Of course, persons who are Series 7 registered need not take or pass the Series 7A exam in order to conduct a professional customers business.

Series 7B

The Exchange is adopting the Series 7B examination as a subset of the Series 7 examination to test the knowledge of relevant securities laws and Exchange rules required of floor clerks/floor employees of members who accept public orders only from professional customers for execution on the trading floor. These orders may only be accepted if the member with whom the floor clerk/floor employee works has successfully completed the Series 7 or Series 7A examination. A floor clerk/ floor employee that seeks to deal with customers who are not professional customers must successfully complete the Series 7 examination. Any person who has successfully completed the Series 7 examination will not be required to complete the Series 7B examination.

Implementation

To minimize any burden imposed by the Series 7, Series 7A and Series 7B exam requirements, the Exchange will phase-in these new requirements over a designated period of time after the proposed rule change has been approved. This will provide persons subject to the exam with an opportunity to study for and take the new examinations without unnecessary business disruptions. The phase-in

[3] The Exchange will use the Series 7A Examination that was approved in Sec. Exch. Act Release No. 32698 (July 29, 1993), 58 FR 41539 (File No. SR–NYSE–93–10). The Exchange will use the Series 7B Examination that was approved in Sec. Exch. Act Release No. 34334 (July 8, 1994) 59 FR 35964 (File No. SR–NYSE–94–13). The Series 7A and 7B Examinations for CHX members will be administered by the National Association of Securities Dealers, Inc. (''NASD'').

[4] The proposal defines a professional customer to include: a bank; trust company; insurance company; investment trust; state or political subdivision thereof; charitable or nonprofit educational institution regulated under the laws of the United States or any state or pension or profit sharing plan subject to ERISA or of an agency of the United States or of a state or a political subdivision thereof; or any person who has, or has under management, net tangible assets of at least sixteen million dollars. As used in this definition, the term ''person'' would not include natural persons.

period is as follows: (a) Members who were not required to successfully complete the Series 7 or Series 7A examination prior to approval of this rule change and floor clerks/floor employees subject to the Series 7B exam will have 180 days from the effective date of this proposed rule change to take the appropriate exam. In the event the member or floor clerk/floor employee fails such examination, such member or floor clerk/floor employee must, nonetheless, successfully complete such examination within 270 days from the effective date of this proposed rule change.

Floor Membership Exam

All new applicants for membership on the Exchange that request a floor presence will be required to successfully complete a revised Floor Membership Exam. This exam tests basic trading knowledge and ability and tests familiarity with the Exchange's trading rules.

Market Maker Exam

In order for a member to become qualified as a market maker after the approval date of this proposed rule change, the member must successfully complete the revised Floor Membership Examination and the revised Market Maker Examination. The revised Market Maker Exam tests the member's understanding of a market maker's duties and obligations. Co-specialists registered as such are exempt from the Market Maker Exam, even if they act as a market maker.

Co-Specialist Exam

In order for a member to be qualified as a co-specialist after the approval date of this proposed rule change, the member must successfully complete the revised Co-Specialist Exam. A member is eligible to take the exam if the member has successfully completed the Floor Membership Exam and has been recognized by the Floor Procedure Committee as a Member/Relief Specialist under supervision for at least 90 days. Upon passing the Co-Specialist Exam, the co-specialist may petition the Floor Procedure Committee to be removed from supervision and to function as a co-specialist.

Registration of Personnel

The proposed rule change also clarifies current Exchange requirements for registering personnel and makes technical changes to the registration procedure. The proposed rule change adds a definition of ''control person'' to Article VI, Rule 2 and specifies that all such persons at, as well as certain other shareholders of, members and member organization must be acceptable to the Exchange.[5] Additionally, the proposed change clarifies that nominees of member firms must be registered with the Exchange.

The filing also makes technical changes to Rule 2 of Article VI. In this regard, the filing changes the term ''Form B/D'' to ''Form BD,'' changes ''Schedule D'' to ''Schedule DRP,'' and changes ''Series VII'' to ''Series 7'' to conform to recent changes in the names of those forms. In addition, the filing changes the term ''exchange'' to ''self-regulatory organization'' in order to include within the language of the rule self-regulatory organizations that do not meet the statutory definition of ''exchange,'' such as the National Association of Securities Dealers.[6] The filing moves Interpretation and Policy. 01, .02, and .03 from Rue 3 of Article VI to Rule 2 of that Article[7] and moves the location of a portion of Interpretation and Policy .02(b) of Rule 2 relating to options to another location in the same interpretation. The proposed rule change revises Interpretation and Policy .01(2) of Rule 2, Article VI to delete the requirement that a Notice of Acceptance of Registration Form from the NASD be submitted to the Exchange because this form no longer exists. The proposed rule change also deletes Interpretation and Policy .01(3) of Rule 2, Article VI because revised Interpretation and Policy .01 gives the Exchange the authority to permit firms to submit revised forms directly to any SRO. Thus, the carve-out for NYSE member firms provided for in this interpretation is no longer needed.

The proposed rule change also revises Rule 2 of Article VI, Interpretation and Policy .01 to clarify the procedures to be followed when registering persons with the Exchange. Specifically, a member firm that registers persons with the Exchange must submit, among other things, a completed Form U–4 for such individual to the Exchange (or to another SRO designated by the Exchange). The member firm must also submit an amended Form BD for the firm if the individual's registration requires the Form BD to be amended. Additionally, the member firm must update its Form BD and Form U–4s whenever information on those Forms becomes inaccurate or incomplete.

Finally the filing proposes to amend Rule 3 of Article VI to clarify that the examinations and training courses required by the rule apply to individual members as well as persons at member firms and member organizations.

2. Statutory Basis

The proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest. The examination requirements are intended to protect investors and the public interest.

The proposed rule change is also consistent with Section 6(c)(3)(B) of the Act, which provides that a national securities exchange may examine and verify the qualifications of an applicant to become a person associated with a member in accordance with procedures established by the rules of the exchange, and require any person associated with a member, or any class of such persons, to be registered with the exchange in accordance with procedures so established. Finally, the Exchange also believes that the proposed rule change is consistent with Section 15(b)(7) in that it is designed to ensure that a registered broker or dealer, prior to effecting any transaction in, or inducing the purchase or sale of, any security, meet certain standards of operational capability, training, experience, or competence.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[5] A ''control person'' is a person with the power, directly or indirectly, to direct the management or policies of a company whether through ownership of securities, by contract or otherwise, and at a minimum, means all directors, general partners or officers exercising executive responsibility (or having similar status or functions), all persons directly or indirectly having the right to vote 10% or more of a class of a voting security or having the power to sell or direct the sale of 10% or more of a class of voting securities, or in the case of a partnership, having the right to receive upon dissolution, as having contributed, 10% or more of the capital.

[6] The term ''self-regulatory organization'' is to have the statutory meaning. *See* Amendment No. 2.

[7] In Interpretation and Policy .02, the change from ''would be'' to ''are'' is a stylistic change intended to make no substantive alteration in the rule. *See* Amendment No. 2.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld form the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX–96–11 and should be submitted by May 3, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–9146 Filed 4–11–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37015A; File No. SR–NYSE–96–02]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 Relating to Voting of Proxies by Member Firms for Holders of Auction Rate Preferred Securities; Correction

April 8, 1996.

In FR Document No. 96–7643, beginning on page 14183 for Friday, March 29, 1996, the first two sentences in Section IV. Discussion in Column 2 of page 14184 were incorrectly stated. The sentences should read as follows: ''After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[12] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public.''

In addition, the sentence beginning 17 lines from the bottom of Column 3 page 14184 should be removed.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–9090 Filed 4–11–96; 8:45 am]

BILLING CODE 8010–01–M

[12] 15 U.S.C. 78f (b).

COMMISSION ON UNITED STATES—PACIFIC TRADE AND INVESTMENT POLICY

UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Commission on United States—Pacific Trade and Investment Policy

AGENCY: Commission on United States—Pacific Trade and Investment Policy and Office of the United States Trade Representatives.

ACTION: Notice that the April 23, 1996, meeting of the Commission on United States—Pacific Trade and Investment Policy will be held from 8:30 a.m. to 5:30 p.m. The meeting will be closed to the public from 8:30 a.m. to 3:30 p.m. The meeting will be open to the public from 3:30 p.m. to 5:30 p.m.

SUMMARY: The Commission on United States–Pacific Trade and Investment Policy will hold a meeting on April 23, 1996, from 8:30 a.m. to 5:30 p.m. The meeting will be closed to the public from 8:30 a.m. to 3:30 p.m. The meeting will include a review and discussion of current issues affecting U.S. trade policy with Asia. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, the USTR has determined that this portion of the meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States.The meeting will be open to the public and press from 3:30 to 5:30 p.m. At this time the Commission will determine its priorities and how it will proceed to implement its mandate. Attendance during this part of the meeting is for observation only. Individuals who are not members of the Commission will not be invited to comment.

DATES: The meeting is scheduled for April 23, 1996, unless otherwise notified.

ADDRESSES: The meeting will be held at the White House Conference Center at 726 Jackson Place, NW., Washington, D.C., unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Nancy Adams, Executive Director of Commission on United States—Pacific Trade and Investment Policy, Room 400, 600 17th Street NW., Washington, D.C. 20508, (202) 395–9679.

Kenneth D. Brody,

Chairman, Commission on United States-Pacific Trade and Investment Policy.

Michael Kantor,

United States Trade Representative.

[FR Doc 96–9164 Filed 4–11–96; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application to Impose and Use the Revenue from a Passenger Facility Charge (PFC) at Chicago O'Hare International Airport, Chicago, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chicago O'Hare International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before May 13, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Room 201, Des Plaines, IL 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David R. Mosena, Commissioner, City of Chicago Department of Aviation, at the following address: O'Hare International Airport, P.O. Box 66142, Chicago, IL 60666.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Chicago Department of Aviation under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Louis H. Yates, Manager, Chicago Airports District Office, 2300 East Devon Avenue, Room 201, Des Plaines, IL 60018, (847) 294–7335. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Chicago O'Hare International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 26, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Chicago Department of Aviation was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 26, 1996.

The following is a brief overview of the application.

PFC application number: 96–05–C–00–ORD.

Level of the PFC: $3.00.

Actual charge effective date: September 1, 1993.

Revised estimated charge expiration date: April 1, 2004.

Total estimated PFC revenue: $423,502,711.

Brief description of proposed projects:

Projects to Impose and Use PFC

EPS Basement Corridors; Public Toilets Rehabilitation; Interior Signage; Terminal Road Signage; Additional Signage; East-West Baggage Roadway; Retaining Wall Replacement; Safety & Security System; Terminal 2 Security; Guard post 11 Relocation; Relocate Road Control System; Cargo Taxiway Rehab; Airside Access Service Road—North; Guard post #1 Expansion; Rehabilitation of Ditchbridge; Old Mannheim Road Improvements; Road Signs—Phase 4; Terminal 5 Roadway; ATS Station (T–5); Airfield Emergency Power—South Vault; Runway Weather Sensors; R/W 14L–32R in-Pavement Lights; Runway 14R–32 Fillet; Centerline Lights for R/W 27R High Speed Exit; Hold Pad Runway 27L; Runway 4R–22L Rehab; Taxiway Guidance Signs; Service Water System; O'Hare ALP Update; Terminal 3 Security; Terrazzo Floor Replacement; Fire Door Delayed Egress Security; EPS Pedestrian Corridors/Escalator Rehab; North-South Pumping Stations & Tunnels; Airfield Emergency Power—North Vault; Alert Hangar Demolition; In-Pavement Edge Lights; Terrazzo Floor Repair—Concourse E/F Stem; Underground Storage Tank Removal; Radio Trunking System; Noise Planning; FIMS Implementation; Ground Run-Up Enclosure; HTW System Improvements; R/W 14L–32R Shoulder and Edge lighting Reconstruction; Hangar Area Service Road Rehab; Acquisition of Four (4) Tow Trucks; Upgrade Airside Perimeter Road/New Guard Posts; Acquisition of Miscellaneous Equipment; Acquisition of 100′ Tower Ladder Vehicle; School Soundproofing; and Residential Insulation.

Projects to Use PFC

T/W 14L–32R Rehab; Terminal Apron Rehab; T/W North-South Rehab; Drainage Improvements; T/W Inner Bridge Rehab; T/W 9L–27R Rehab; T/W 14R–32L T Rehab; T/W 4R–22L Rehab; T/W 9R–27L Rehab; Terminal #2 Upgrade; Terminal #3 Upgrade; Terminal #2/#3 Upper Level & Elevator Extension; Emergency Turbine Generator; Domestic Hot Water Converter; Water Pressure Implementation; and Roadway—Zemke/Coleman Improvements.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Chicago Department of Aviation.

Issued in Des Plaines, Illinois on April 3, 1996.

Prescott Snyder,

Acting Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–9148 Filed 4–11–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use the Revenue from a Passenger Facility Charge (PFC) at Gregg County Airport, Longview, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Gregg County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before May 13, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Staff, ASW–610D, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to R.D. ''Bucky'' Walters, Manager of Gregg County Airport at the following address: R.D. ''Bucky'' Walters, Gregg County Airport, Rt. 3, Highway 322, Longview, Texas 75603.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region,

Airports Division, Planning and Programming Staff, ASW–610D, Fort Worth, Texas 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Gregg County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 29, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Gregg County Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 26, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1996.

Proposed charge expiration date: September 30, 2000.

Total estimated PFC revenue: $472,571.00.

PFC application number: 96–01–C–00–GGG.

Brief description of proposed project(s):

Projects to Impose and Use PFC's

Terminal Apron Improvements—Unit 2, Runway 13–31 Overlay and Improvements, Airport Master Plan, Guidance Sign Improvements, Terminal Apron Improvements—Unit 3, Runway 17–35 Rehabilitation, and 1,000 Gallon ARFF Vehicle.

Proposed class or classes of air carriers to be exempted from collecting PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Staff, ASW–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Gregg County Airport.

Issued in Fort Worth, Texas, on March 29, 1996.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 96–9154 Filed 4–11–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at La Crosse Municipal Airport, La Crosse, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at La Crosse Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before May 13, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Duane Haataja, Airport Manager of the La Crosse Municipal Airport at the following address: La Crosse Municipal Airport, 2850 Airport Road, La Crosse WI 54603.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of La Crosse under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Sandra E. DePottey, Program Manager, Minneapolis Airports District Office, 6020 28th Avenue South, room 102, Minneapolis, MN 55450, (612) 725–4366. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at La Crosse Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 29, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of La Crosse was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 25, 1996.

The following is a brief overview of the application:

PFC application number: 96–02–C–00–LSE.

Level of the proposed PFC: $3.00.

Proposed charge effective date: January 1, 1997.

Proposed charge expiration date: July 1, 1999.

Total estimated PFC revenue: $695,000.

Brief description of proposed project(s): Runway 13/31 safety improvements; Acquire aircraft rescue and fire fighting vehicle, PFC administration.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: No request to exclude carriers.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of La Crosse.

Issued in Des Plaines, Illinois on April 3, 1996.

Prescott Snyder,

Acting Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–9147 Filed 4–11–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application to Impose and Use the Revenue from a Passenger Facility Charge (PFC) at Myrtle Beach International Airport, Myrtle Beach, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invite public comment on the application to impose and use the revenue from a PFC at Myrtle Beach International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (15 CFR Part 158).

DATES: Comments must be received on or before May 13, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: FAA/Atlanta Airports District Office, Campus Building, 1701 Columbia Avenue, STE 2–260, College Park, Georgia 30337.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. C.P. Winters, Airport Director, of the Myrtle Beach International Airport at the following address: 1100 Jetport Road, Myrtle Beach, South Carolina 29577.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Horry County Department of Airports, Myrtle Beach International Airport under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. D. Cameron Bryan, Program Manager, FAA/Atlanta Airports District Office, Campus Building, 1701 Columbia Avenue, STE 2–260, College Park, Georgia 30337, (404) 305–7144. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application impose and use the revenue from a PFC at Myrtle Beach International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 4, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by Horry County Department of Airports was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 26, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 1996.

Proposed charge expiration date: June 30, 2005.

Total estimated PFC revenue: $6.3 million.

Application number: 96–01–C–00–MYR.

Brief description of proposed project(s):

1—Air Carrier Apron Infield Expansion
2—South Apron Expansion
3—Construct Federal Inspection Station
4—Terminal A Renovations
5—Land Acquisition for Airport Development
6—Preparation of PFC Application
7—PFC Administrative Costs

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Non-scheduled operations by air taxi/commercial operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Horry County Department of Airports, Myrtle Beach International Airport.

Issued in Atlanta, Georgia on April 4, 1996.

Dell T. Jernigan,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 96–9153 Filed 4–11–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application (#96–03–C–00–CLM) to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at William R. Fairchild International Airport, Submitted by the Port of Port Angeles, Port Angeles, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use PFC revenue at William R. Fairchild International Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR 158).

DATES: Comments must be received on or before May 13, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Seattle, WA 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Clyde Boddy, Deputy Director at the following address: Port of Port Angeles, 338 West First, Port Angeles, WA 98362.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to William R. Fairchild International Airport, under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Vargas, (206) 227–2660; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Seattle, WA 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application (#96–02–C–00–CLM) to impose and use PFC revenue at William R. Fairchild International Airport, under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On April 3, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Port of Port Angeles, Port Angeles, Washington, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 6, 1996.

The following is a brief overview of the application:

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 1996.

Proposed charge expiration date: February 28, 1998.

Total estimated PFC revenues: $96,258.00.

Brief description of proposed project: Reconstruct of the east end of Runway 8/26, Overlay with asphalt and groove; Purchase a new ARFF Index A truck and appropriate fire fighting equipment, Airport access road construction.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Air taxi.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue S.W., Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the William R. Fairchild International Airport.

Issued in Renton, Washington on April 3, 1996.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 96–9149 Filed 4–11–96; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 96–032–GR]

Crash Avoidance Implementation Plan

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice and request for comment.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) has prepared a Draft Crash Avoidance Implementation Plan (CAI Plan), which sets forth agency programs and activities in the area of motor vehicle crash avoidance implementation over the next three to five years. For each project, the Draft CAI Plan describes the problem, possible anticipated action, and milestones.

DATES: Comments are due not later than June 3, 1996.

ADDRESSES: All comments should be mailed to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 7th Street SW., Washington, DC 20590. Please refer to the docket number at the top of this notice when submitting written comments.

FOR FURTHER INFORMATION CONTACT: For further information and to obtain a copy of the Draft CAI Plan, contact Michael Pyne, Office of Crash Avoidance Standards, NHTSA, 400 7th Street SW., Washington, DC 20590, Telephone 202–366–4931, Fax 202–366–4329. Copies of the Draft CAI Plan are also available on the Internet (NHTSA Home Page).

SUPPLEMENTARY INFORMATION: The National Highway Traffic Safety Administration (NHTSA) has developed a Draft Crash Avoidance Implementation Plan (CAI Plan), which sets forth agency plans and goals toward reducing the frequency and severity of motor vehicle crashes. The plan reflects the agency's Crash Avoidance Implementation Program, which is part of the agency's overall effort to develop, promote, and implement effective educational, engineering, and enforcement programs directed at ending preventable tragedies and reducing economic costs associated with on-road vehicle use and travel. The CAI Plan is intended to guide the agency over the next three to five years in the area of motor vehicle crash avoidance safety implementation; and was developed by NHTSA's Office of Safety Performance Standards.

The Draft CAI Plan sets forth for each project a description of the problem, possible anticipated actions, and agency milestones. The three prong approach focuses on (1) new vehicles, (2) in-service vehicles, and (3) driver/vehicle interface. In keeping with President Clinton's 1995 regulatory reform initiative, the Draft CAI Plan seeks both regulatory and non-regulatory solutions to potential motor vehicle crash avoidance safety problems. A major goal throughout the Draft CAI Plan approach is to achieve enhanced communications with NHTSA customers and partners. Through outreach meetings, informal discussions, joint activities, consensual rulemaking, and other means, the agency hopes to improve lines of communication through which customers, partners, and other interested parties will share information and help the agency implement solutions to potential crash avoidance safety problems.

Elements for new and in-service vehicles addressed by the Draft CAI Plan include systems performance and design, vehicle components, and aftermarket equipment. These are addressed through mandatory and optional standards, support for voluntary industry guidelines, co-operative efforts with industry, provision of model guidelines for States and localities to use, and consumer information on performance of vehicle systems and components.

Driver/vehicle interface elements addressed by the Draft CAI Plan include educating and informing drivers on behavior to safely accommodate vehicle performance characteristics and new technologies; providing consumer information on equipment characteristics and system performance so that vehicle users can make informed safety choices; and addressing needs of special groups such as older drivers, novices, fatigued drivers, and drivers with disabilities. Approaches for addressing these include vehicle regulation; labeling requirements; consumer advisories and warnings; education and information through national, State, and local safety organizations both public and private; and working with vehicle and equipment manufacturers, dealers, insurers, and interested citizens.

NHTSA requests written comments, suggestions, and recommendations on the substance and direction of the Draft CAI Plan in order to better achieve improved crash avoidance safety. Comments are also requested on issues and approaches for improving safety which may not be addressed by the Draft CAI Plan but have the potential for providing effective solutions to crash avoidance safety problems. The agency is particularly interested in comments identifying opportunities for collaborative efforts with its partners and customers. Comments should include supporting data wherever possible, along with information on the costs and benefits of a particular recommended approach. In addition to written comments, the agency requests that commenters submit copies of supporting documents, analyses, or referenced citations wherever appropriate.

Once all comments are received and considered, the agency will develop a final CAI Plan. The Plan is a dynamic document, and program actions, directions, and priorities are expected to be modified based on safety data, research results, technological advances, and other information developed by NHTSA or provided by the agency's partners and customers.

NHTSA invites written comments from all interested persons. It is requested but not required that 10 copies be submitted. The agency requests that comments not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to offer their primary comments in a concise manner.

All comments received before the close of business on the comment closing date listed above will be considered and will be available for examination in the docket room at the above address. To the extent possible, comments filed after the closing date will be considered. The agency will continue to file relevant information as it becomes available.

Issued: April 18, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–9162 Filed 4–11–96; 8:45 am]

BILLING CODE 4910–59–P

Surface Transportation Board

[Finance Docket No. 32760 (Sub-No. 10)]

Responsive Application—Capital Metropolitan Transportation Authority

[Finance Docket No. 32760 (Sub-No. 11)]

Responsive Application—Montana Rail Link, Inc.

[Finance Docket No. 32760 (Sub-No. 12)]

Responsive Application—Entergy Services, Inc., Arkansas Power & Light Company, and Gulf States Utility Company

[Finance Docket No. 32760 (Sub-No. 13)]

Responsive Application—The Texas Mexican Railway Company

[Finance Docket No. 32760 (Sub-No. 14)]

Application for Terminal Trackage Rights Over Lines of the Houston Belt & Terminal Railway Company—The Texas Mexican Railway Company

[Finance Docket No. 32760 (Sub-No. 15)]

Responsive Application—Cen-Tex Rail Link, Ltd./South Orient Railroad Company, Ltd.

[Finance Docket No. 32760 (Sub-No. 16)]

Responsive Application—Wisconsin Electric Power Company

[Finance Docket No. 32760 (Sub-No. 17)]

Responsive Application—Magma Copper Company, The Magma Arizona Railroad Company, and the San Manuel Arizona Railroad Company

AGENCY: Surface Transportation Board.

ACTION: Decision No. 29; notice of acceptance of responsive applications.

SUMMARY: The Board is accepting for consideration the responsive applications filed by Capital Metropolitan Transportation Authority (CMTA) in Finance Docket No. 32760 (Sub-No. 10); Montana Rail Link, Inc. (MRL) in Finance Docket No. 32760 (Sub-No. 11); Entergy Services, Inc. (ESI), Arkansas Power & Light Co. (AP&L), and Gulf States Utilities Co. (GSU) (collectively, Entergy) in Finance Docket No. 32760 (Sub-No. 12); The Texas Mexican Railway Company (Tex Mex) in Finance Docket No. 32760 (Sub-No. 13), including Tex Mex's application for terminal trackage rights over lines of the Houston Belt & Terminal Railway Co. in Finance Docket No. 32760 (Sub-No. 14); Wisconsin Electric Power Company (WEPCO) in Finance Docket No. 32760 (Sub-No. 16); and Magma Copper Company, The Magma Arizona Railroad Company (MAA), and the San Manuel Arizona Railroad Company (SMA) (collectively, Magma) in Finance Docket No. 32760 (Sub-No. 17). The Board is not accepting for consideration the responsive application filed by Cen-Tex Rail Link, Ltd./South Orient Railroad Company, Ltd. (Cen-Tex/South Orient) in Finance Docket No. 32760 (Sub-No. 15).[1] These responsive applications are responsive to the primary application filed November 30, 1995, by Union Pacific Corporation (UPC), Union Pacific Railroad Company (UPRR), Missouri Pacific Railroad Company (MPRR), Southern Pacific Rail Corporation (SPR), Southern Pacific Transportation Company (SPT), St. Louis Southwestern Railway Company (SSW), SPCSL Corp. (SPCSL), and The Denver and Rio Grande Western Railroad Company (DRGW).[2]

DATES: The effective date of this decision is April 12, 1996. Comments regarding any responsive application must be filed with the Board by April 29, 1996. Rebuttal in support of these responsive applications must be filed with the Board by May 14, 1996. Briefs (not to exceed 50 pages) must be filed with the Board by June 3, 1996.

ADDRESSES: An original and 20 copies of all comments referring to Finance Docket No. 32760 (Sub-No. 10), Finance Docket No. 32760 (Sub-No. 11), Finance Docket No. 32760 (Sub-No. 12), Finance Docket No. 32760 (Sub-No. 13), Finance Docket No. 32760 (Sub-No. 14), Finance Docket No. 32760 (Sub-No. 16), and/or Finance Docket No. 32760 (Sub-No. 17), as appropriate, must be filed with the Office of the Secretary, Case Control Branch (Attn: Finance Docket No. 32760), Surface Transportation Board, 1201 Constitution Avenue NW., Washington, D.C. 20423. Parties are encouraged also to submit all comments on a 3.5-inch diskette in WordPerfect 5.1 format.

In addition, one copy of all comments filed in these proceedings must be served, by first class mail, on: the Secretary of Transportation; the Attorney General of the United States; Administrative Law Judge Jerome Nelson, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426; Arvid E. Roach II, Esq., Covington & Burling, 1201 Pennsylvania Avenue NW., P.O. Box 7566, Washington, D.C. 20044–7566 (representing primary applicants UPC, UPRR, and MPRR); and Paul A. Cunningham, Esq., Harkins Cunningham, 1300 Nineteenth Street NW., Washington, D.C. 20036 (representing primary applicants SPR, SPT, SSW, SPCSL, and DRGW).

Also, one copy of all comments filed in these proceedings must be served, by first class mail on the appropriate responsive applicant's representative: Albert B. Krachman, Esq., Bracewell & Patterson, L.L.P., 2000 K Street NW., Suite 500, Washington, D.C. 20006 (representing CMTA); Mark H. Sidman, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue NW., Suite 800, Washington, D.C. 20005 (representing MRL); Christopher A. Mills, Esq., Slover & Loftus, 1224 Seventeenth Street, NW., Washington, D.C. 20036 (representing Entergy); Richard A. Allen, Esq., Zuckert, Scoutt & Rasenberger, 888 17th Street, NW., Suite 600, Washington, D.C. 20006–3939 (representing Tex Mex); Thomas F. McFarland, Jr., Esq., McFarland & Herman, 20 North Wacker Drive, Suite 1330, Chicago, IL 60606–2902 (representing WEPCO); and Fritz R. Kahn, Esq., Fritz R. Kahn, P.C., Suite 750 West, 1100 New York Avenue, NW., Washington, D.C. 20005–3934 (representing Magma).

Furthermore, one copy of all documents in these proceedings must be served, by first class mail, on all other persons designated parties of record [POR] on the Board's service list in Finance Docket No. 32760. See Finance Docket No. 32760, Decision No. 15 (served February 16, 1996), as modified by Finance Docket No. 32760, Decision No. 17 (served March 7, 1996), and Decision No. 26 (served March 25, 1996).

FOR FURTHER INFORMATION CONTACT: Julia Farr, (202) 927–5352. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: In the primary application filed with the Interstate Commerce Commission (ICC) on November 30, 1995, primary applicants UPC, UPRR, MPRR, SPR,

[1] The Alameda Historic Complex (Alameda) filed a pleading on March 29, 1996, titled as a responsive application for trackage rights and other specified conditions. Because Alameda did not file a description of an anticipated responsive application by the January 29, 1996 deadline, and because it has not complied with the procedures for filing applications found at 49 CFR 1180, we will treat Alameda's pleading as comments on the primary application.

LSBC Holdings, Inc. (LSBC), which filed a timely notice and description of inconsistent/responsive application, filed its LSBC–3 pleading on March 29, 1996, titled as a proposed inconsistent and responsive application. LSBC explains that, at this time, it is ''unable to file a Responsive Application worthy of review by the STB.'' We will treat LSBC's pleading as comments on the primary application.

[2] UPRR and MPRR are referred to collectively as UP. SPT, SSW, SPCSL, and DRGW are referred to collectively as SP.

SPT, SSW, SPCSL, and DRGW seek approval and authorization under 49 U.S.C. 11343–45 (as effective prior to January 1, 1996) for: (1) the acquisition of control of SPR by UP Acquisition Corporation (Acquisition), an indirect wholly owned subsidiary of UPC; (2) the merger of SPR into UPRR; and (3) the resulting common control of UP and SP by UPC. In Decision No. 9 (served December 27, 1995, and published that same day in the Federal Register at 60 FR 66988), the ICC accepted the primary application for consideration, and directed that all responsive applications be filed by March 29, 1996.

The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the ICC but transferred certain of its functions and certain proceedings then pending before it to the Board. We issue this decision in accordance with the ICCTA section 204(b)(1) transition rule, which provides that proceedings pending before the ICC at the time of its termination that involve functions transferred to the Board shall be decided by the Board under the law in effect prior to January 1, 1996. The Finance Docket No. 32760 proceeding, which was pending with the ICC at the time of its termination, involves functions transferred to the Board under 49 U.S.C. 11323–26 (as effective on and after January 1, 1996).

In Finance Docket No. 32760 (Sub-No. 10), CMTA seeks, on behalf of an unnamed rail carrier unaffiliated with applicants, trackage rights over what will be, if the Board approves the proposed merger, the UP/SP track between McNeil and Kerr, TX, with interchange rights with the Burlington Northern Railroad Company and The Atchison, Topeka, and Santa Fe Railway Company (collectively, BN/Santa Fe) at either McNeil or Kerr. CMTA further requests that we direct applicants to cooperate with CMTA to arrive at a mutually acceptable accommodation of CMTA's planned passenger rail service through the McNeil interchange, and that we retain jurisdiction over this issue in the event CMTA and the merged railroad are unable to reach agreement.

In Finance Docket No. 32760 (Sub-No. 11), MRL seeks authority to acquire rail lines, incidental trackage rights, interchange access, and proportional ratemaking authority to SP stations in California and Oregon to mitigate alleged loss of competition in the central route from Northern California to Kansas City, MO, resulting from the proposed merger.[3]

In Finance Docket No. 32760 (Sub-No. 12), Entergy seeks the following trackage rights: (1) Overhead trackage rights on behalf of BN/Santa Fe or some other rail carrier unaffiliated with applicants over SSW's lines between Pine Bluff, AR, and Memphis, TN, with the right to transport loaded and empty trains of coal to and from AP&L's coal-fired, electric generating facilities known as the White Bluff Steam Electric Station near Redfield, AR (White Bluff) upon construction of a spur build-out from the White Bluff power plant to a connection with SP at Pine Bluff; and (2) overhead trackage rights on behalf of BN/Santa Fe or some other rail carrier unaffiliated with applicants over SP's line between Beaumont, TX, and a point of connection with the Southern Gulf Railway Company (SGR) near Lake Charles, LA, with the right to transport loaded and empty trains of coal to and from GSU's coal-fired, electric generating facilities known as the Roy S. Nelson Generating Station near Mossville, LA, upon completion of construction of SGR's rail line between the connection with SP and the Nelson power plant.

In Finance Docket No. 32760 (Sub-No. 13), Tex Mex seeks trackage rights over lines from Robstown and Corpus Christi, TX, to Houston, TX, to a connection with the Kansas City Southern Railway Company (KCS) at Beaumont, TX. Tex Mex seeks rights over those lines to permit it to carry overhead traffic and to serve all local shippers currently capable of receiving service from both UP and SP, directly or through reciprocal switching, with full rights to interchange traffic with UP, SP, and any other railroad at any interchange point on such lines.[4]

[3] MRL seeks to have a to-be-formed entity (the ''Acquisition Company'') purchase the following lines: (1) the UP lines in California from Stockton, through Sacramento to Marysville, along with the contiguous branch lines to Read and Sutter, north through Keddie to Flanigan, NV, including the UP branch line from Reno Junction south to Reno, NV, and the branch south from Hawley to Loyalton, CA; (2) the SP line running north from Flanigan to Alturas, CA, then northwest to Klamath Falls, OR (the ''Modoc Line''); (3) the line from Flanigan east via the UP route to Winnemucca, NV, then east to Wells, NV, and Ogden, UT, via the SP route; (4) from Ogden, all of the DRGW lines, and their contiguous branches to Salt Lake City, UT, and down to Provo, UT, and east on the DRGW to Denver, CO, including the branches to Potash, Sunnyside, Clear Creek, Copperton, and Garfield, UT; (5) all of the DRGW lines in Colorado, from the Utah border east to Dotsero, including the branches to Montrose, Oliver, and Woody Creek, and at Dotsero, the lines northeast to Denver and southeast to Pueblo (the ''Tennessee Pass''), including branches to Craig and Energy Fuels via Steamboat Springs; (6) the DRGW line between Denver and Pueblo, extending south of Pueblo to Antonito, CO, including the branch line to Creede, CO, and the DRGW's rights, if any, to Trinidad, CO; (7) east of Pueblo, the rights and ownership of the former MPRR line between Pueblo and Herington, KS; (8) SP's ownership in and access to the Kansas City Terminal; and (9) the UP line from Silver Bow, MT, to Pocatello, ID, and the contiguous branches to Arco, Aberdeen, and Gay, ID.

MRL seeks approval for the Acquisition Company to acquire all the railroad rolling stock and equipment owned and leased by UP/SP, including locomotives, cars, cabooses and equipment, roadway maintenance equipment and other vehicles currently used to perform service on the subject lines.

MRL seeks approval for the Acquisition Company to acquire trackage rights over the following lines: (1) overhead rights on the UP line from Pocatello to Ogden; (2) overhead rights on the UP from Lindsborg, KS, to Salina, KS, and from Salina to Solomon, KS, with access to a direct interchange with Kyle Railways at Solomon; (3) local trackage rights on the SSW between Herington, KS, and Topeka, KS; (4) overhead trackage rights on UP between Topeka and Kansas City; (5) SP's rights on BN/Santa Fe between Topeka and Kansas City.

MRL seeks, on behalf of the Acquisition Company, full access to interchange with connecting carriers, including shortlines, at all common points. Finally, MRL seeks for Acquisition Company the right to quote rates to and from SP stations in California and Oregon for traffic moving, respectively, via Stockton, CA, and Klamath Falls, OR.

[4] Tex Mex requests trackage rights over the following main lines: (1) the UP line between Robstown and Placedo, TX; (2) the UP line between Corpus Christi and Odem, TX, via Savage Lane to Viola Yard on the UP; (3) the SP line from Placedo to Victoria, TX; (4) the SP line between Victoria and Flatonia, TX; (5) the SP line between Flatonia and West Junction, TX; (6) in the alternative, the UP line from Gulf Coast Junction, TX, through Settegast Junction, TX, to Amelia, TX (UP main line option), or the SP line from Tower 87 to Amelia, TX (SP main line option); and (7) the joint UP/SP line from Amelia to Beaumont, TX, and the connection with KCS at the Neches River Draw Bridge in Beaumont.

Tex Mex requests trackage rights in Houston over the following SP lines: (1) the line from West Junction through Bellaire Junction to Eureka at milepost 5.37 (Chaney Junction, TX); (2) the SP line from milepost 5.37 to milepost 360.7 near Tower 26 via the Houston Passenger station; (3) the SP line from milepost 5.37 to milepost 360.7 near Tower 26 via the Hardy Street yard; (4) if the UP main line option is used, the SP line from milepost 360.7 near Tower 26 to the connection with the Houston Belt & Terminal Railway Company (HB&T) at Quitman Street near milepost 1.5; (5) if the SP main line option is used, the SP line from Tower 26 through Tower 87 to the SP main line to Amelia; and (6) the SP line from West Junction to the connection with the Port Terminal Railway Association (PTRA) at Katy Neck, TX, by way of Pierce Junction.

Tex Mex requests the right to use the following yard and other terminal facilities of SP, UP, and HB&T: (1) SP's Glidden (TX) Yard; (2) interchanges with PTRA at the North Yard, Manchester Yard, and Pasadena Yard in Houston, TX; and (3) interchanges with HB&T at HB&T's New South Yard.

Tex Mex will seek the right to construct two improved connections, at Robstown and Flatonia.

Tex Mex requests the Board to condition any approval of the merger on granting Tex Mex the trackage rights at the same compensation provided for in the settlement agreement applicants reached with BN/Santa Fe, except that Tex Mex requests that the compensation level for its trackage rights operations be subject to quarterly adjustments for changes in railroad productivity.

In Finance Docket No. 32760 (Sub-No. 14), Tex Mex seeks certain terminal trackage rights, contingent upon the grant of the conditions sought in Finance Docket No. 32760 (Sub-No. 13). It requests an order pursuant to 49 U.S.C. 11103 permitting Tex Mex to use the following segments of HB&T terminal trackage in Houston, TX: (1) the HB&T line from the Quitman Street connection with SP to the HB&T's connection with UP at Gulf Coast Junction; and (2) the HB&T line from its connection with the SP at T. & N.O. Junction (Tower 81) to HB&T's connection with UP at Settegast Junction.

In Finance Docket No. 32760 (Sub-No. 15), Cen-Tex/South Orient seeks trackage rights in Texas, and the elimination of minimum payments and passenger restrictions on trackage rights over SP track from Alpine Junction, TX, to Paisano Junction, TX.[5]

In Finance Docket No. 32760 (Sub-No. 16), WEPCO seeks a grant of overhead trackage rights on behalf of Wisconsin Central (WC) or Canadian Pacific-Soo Line (CP/Soo) over the following UP rail lines: (1) between Chicago, IL, Milwaukee, WI, and Cleveland, WI, on the one hand, and on the other, WEPCO's Oak Creek Power Plant at Oak Creek, WI; (2) between the Oak Creek Power Plant and Cudahy Shop, Inc., a railcar repair facility located at Cudahy, WI; and (3) in the terminal areas of Chicago, IL, and Milwaukee, WI, as may be necessary or desirable to implement the operations described above.

In Finance Docket No. 32760 (Sub-No. 17), Magma, and its wholly owned subsidiaries, MAA and SMA, seek overhead trackage rights over the lines operated by SP between Magma, AZ, and Phoenix and Nogales, AZ, for the MAA, and between Hayden, AZ (via the Copper Basin Railway Company (CBRY), a switching carrier for the SP operating between Hayden and Magma), and Phoenix and Nogales for the SMA.

The responsive applications filed by CMTA, MRL, Entergy, Tex Mex, WEPCO, and Magma substantially comply with the applicable regulations, and therefore are being accepted for consideration by the Board.

The responsive application filed by Cen-Tex/South Orient does not comply with the applicable regulations. The application contains virtually none of the information required by 49 CFR 1180 for responsive applications, such as supporting information (49 CFR 1180.6), market analyses (49 CFR 1180.7), operational data (49 CFR 1180.8), and financial information (49 CFR 1180.9).[6] Because Cen-Tex/South Orient's responsive application is incomplete, it is being rejected by the Board.

The responsive applications are available for inspection in the Public Docket Room at the offices of the Board in Washington, DC. The responsive application filed by any particular responsive applicant may also be obtained upon request from that applicant's representative named above.

The responsive applications in Finance Docket No. 32760 (Sub-Nos. 10, 11, 12, 13, 14, 16, and 17) are consolidated for disposition with the primary application in Finance Docket No. 32760 (and all embraced proceedings). Service of an initial decision will be waived, and determination of the merits of these responsive applications will be made in the first instance by the Board itself. *See* 49 U.S.C. 11345(f) (as effective prior to January 1, 1996).

Interested persons may participate formally by submitting written comments regarding any or all of these responsive applications, subject to the filing and service requirements specified above. Such comments (referred to as ''response[s]'' in the procedural schedule, see 60 FR at 66994) should be filed with the Board by April 29, 1996. Comments should include the following: the commenter's position in support of or in opposition to the transaction proposed in the responsive application; any and all evidence, including verified statements, in support of or in opposition to such proposed transaction; and specific reasons why approval of such proposed transaction would or would not be in the public interest.

Because the responsive applications accepted for consideration in this decision contain proposed conditions to approval of the primary application in Finance Docket No. 32760, the Board will entertain no requests for affirmative relief with respect to these responsive applications. Parties may only participate in direct support of or in direct opposition to these responsive applications as filed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The responsive applications in Finance Docket No. 32760 (Sub-Nos. 10, 11, 12, 13, 14, 16 and 17) are accepted for consideration, and are consolidated for disposition with the primary application in Finance Docket No. 32760 (and all embraced proceedings).

2. The responsive application in Finance Docket No. 32760 (Sub-No. 15) is rejected.

3. The parties shall comply with all provisions as stated above.

Decided: April 5, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96–9129 Filed 4–11–96; 8:45 am]

BILLING CODE 4915–00–P

[5] Specifically, Cen-Tex/South Orient seeks trackage rights over: (1) UPRR's Fort Worth line from Tower 55 to the UP Fort Worth connection with Railtran's line; (2) the UPRR Dallas connection with Railtran's line to the C.J. Yard in Dallas; (3) the SP line from Sulphur Springs, TX, to the KCS connection in Texarkana, TX/AR.

[6] Cen-Tex/South Orient did not, on or before the January 29, 1996 deadline, file a petition for waiver or clarification to have its responsive application designated a minor transaction. However, even if it had successfully done so, it has not filed the information necessary to support even a responsive application for a minor transaction.

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

March 25, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0731.

Regulation ID Number: PS–1–83 NPRM; PS–259–82 TEMP; and PS–262–82 Final.

Type of Review: Extension.

Title: Certain Elections under the Subchapter S Revision (PS–1–83 NPRM and PS–259–82 TEMP; and Definition of S Corporation (PS–262–82 Final).

Description: The regulations provide the procedures and the statements to be filed by certain individuals for making the election under section 1361(d)(2), the refusal to consent to that election, or the revocation of that election. The statements required to be filed would be used to verify that taxpayers are complying with requirements imposed by Congress.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 1,005.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Other (non-recurring).

Estimated Total Reporting Burden: 1,005 hours.

OMB Number: 1545–0819.

Regulation ID Number: 26 CFR 601.201.

Type of Review: Extension.

Title: Instructions for Requesting Rulings and Determination Letters.

Description: The National Office issues ruling letters and District Directors issue determination letters to taxpayers interpreting and applying the tax laws to a specific set of facts. The National Office also issues other types of letters. The procedural regulations set forth the instructions for requesting ruling and determination letters.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 271,914.

Estimated Burden Hours Per Respondent: 55 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 248,496 hours.

OMB Number: 1545–0854.

Regulation ID Number: LR–1214 Final.

Type of Review: Extension.

Title: Discharge of Liens.

Description: The Internal Revenue Service needs this information to determine if the taxpayer has equity in the property. This information will be used to determine the amount, if any, to which the tax lien attaches.

Respondents: Individuals or households, Farms.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Respondent: 24 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 200 hours.

OMB Number: 1545–1375.

Regulation ID Number: IA–5–92 Final.

Type of Review: Extension.

Title: Carryover of Passive Activity Losses and Credits and At Risk Losses to Bankruptcy Estates of Individuals.

Description: These regulations provide for a joint election to have the regulations apply to certain bankruptcy cases. In a chapter 7 case, the written consent of the trustee must be obtained. In a chapter 11 case, the election must be in the reorganization plan or in a court order.

Respondents: Individuals or households.

Estimated Number of Respondents: 600,000.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 600,000 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–9107 Filed 4–11–96; 8:45 am]

BILLING CODE 4830–01–P

Submission for OMB Review; Comment Request

March 26, 1996.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

U.S. Customs Service (CUS)

OMB Number: New.

Form Number: None.

Type of Review: New collection.

Title: Notice of Detention.

Description: A response to the ''Notice of Detention'' of merchandise by the claimant to the property will help provide evidence of admissibility to Customs and facilitate the decision-making process to allow entry or deny entry of imported merchandise.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 250.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 500 hours.

OMB Number: 1515–0087.

Form Number: CF 255.

Type of Review: Extension.

Title: Declaration for Unaccompanied Articles.

Description: Customs Form 255 is completed by each arriving person for each parcel or container which is to be sent from an insular possession at a later date. It is used for claim of benefit purposes to determine a traveler's allowable exemption.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 7,500.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,250 hours.

Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Room 6216, 1301 Constitution Avenue, N.W., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–9108 Filed 4–11–96; 8:45 am]

BILLING CODE 4820–02–P

Submission for OMB Review; Comment Request

March 29, 1996.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Departmental Office/International Trade Data System Project Office

OMB Number: New.

Form Number: None.

Type of Review: New collection.

Title: North American Trade Automation Prototype Application.

Description: The requested information is to identify volunteers to participate in the prototype test with the United States, Canada, and Mexico to improve the information exchange (electronic) involved in the execution of

North American land border commercial trade transactions.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 300.

Estimated Burden Hours Per Response: 35 minutes.

Frequency of Response: Other (one time).

Estimated Total Reporting Burden: 175 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–9109 Filed 4–11–96; 8:45 am]

BILLING CODE 4810–25–P

Customs Service

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs Service, Treasury.

ACTION: Notice of calculation and interest.

SUMMARY: This notice advises the public of a decrease in the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts and refunds of Customs duties. For the quarter beginning April 1, 1996, the rates will be 7 percent for overpayments and 8 percent for underpayments. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Harry Bunn, Accounting Services Division, Accounts Receivable Group, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, (317) 298–1200, extension 1252.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the Federal Register on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Interest rates are determined based on the short-term Federal rate. The interest rate that Treasury pays on overpayments will be the short-term Federal rate plus two percentage points. The interest rate paid to the Treasury for underpayments will be the short-term Federal rate plus three percentage points. The rates will be rounded to the nearest full percentage.

The interest rates are determined by the Internal Revenue Service on behalf of the Secretary of the Treasury based on the average market yield on outstanding marketable obligations of the U.S. with remaining periods to maturity of 3 years or less, and fluctuate quarterly. The rates effective for a quarter are determined during the first-month period of the previous quarter. The rates of interest for the third quarter of Fiscal Year (FY) 1996 (the period of April 1–June 30, 1996) are decreased to 7 percent for overpayments and 8 percent for underpayments from the respective rates of 8 and 9 percent that were established in the fourth quarter of FY 1995 (the period of July 1–September 30, 1995). These rates will remain in effect through June 30, 1996, and are subject to change for the fourth quarter of FY 1996 (the period of July 1–September 30, 1996).

Dated: April 5, 1996.

Michael H. Lane,

Acting Commissioner of Customs.

[FR Doc. 96–9110 Filed 4–11–96; 8:45 am]

BILLING CODE 4820–02–P

Corrections

Federal Register
Vol. 61, No. 72
Friday, April 12, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

48 CFR Part 225

Defense Federal Acquisition Regulation Supplement; Naval Vessel Components

Correction

In rule document 96–7218 beginning on page 13106 in the issue of Tuesday, March 26, 1996, make the following correction:

225.7022 [Corrected]

1. On page 13107, in the third column, in amendatory instruction 4., section ''225.7002-1'' should read ''225.7022-1''.

2. On the same page, in the same column, in the section heading after amendatory instruction 4., section ''225.7002'' should read ''225.7022''.

BILLING CODE 1505–01–D

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

Correction

In notice document 96–7457 beginning on page 13495 in the issue of Wednesday, March 27, 1996, make the following correction:

On page 13495, in the third column, the *Agreement No.* should read ''203-011330-007''.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95-ASW-18]

Proposed Revision to Class E Airspace; Farmington, NM

Correction

In proposed rule document 96–999 beginning on page 1875, in the issue of Wednesday, January 24, 1996, make the following correction:

§71.1 [Corrected]

On page 1876, in the third column, in §71.1, in the seventh line from the bottom, after the word ''long.'' insert ''108°56′54″W; to lat. 37°04′00″N, long.''.

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 28420 Special Federal Aviation Regulation (SFAR) No. 74]

RIN 2120-AGO2

Airspace and Flight Operations Requirements for the 1996 Summer Olympic Games, Atlanta, GA

Correction

In rule document 96–2988 beginning on page 5492 in the issue of Monday, February 12, 1996 make the following corrections:

(1) On page 5493, in the second column, in the paragraph under Exceptions, in the third line ''tariff'' should read ''traffic''.

(2) On page 5498, in the third column, under ''12. U.S. Highway 64; Tennessee'' in the fifth line ''84°28′37″ W.'' should read ''84°27′37″ W.''.

BILLING CODE 1505–01–D

federal register

Friday
April 12, 1996

Part II

Environmental Protection Agency

40 CFR Part 9, et al.

Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 260, 261, 262, 263, 264, 265, 266 and 273

[FRL–5447–1]

RIN 2050–AD87

Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision C(92)39 Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The rule identifies the wastes, under the Resource Conservation and Recovery Act (RCRA), that are subject to a graduated system (green, amber, red) of procedural and substantive controls when they move across national borders within the OECD for recovery. (EPA may, in the future, identify wastes under other statutes that are subject to the OECD Decision). It seeks to make the transactions fully transparent and to prevent or minimize the possibility of such wastes being abandoned or otherwise illegally handled. These requirements will apply only to U.S. exporters and importers of RCRA hazardous wastes destined for recovery in OECD countries (except for Canada and Mexico; waste shipments to and from these countries will continue to move under the current bilateral agreements and regulations). Those U.S. exporters and importers transacting hazardous waste movements outside the scope of today's rule will remain subject to EPA's current waste export and import regulations at 40 CFR part 262, subparts E and F.

This rule does not increase the scope of wastes subject to U.S. export and import controls; it does, however, modify the procedural controls governing their export and import when shipped for recovery among OECD countries. Today's rule will assist in harmonizing the new OECD requirements, reducing confusion to U.S. importers and exporters and increasing the efficiency of the process.

EFFECTIVE DATE: This rule is effective on July 11, 1996. The OECD Green List of Wastes (revised May 1994), Amber List of Wastes and Red List of Wastes (both revised May 1993) as set forth in Appendix 3, Appendix 4 and Appendix 5, respectively, to the OECD Council Decision C(92)39/FINAL (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) were approved by the Director of the Federal Register to be incorporated by reference in today's rule on July 11, 1996.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC), located at 1235 Jefferson-Davis Highway, First Floor, Arlington, Virginia 22203. The Docket Identification Number is F–94–IEHF–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, the public must make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $.15/page. Some supporting materials are available electronically. See the ''Supplementary Information'' section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). In the Washington metropolitan area, call 703–412–9810 or TDD 703–412–3323.

For more detailed information on specific aspects of this rulemaking, contact Ms. Julia Gourley, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–7944.

SUPPLEMENTARY INFORMATION:

Internet Access

Selected supporting materials are available on the Internet. Follow these instructions to access the information electronically:

Gopher: gopher.epa.gov
WWW: http://www.epa.gov
Dial-up: (919) 558–0335.

This report can be accessed off the main EPA Gopher menu, in the directory: EPA Offices and Regions/Office of Solid Waste and Emergency Response (OSWER)/Office of Solid Waste (RCRA)/Hazardous Waste-RCRA-Subtitle C/Exports/Imports.

FTP: ftp.epa.gov
Login: anonymous
Password: Your Internet address

Files are located in /pub/gopher/OSWRCRA.

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Note: The Agency notes that previous, pre-publication versions of this rule may inadvertently have been made available (*e.g.* through the Internet and other on-line means). This rule, published today in the Federal Register, supersedes any and all of these pre-publication versions. This published rule constitutes the Agency's final rule and reflects certain minor technical corrections that were not contained in pre-publication versions.

On March 30, 1992, the Organization for Economic Cooperation and Development (OECD) adopted Council Decision C(92)39 Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations (Decision). The United States, a member of OECD, supported the Decision and has agreed to follow its terms, which, with respect to RCRA wastes, EPA is implementing in today's Final Rule.

I. Authority

Authority to promulgate today's rule is found in sections 2002(a) and 3017(a)(2) and (f) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA), and as amended by the Hazardous and Solid Waste Amendments, 42 U.S.C. 6901 *et seq*.

Today's final rule is necessary to ensure implementation of the Organization for Economic Cooperation and Development (OECD) Council Decision C(92)39/FINAL Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations (the Decision). The Decision was supported by the United States and imposes legally binding commitments on the United States pursuant to Articles 5(a) and 6(2) of the OECD Convention, 12 U.S.T. 1728. The Decision and today's rule implementing the Decision also will ensure that the import and export of RCRA hazardous waste destined for recovery, between the United States and those OECD countries that are Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, may proceed even though the United States is not yet a Party to the Basel Convention.[1]

The Basel Convention entered into force on May 5, 1992, for the twenty countries that ratified it by that date. Since then, a number of other countries have also ratified. The Convention prohibits trade in Basel-covered wastes between parties and non-parties, unless a bilateral, multilateral, or regional agreement or arrangement exists in accordance with Article 11 of the Convention. The Decision, which entered into force before May 5, 1992, satisfies the requirements of Article 11 of the Basel Convention because it is a pre-existing multilateral agreement compatible with the environmentally sound management of wastes as required by the Convention. Therefore, today's promulgation of Subpart H as part of the RCRA hazardous waste export and import regulations, which is necessary to implement the Decision, will make it possible for persons within the United States to continue exporting and importing Basel-covered RCRA hazardous waste for recovery within the OECD, even if other OECD countries are Parties to the Basel Convention. Additionally, today's rule will facilitate harmonization of U.S. regulations with European Union regulations on waste exports and imports, which went into effect on May 6, 1994. Future legislative and regulatory actions will be needed to more fully implement this Decision.

A. Good Cause Exception to Notice and Comment Requirement

The Decision sets out very specific requirements for shipments of hazardous waste destined for recovery. EPA is implementing language that essentially mirrors the Decision in order to establish certain new requirements that will be enforceable against importers and exporters [EPA is making only minimal, nonsubstantive changes to the OECD language in order to conform today's rule to existing RCRA rules (e.g., substituting the RCRA-defined term ''transporter'' for the term ''carrier'' used in the Decision)]. EPA is promulgating these rules without first providing notice and opportunity to comment. Under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), an agency may forgo notice and comment in promulgating a rule when, according to the APA, the agency for good cause finds (and incorporates the finding and a brief statement of reasons for that finding into the rules issued) that notice and public comment procedures are impracticable, unnecessary, or contrary to the public interest. For the reasons set forth below, EPA believes it has good cause to find that notice and comment would be unnecessary and contrary to the public interest and therefore is not required by the APA.

EPA finds that notice and comment procedures are unnecessary in connection with the promulgation of today's rule because EPA is precluded from modifying the rule in any meaningful way in response to public comment. The requirement to implement this Decision virtually as written derives from the following.

First, the United States has entered into a legally binding commitment with the other OECD countries to implement the Decision virtually as written. Accordingly, today's rulemaking is analogous to a codification of statutory requirements, in which an agency assumes the ministerial, nondiscretionary functions of translating requirements to regulatory form [see *United Technologies Corp.* v. *EPA*, 821 F.2d 714, 720 (D.C. Cir. 1987) (finding that EPA had good cause to omit notice and comment for a rule codifying portions of the 1984 amendments to RCRA); *Metzenbaum* v. *Federal Energy Regulatory Commission*, 675 F.2d 1282, 1291 (D.C. Cir. 1982) (finding orders implementing statutory waiver were nondiscretionary acts required by such waiver and that notice and comment procedures were unnecessary and possibly contrary to the public interest ''given the expense that would have been involved in the futile gesture'')]. Although the Decision is neither a statute nor a court order and imposes no requirements directly on U.S. persons, the U.S. Department of State has determined that the Decision is an international agreement creating binding commitments on the United States under the terms of the OECD Convention. By consenting to the Decision, the United States Government has agreed to promulgate regulations necessary to ensure that the United States can uphold the agreement. Furthermore, EPA has determined that no statutory change to the Resource Conservation and Recovery Act (RCRA) is needed because RCRA currently authorizes EPA to promulgate rules governing imports and exports of hazardous waste, and contains adequate authority to promulgate the requirements of the Decision.

Second, today's rule cannot deviate materially from the Decision because, as a practical matter, other OECD countries may refuse to accept U.S. shipments of waste for recycling that do not conform to the procedures agreed to in the Decision. Such countries also may refuse to allow wastes to be shipped to the U.S. if the U.S. cannot carry out its duties as specified in the Decision. Deviation from the regulatory scheme

[1] OECD member countries consist of Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States. Mexico joined the OECD in June 1994.

articulated in the Decision in response to comments might preclude the U.S. from implementing the Decision and therefore from satisfying its international commitments.

Third, EPA must implement the Decision virtually as written because modifications could defeat the goal of achieving an internationally consistent regime to control the import and export of hazardous and other wastes destined for recovery. EPA believes that parallel implementation of the Decision within the U.S. and other OECD countries is crucial to ensuring that the import and export of wastes destined for recovery proceed in accordance with an internationally integrated regime. Without the uniform implementation of the controls it prescribes, an internationally consistent regime is not possible, and many of the environmental benefits of the Decision (and the Basel Convention) will be lost.

EPA also believes that it has good cause to find that prior notice and an opportunity to comment would not serve the public interest. As noted above, the movement of RCRA hazardous wastes destined for recovery could be halted between the United States and the OECD countries, particularly those that are parties to the Basel Convention, if the United States modified the regulations in response to comment such that the regulations failed to conform to the OECD Decision. EPA believes that the continued movement and recovery of such wastes is environmentally and economically beneficial. The United States, therefore, encourages the environmentally sound recovery of wastes, particularly hazardous wastes, as an alternative to disposal [see, e.g., 42 U.S.C. 6902(a)(6), 6935(a), 6941a; 42 U.S.C. 9621(b)]. EPA believes that the import and export of wastes among OECD countries for purposes of recovery serves the public interest by making waste management facilities in the OECD available to waste generators in the U.S. and other OECD countries, thereby providing additional assurance that wastes amenable to recovery operations will be managed in an environmentally sound manner. The United States' failure to implement the Decision in the form approved by the OECD countries could thwart this objective.

In further support of its finding that the public interest is not well served by the allowance for comment on this rulemaking, EPA also notes that the regulatory burdens of this rule flow from the Decision itself and are not materially affected by the promulgation of today's rule. Because a number of OECD countries to date have fully implemented the Decision, many U.S. importers and exporters of wastes destined for recovery who seek to trade with OECD countries in effect already are subject to the requirements of the Decision through those countries' controls on their imports and exports. For example, these countries may already require, as a condition of authorizing the shipment, that U.S. participants adhere to the Decision's contracting or notice requirements, even though those participants are not yet required to do so under U.S. law. Thus, it is the implementation of the Decision by other OECD countries, rather than the implementation of today's rule, that has the most profound effect on the regulated community. Because today's rule merely formalizes the existing regulatory framework to which the regulated community is already subject, its promulgation without notice and comment does not detrimentally affect those persons [see *National Helium Corp.* v. *Federal Energy Administration,* 569 F.2d 1137, 1146 (Temp. Emer. Ct. App. 1978)]. Indeed, as noted above, today's rule ameliorates the effects of foreign laws on U.S. persons by making it possible for RCRA hazardous waste destined for recovery to move between the U.S. and other OECD countries without being stopped or rejected for failure to conform to the Decision. Finally, where EPA believes the OECD Decision is open to interpretation and affords EPA some flexibility in interpreting and implementing its requirements, EPA remains free to initiate a separate rulemaking process on those issues, following all appropriate notice and comment procedures.

For the reasons set forth above, EPA believes that it has good cause to find that implementation of notice and comment procedures for today's rule would be unnecessary and contrary to the public interest, and therefore is not required under 5 U.S.C. 553(b)(B) to initiate a comment period.

B. Effective Date

Section 3010(b) of RCRA requires EPA to set the effective date for rules promulgated under Subtitle C of RCRA at six months after the date of promulgation unless (1) the regulated community does not need six months to come into compliance; (2) the regulation responds to an emergency; or (3) there is other good cause. EPA believes that the regulated community will not need more than 90 days to become familiar with today's rule and to begin implementing its requirements because the new requirements refer primarily to the notices and consents that are already required under existing law as a condition to the import or export of the wastes destined for recovery. Moreover, EPA believes that the regulated community is capable of, and indeed has an interest in, immediate compliance with the new rule in order to continue to be able to import and export wastes subject to the Decision, since most OECD countries have already revised their regulations to incorporate the Decision's requirements. EPA also believes it has good cause to make this rule effective 90 days from publication, for the reasons set forth above in connection with the APA's public notice requirement. Therefore, EPA concludes that the six month effective date provision of RCRA 3010(b) does not apply.

II. Background

A. History of the OECD and Development of the Council Decision C(92)39/Final

The OECD was chartered to assist member countries in achieving high economic growth, employment, and a rising standard of living while ensuring that human health and the environment are protected. Presently there are 25 member countries of the OECD: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

The OECD was the first international organization to establish a working group to analyze issues relating to transfrontier movements of hazardous waste. In 1974, the OECD Environment Policy Committee, which guides all OECD work involving environmental matters, created the Waste Management Policy Group (WMPG), which includes government officials responsible for controlling waste management in their respective member countries.

In 1981, the WMPG began to prepare guidelines to control transfrontier movements of hazardous waste. Thereafter, because some members (including the United States) enacted legislation controlling transfrontier shipments of hazardous waste, the OECD's primary mission was to work toward harmonization of controls among the member countries.

Much of the OECD's early work, including lists identifying wastes to be covered by an international agreement controlling transfrontier waste movements, was adopted by the United Nations Environment Programme (UNEP) and incorporated into the Basel

Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention). More detailed discussion of the Basel Convention can be found in the Federal Register at 57 FR 20602 (May 13, 1992).

Following completion of the Basel Convention and a 1991 OECD Council Decision on wastes, an Advisory Panel to the OECD's Waste Management Policy Group was chartered in January 1991. Its purpose was to study whether a streamlined set of procedural notice and consent requirements could be agreed upon by member countries for transfrontier movements of waste destined for recovery. The panel developed a graduated control system and lists of covered wastes (green, amber, and red). The proposed system was presented to the WMPG as a draft Decision in November 1991, for submission to the OECD Environment Policy Committee. In December 1991, the Environment Policy Committee returned the draft Decision to the WMPG for further refinement. A month later, the WMPG revised the Decision, and through the Environment Policy Committee, submitted the Decision document to the OECD Council. On March 30, 1992, the Council adopted the Decision, with only Japan abstaining. Japan later adopted and began implementing the Decision in December 1993.

B. Relationship to the Basel Convention

The Basel Convention is an international agreement controlling the transfrontier movement of hazardous and other wastes. While requiring movements between Basel Parties to be managed in an environmentally sound manner, it prohibits movements involving Parties and non-Parties absent a separate bilateral, multilateral, or regional agreement or arrangement that is compatible with the aims and purposes of the Convention (for pre-existing agreements) or that contains provisions that do not derogate from the environmentally sound management required by the Basel Convention (for newly negotiated agreements). Such agreements are recognized under Article 11(2) of the Convention. As a pre-existing arrangement under Article 11(2), the Decision averts potential trade disruptions between members of the OECD that are Parties to the Basel Convention and members that are not.

The U.S. will not become a Party to the Basel Convention until it ratifies the Convention. In order to ratify the Convention, the U.S. must have additional statutory authority to implement its terms. Once the U.S. has the necessary authority, the export and import regulations at 40 CFR 262 Subparts E and F will be modified.

Exports and imports among OECD countries of waste destined for recovery will be governed by the procedures set forth in today's regulations and by any future regulatory changes made to implement the Decision (including future changes to the Decision).[2] Exports and imports of RCRA hazardous wastes within the OECD for purposes other than recycling (*e.g.*, disposal or treatment) will continue to be subject to the current RCRA export and import regulations.

C. Summary of Decision

OECD Council Decision C(92)39/FINAL establishes a graduated control system for the transfrontier movement of wastes destined for recovery operations. The Decision reflects recognition by the OECD of the importance of transboundary movement of wastes for recovery, because highly specialized recovery facilities are not found in every country and because OECD generally supports a waste management hierarchy in which recovery is more desirable than final disposal. The goal of the negotiations was to ensure that recovery of materials from wastes could continue internationally, provided the shipments were managed in an environmentally sound and efficient manner.

The OECD has developed draft guidance on environmentally sound recovery practices for particular wastes. In addition, some of the member countries are actively engaged in the development of technical guidelines for environmentally sound management of hazardous and other wastes under the Basel Convention. To date, seven technical guidelines on management of specific waste streams and waste management practices have been adopted by the Basel Parties, along with a framework document outlining the elements to be included in the technical guidelines. They are: hazardous waste from the production and use of organic solvents; waste oils from petroleum origins and sources; wastes comprising or containing PCBs, PCTs, and PBBs; wastes collected from households; specially engineered landfills, incineration on land, and used oil re-refining or other re-uses of previously used oil. The purpose of the technical guidelines is to assist developing countries in becoming self-sufficient in waste management as they industrialize and develop their economies. The Basel Parties have agreed to develop other technical guidelines as resources permit.

The Decision establishes a range of different procedural controls depending on whether a waste appears on the Decision's green, amber, or red list (or no list, in which case hazardous wastes are regulated as red-list wastes). Green-list wastes require no controls beyond those typically imposed in normal international commercial shipments. Amber-list wastes, which are considered hazardous, may be shipped for recovery under one of three arrangements: (1) movement pursuant to a shipment-by-shipment written notification by the export notifier or competent authority of his government to the competent authorities of OECD concerned countries (i.e., exporting, importing and transit), and written or tacit consent from the relevant OECD importing and transit countries; (2) movement pursuant to a general notification and written or tacit consent from the competent authorities of the relevant OECD importing and transit countries; or (3) movement to facilities pre-approved by the importing country to accept that waste type which requires only prior written notification to the competent authorities of the concerned countries. In all cases, amber-list wastes must be accompanied by a tracking document and the waste must be shipped under a legally binding contract, chain of contracts, or equivalent arrangements if the notifier and receiving facility are part of the same legal or corporate entity. Red-list wastes are handled in the same manner as amber-list wastes except that prior *written* consent from the importing and transit countries is always required and no facilities are pre-approved to accept these wastes.

In addition to assigning specific wastes to the green, amber or red lists, the Decision allows for each member country to employ its ''national procedures'' to determine whether a waste is considered hazardous under its laws and regulations, and therefore whether it is subject to amber or red controls. Thus, as discussed in more detail below, a waste that is not hazardous as determined by national procedures will not be subject to amber or red controls regardless of which list it appears on, a green-list waste that is considered hazardous will be subject to amber or red controls, while an unlisted waste considered hazardous as determined by national procedures will be subject to red controls (see § II. C. 2. d.)

[2] For example, today's regulations implementing the OECD Decision will be modified once EPA obtains legislative authority to control the transfrontier movements of household wastes, which appear on the OECD amber list.

1. Waste Lists

a. Green, Amber, and Red Lists. The waste lists (green, amber, and red) are intended to be comprehensive, i.e., any waste subject to transfrontier movement should be identified on one of three lists. Wastes identified on the green list are presumed to be non-hazardous while amber-list and red-list wastes are presumed to be hazardous. However, transfrontier movements of red-list wastes for recovery are presumed by the OECD to pose a greater potential risk than amber-list wastes because of their hazardous properties or because there is less experience in recovery of red wastes as compared to amber wastes. The Decision allows a country to use its national procedures to determine which wastes are hazardous.

b. Unlisted Wastes. Although the green, amber, and red lists of wastes are intended to be comprehensive, it is possible that there are wastes moving internationally for recovery that are not on any list. The WMPG developed the Review Mechanism in accordance with the General Provisions section of the Decision, to evaluate and assign unlisted waste to an appropriate list. The Review Mechanism is administered by an OECD group known as the Working Party. Under the Review Mechanism, the Working Party forwards recommendations to the OECD Council through the WMPG, the Pollution Prevention and Control Group, and the Environment Policy Committee. The Working Party also identifies other implementation issues that should be addressed under the Review Mechanism.

In implementing the Review Mechanism, the Working Party uses the criteria in Annex 2 of the OECD Decision to evaluate wastes and to formulate recommendations regarding their placement on a specific list. The criteria are divided into two major categories: waste properties (e.g., degree of hazard, physical state) and management practices (e.g., handling prior to recovery). The terms of reference for the Review Mechanism require that changes to the waste lists be proposed or supported by at least one member country and circulated to all members at least six weeks prior to convening the Review Mechanism's Working Party.

Persons who export hazardous wastes from the U.S. to OECD countries for recovery are encouraged to identify hazardous wastes which are not currently identified on any list and to provide EPA with waste-specific information responsive to the questions in Annex 2 of the Decision. This information will be evaluated by the Agency prior to submission to the Review Mechanism for consideration. Hence, it is critical that complete information be provided to EPA at least two months (and preferably earlier) prior to scheduled meetings of the Working Party to conduct the Review Mechanism process. Until such time as an unlisted waste is placed on a particular list pursuant to the Review Mechanism, the Decision provides that unlisted wastes considered hazardous under national procedures move under red controls and that unlisted waste considered non-hazardous under national procedures move under green controls.

c. National Procedures. The OECD amber and red waste lists are quite broad, consisting of many generic categories which may include both hazardous and non-hazardous wastes. The Decision therefore allows a country to determine if a waste on an OECD list is hazardous based on its ''national procedures'' or ''national tests.'' During the negotiations of the Decision, the U.S. interpreted national procedures to include both hazardous waste testing and regulatory determinations. For purposes of today's rule, EPA has determined that a waste is hazardous under U.S. ''national procedures'' if the waste meets the following requirements under RCRA: (a) meets the Federal definition of hazardous waste in 40 CFR 261.3; *and* (b) is subject to either the Federal hazardous waste manifesting requirements in 40 CFR 262, or to the universal waste management standards of 40 CFR 273, or to State requirements analogous to Part 273. (As stated earlier, EPA may, in the future, identify wastes under other statutes that are subject to the OECD Decision). [Note: For purposes of brevity and convenience, only the manifest criterion (and not the universal waste criteria) will be mentioned specifically throughout the preamble as to whether EPA considers a waste to be a hazardous waste and therefore subject to today's rule. However, we emphasize that universal wastes (which are considered hazardous wastes but are not subject to manifest requirements) are also subject to today's rule. Further discussion of universal wastes can be found in section IV. B. 6.]. This interpretation is consistent with the Agency's 1986 export notification policy [see 51 FR 28664 (Aug. 8, 1986)], in which the Agency concluded that wastes that are not subject to manifesting domestically do not pose a risk warranting export notification. Further discussion of EPA's interpretation of national procedures as they apply to recyclable waste can be found in section IV. B. 1.

2. Control Procedures

The specific control procedures required for the export or import of wastes for recovery within the OECD depend on whether the relevant exporting, importing and transit countries consider a waste to be subject to green, amber or red controls under their national procedures. Significantly, a particular waste's placement on one of the OECD lists is not determinative of the level of control applicable to the transfrontier shipment of such a waste for recovery. The lists represent an attempt to reach a consensus among the member countries on the level of control applicable to certain types of wastes; they do not supersede a country's authority to apply different levels of control for a particular waste pursuant to its national procedures. Accordingly, although a waste's placement on the OECD green, amber and red waste lists may indicate the applicable level of control in most cases, exporters and importers must determine which level of control applies to a particular shipment of waste under the national procedures of each affected country.

All waste shipments that are subject to today's final rule must be sent to facilities that are allowed under the applicable laws of the importing country to receive and perform recovery operations on the wastes. In addition, the Decision requires that all transfrontier movements of waste within the OECD comply with the provisions of applicable international transport agreements.[3] Any transit of wastes through a non-member country is subject to all applicable international and national laws and regulations.

a. Green-List Wastes. Wastes on the green list that are exported from the U.S. to OECD countries or imported to the U.S. from such countries for recovery are subject to all existing controls normally applied to commercial transactions, but are not subject to any additional controls under the Decision. Such controls may include bills of lading, customs declarations, international insurance, or other controls.

However, if a green-list waste is ''sufficiently contaminated'' (as described below) to meet the criteria for inclusion on the amber or red lists, then

[3] These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADNR (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985). See Appendix 1 of Council Decision C(92)39/Final in Appendix 3 of today's preamble.

shipment must be managed in accordance with the applicable amber-list or red-list controls. For the purpose of implementing the Decision, EPA is interpreting ''sufficiently contaminated'' to mean a green-list waste that is considered hazardous under U.S. national procedures (i.e., waste or waste mixture meets the Federal definition of hazardous waste in 40 CFR 261.3 and is subject to Federal manifest requirements). Such wastes will be subject to amber-list controls, unless the reason for the contamination is mixture with a red-list waste or with a hazardous waste that is not found on any list. In those cases, the waste will be subject to red-list controls.

As will be discussed further, the Decision acknowledges that certain green-list wastes may be subject to amber-list or red-list controls by certain countries, in accordance with their domestic legislation and the rules of international law.

b. Amber-List Wastes. Shipments of amber-list wastes destined for recovery within the OECD are subject to the amber-list control system. If, however, the waste is sufficiently contaminated with other wastes subject to red controls (i.e., red-list wastes or unlisted hazardous wastes) the waste then becomes subject to the red control regime. In addition, such waste could potentially be subject to other laws and regulations.

Amber controls require that a shipment of amber-list waste move pursuant to a legally binding written contract or chain of contracts (or an equivalent arrangement if the notifier and the receiving facility are part of the same corporate or legal entity). The contract must include a provision for alternate management or re-export of the waste if it cannot be managed as planned and must include financial guarantees for such alternate management if so required by the competent authorities of any concerned country, in accordance with applicable national or international laws. The U.S. does not require any financial guarantees for international waste shipments at this time.

Prior to the proposed export, the notifier must provide written notification to the competent authorities of all concerned countries to allow them the opportunity to deny the shipment. As defined in § 262.81(g) of today's rule, the notifier is the person under the jurisdiction of the exporting country who has, or will have at the time the transfrontier movement commences, possession or other forms of legal control of the wastes and who proposes their transfrontier movement for the ultimate purpose of submitting them to recovery operations (see section III. B. 9.). In certain cases, a general notification will be permissible. The competent authority of the exporting country may elect to perform the notification duties. EPA is the United States' competent authority for OECD purposes. Therefore, under today's rule, the notifier will provide written notification to EPA for exports from the U.S. of RCRA hazardous wastes subject to amber-list controls, and EPA will in turn notify the competent authorities of all concerned OECD countries. The competent authority of the importing country must issue an Acknowledgement of Receipt to the notifier and to the competent authorities of the exporting and transit countries within three working days of receiving the export notice. For the purposes of this rule, ''transit country'' refers only to a transit country that is a member of the OECD and is a Party to the Decision, including Canada [see section III. B. 4. of today's preamble and § 262.81(d)]. The competent authorities of the importing and transit countries have 30 days to consent or object to the shipment. However, if the competent authorities of the importing and transit countries do not notify the notifier in writing within 30 days of issuance of the Acknowledgement of Receipt that the request has been denied or that additional information is required, then tacit consent is deemed to be granted, and the shipment may proceed as specified in the notification.

If a transit country denies consent, the proposed movement must be rerouted and a new notification must be submitted to EPA to forward to the new transit country. The movement may not commence until that OECD country tacitly or expressly consents to the movement.[4]

The competent authority of the importing country may also allow a notifier to submit a general notification for the shipment of amber-list waste when that type of waste is to be sent periodically by the same notifier to the same facility. The notification lasts up to one year and may be renewed. In addition, OECD countries may designate facilities that they have pre-approved for receipt of amber wastes (see section III. C. 1. c.). When the U.S. receives notice from the OECD that specific facilities are pre-approved by the competent authority of a foreign government, EPA will undertake to make that information available to U.S. notifiers. At the present time, there are no U.S. facilities pre-approved for receipt of amber wastes (see section VIII).

Waste shipments must be accompanied by a tracking document. The WMPG developed forms in March 1994 which are *recommended* to be used for notification and tracking purposes.[5] These forms may be used by U.S. notifiers but will not be required until approved by OMB and codified into the regulations. For hazardous wastes exported from or imported to the United States, a uniform hazardous waste manifest also must accompany the waste shipment while it is in the jurisdiction of the U.S. (see section III. D.).

c. Red-List Wastes. The requirements for red-list wastes are similar to the requirements for amber-list wastes with one very important exception: tacit consent is *not* permissible. The red controls include: a written contract, chain of contracts, or equivalent arrangement where the notifier and recovery facility are part of the same legal or corporate entity; written notification to the competent authorities of the concerned countries;[6] prior consent of the importing and transit countries; and a tracking document accompanying the shipment. However, unlike amber-list wastes, red-list wastes cannot be shipped unless all necessary consents are obtained *in writing.* (See section III. C, D, & E for additional information).

It is important to note that, within the U.S., in addition to the OECD requirements, some red-list wastes also may be subject to requirements under other legal authorities, such as regulations promulgated under the Toxic Substances Control Act (e.g., PCB regulatory controls promulgated in 40 CFR Part 760; see section IV. B. 7. for additional information).

d. When Wastes are Not Considered Hazardous by All Concerned Countries. There may be cases in which the concerned countries (i.e., exporting, importing, and transit) disagree over the level of control to be assigned to a waste on the OECD lists.

The Decision provides guidance in section II(4) for cases where the

[4] If the transit country is not an OECD member country, EPA's regulations at Part 262, Subpart E apply. Under those regulations, EPA will provide notice to such country of the proposed waste movement, although under Subpart E consent of the non-OECD transit country is not required. However, EPA would transmit any response from the transit country to the exporter.

[5] A copy of the recommended OECD notification and tracking forms can be found in the docket for this rule.

[6] Note that instead of the notifier, the competent authority of the exporting country may, in accordance with domestic laws, decide to transmit this notification to importing and transit countries.

exporting country, using its national procedures, does not consider a waste on the amber or red OECD lists to be hazardous, while the importing country does. In such cases, the importing country shall assume all obligations assigned to the exporting country in sections IV or V of the Decision, as applicable, particularly with regard to notification requirements. This means that the competent authority of the importing country or the importer would notify the competent authorities of the exporting country, for information purposes, and transit countries, for purposes of obtaining consent, prior to the proposed import. If the exporting country does not consider the waste to be hazardous under its national procedures, then no obligations under the Decision rest on the exporter and the exporting country. For example, if the U.S. does not consider a waste to be hazardous, today's rule imposes no obligations on the U.S. exporter. However, the U.S. exporter may need to provide information to the importer (e.g., consignee, or owner or operator of the recovery facility) so that the importer can supply the competent authorities of the concerned countries with the necessary notification information. This information exchange requirement may be worked out in the contract, chain of contracts, or equivalent arrangement for parties of the same legal or corporate entity, so U.S. waste handlers should anticipate such requests from waste trading partners in other OECD nations. Requests may go as far as requiring the U.S. exporter to notify all competent authorities in the concerned countries for wastes not considered hazardous in the U.S.

In cases where only the exporting country considers the amber- or red-list waste to be hazardous, the country's competent authority or exporter would notify and seek consent of the importing and transit countries prior to shipment in accordance with the appropriate amber-list or red-list controls. Although these countries do not consider the waste to be hazardous using their national procedures, the consent of the importing and transit countries is still necessary under the laws of the exporting country. The importer and exporter would also be required to comply with any contractual requirements imposed by the exporting country.

The Decision also recognizes in section II(6) the right of OECD countries to require amber-list or red-list controls for wastes identified on the green list, in accordance with domestic legislation and international law, for the purpose of protecting human health and the environment. OECD countries are required to inform the Secretariat of such controls. For example, Austria has stated that it subjects some green-list wastes and all amber-list wastes to red-list controls, while Sweden subjects some green-list wastes to amber- or red-list controls. Under today's rule, the U.S. requires any green-list wastes that are hazardous under RCRA and subject to manifesting requirements to move under amber controls. In these cases, the wastes are subject to the country's controls only while they are in that country's jurisdiction. Of course, the exporter or importer may, as a contractual matter, have to comply with amber- or red-list control requirements before the waste enters the jurisdiction of the country that considers the waste to be hazardous.

The Decision does not address cases where the exporting and importing countries consider a waste to be non-hazardous under their national procedures but the transit nation does consider it hazardous. In such situations, the Agency views the transit nation taking on similar responsibilities as the importing nation in situations when an importing nation is the only country to consider a particular waste hazardous (discussed above). That is, the transit country shall assume the obligations of the exporting and importing countries. In practice, this may mean that waste handlers in transit nations may need to request information from U.S. waste exporters through contractual arrangements in order to seek and obtain consent from the competent authorities of the transit countries.

e. Availability of Waste Lists. The current waste lists are available in the RCRA docket under the number listed above. The regulated community is encouraged to periodically check the docket for the latest lists.

III. Specific OECD Requirements and Relationship to RCRA

A. Differences Between the OECD Decision and Today's Rule

Today's regulations implementing the Decision are applicable only to hazardous wastes destined for recovery that (1) are hazardous under RCRA *and* subject to manifesting requirements, and (2) are sent to or received from an OECD country other than Canada and Mexico. All exports and imports of hazardous waste to or from a non-OECD country, to Canada or Mexico (see § VI), or to OECD countries that are not Basel Parties for the purpose of treatment (other than recovery) or final disposal must be in compliance with current regulations discussed immediately below.

Current RCRA regulations differ from the terms of the Decision being implemented today. A summary of differences between the two are shown in Table 1 for comparative purposes only and should not be used as a substitute for today's regulations.

EPA's current export regulations are codified in 40 CFR 262, Subpart E. The requirements include: notification to EPA at least 60 days prior to export so that EPA can notify the importing and transit countries, prior written consent by the importing country, a copy of the EPA Acknowledgement of Consent attached to the manifest accompanying each shipment, and movement of the shipment in conformance with the terms of such consent. The requirements in Part 262 also include special manifest provisions, exception reporting, annual reporting, and recordkeeping. Special transporter requirements are in 40 CFR 263.

40 CFR part 262, Subpart F, requires that U.S. hazardous waste importers comply with the requirements for generators (40 CFR 262) and specifies that the importer must indicate the name and address of the foreign generator on the manifest. In addition, 40 CFR 264.12 and 265.12 require any U.S. hazardous waste management facility subject to Parts 264 or 265 that arranges for the receipt of hazardous waste from a foreign source to provide a one-time notification to EPA at least 4 weeks prior to receiving the waste. EPA also reminds importers that they must comply with the land disposal restrictions once the wastes enter the United States (see 40 CFR Part 268).

TABLE 1.—SUMMARY OF RELATIONSHIP BETWEEN CURRENT RCRA EXPORT/IMPORT REGULATIONS AND REGULATIONS IMPLEMENTING THE OECD DECISION

Issue	Current RCRA regulation (40 CFR 262.50–262.60)	Today's regulations implementing OECD decision (40 CFR 262.80–262.89)
General:		
Applicability	Governs all imports and exports of RCRA hazardous waste subject to Federal manifesting requirements in 40 CFR Part 262 regardless of final disposition.	Scope of wastes covered same as current regulations. However, new Subpart H applies only to waste imports and exports for recovery between U.S. and OECD countries, excluding Canada and Mexico.[1] For purposes of this rule, procedural controls apply to amber-list, red-list, and unlisted wastes that are RCRA hazardous and manifested. Green-list wastes are exempt unless hazardous under U.S. national procedures.
Imports:		
Notification	One-time advance notice per waste stream per foreign source required for treatment, storage, or disposal (TSD) facilities regulated under Part 264/265.	Current requirement for TSDs for one notification maintained. In addition, EPA will receive notice from foreign exporter or competent authority of his country, per the Decision.
Approval to import.	None required[2]	For import to occur, EPA must give tacit or written consent for amber-list wastes and written consent for red-list wastes. Written consent and objections must be sent to notifier and competent authorities of concerned countries.
Tracking	A uniform hazardous waste manifest is required from the time the shipment enters the U.S. until it reaches the designated facility.	Same as current regulations, plus additional OECD tracking information required. Tracking document must stay with the shipment until received by recovery facility. Recovery facilities under Parts 264/265 must return signed copy to notifier and competent authorities of concerned countries.
Financial assurance for alternate management.	None required	None required under U.S. law for U.S. entities. If foreign exporter's government requires such assurance, foreign notifier may require U.S. importer to have financial assurance as a condition of their contract.
Contracts	None required	A legally binding contract, chain of contracts, or equivalent arrangement between parties owned by the same corporate entity, specifying each responsible party handling shipments of amber-list or red-list wastes and the responsible party in case alternate management, re-exportation or re-importation is necessary because arrangements for the shipment or recovery operation cannot be carried out as foreseen. Additional provisions apply to recognized traders as defined in § 262.81(i).
Exports:		
Notification	Notification to EPA at least 60 days prior to initial shipment is required; notice then transmitted to importing and transit countries. Notice may cover multiple shipments for up to 12 months.	Same as current regulations with additional information requirements, except that notification to EPA must occur at least 45 days prior to initial shipment; may use OECD-recommended notification form; EPA will notify competent authorities of importing and transit countries.
Approval of export by competent authority of importing country.	The importing country must consent to the export. EPA notifies exporter by sending Acknowledgement of Consent or objection.	For amber-list wastes, consent presumed 30 days from the date the competent authority of the importing country acknowledges receipt of notification unless a denial or request for additional information is received; no consent from importing country needed if waste is destined for pre-approved recovery facility, although prior notification is required. For red-list wastes, written consent is necessary to export.
Approval of export by competent authority of transit country.	None required. As a practical matter, however, since EPA transmits any response received from the transit country, EPA expects that the exporter would reroute shipment if the transit country objects.	For amber-list wastes, consent is presumed 30 days from the date the competent authority of the transit country acknowledges receipt of notification unless a denial or request for additional information is received. For red-list wastes, written approval is necessary to export. No consent is required from transit countries that are not OECD members. As a practical matter, however, EPA expects that the exporter would reroute shipment if the transit country objects.
Tracking	Uniform hazardous waste manifest must accompany the shipment while in the U.S and a copy must be left with Customs; EPA Acknowledgement of Consent also must be attached. Exporter must receive written confirmation of delivery to foreign consignee.	Substantively same as current regulations, plus additional OECD tracking information required. OECD-recommended notification and tracking document or other paper supplying the required information may be used until OECD form approved by OMB and incorporated into the regulations. Tracking document must stay with the shipment until received by recovery facility. Recovery facility must return signed copy to export notifier and competent authorities of concerned countries.
Financial assurance for alternate management.	None required	None required under U.S. law for U.S. entities. If foreign importing or transit countries require such assurance, U.S. exporters may be required to have financial assurance as a condition of their contract or face having proposed shipments denied.
Recordkeeping	Copies of manifests, notifications of intent to export, EPA Acknowledgments of Consent, exception reports, and annual reports must be maintained for at least 3 years.	The same as current requirements except that written consent from competent authorities of concerned countries is maintained in lieu of EPA Acknowledgement of Consent.

TABLE 1.—SUMMARY OF RELATIONSHIP BETWEEN CURRENT RCRA EXPORT/IMPORT REGULATIONS AND REGULATIONS IMPLEMENTING THE OECD DECISION—Continued

Issue	Current RCRA regulation (40 CFR 262.50–262.60)	Today's regulations implementing OECD decision (40 CFR 262.80–262.89)
Reporting	Exporters must prepare and submit an annual report and exception reports to EPA.	Same as current requirements.
Contract	None required	A legally binding written contract, chain of contracts, or equivalent arrangement between parties of the same legal or corporate entity specifying the name of each responsible person handling shipments of amber-list or red-list wastes and the responsible party in case alternate management, re-exportation or re-importation is necessary because arrangements for the shipment or recovery operation cannot be carried out as foreseen. Additional provisions apply to recognized traders as defined in § 262.81(i).

[1] Imports from and exports to Canada and Mexico are governed under the U.S./Canada bilateral agreement, the U.S./Mexico bilateral agreement, and EPA's current regulations. These regulations include 40 CFR 262 Subparts E and F, 40 CFR 264.12(a), and 265.12(a) in lieu of today's regulations.

[2] For imports from Canada, the U.S./Canadian bilateral agreement requires notice and allows for tacit consent if no response is lodged 30 days after the notice is received. For imports from Mexico, the U.S./Mexico bilateral agreement requires notice, but does not allow for tacit consent.

B. Definitions

Many of the following definitions in the Decision are being codified in today's rule. In some cases, the OECD definitions are somewhat different than the current RCRA definitions. Where they are, the differences are discussed. The definitions codified at 40 CFR 260.10 (e.g., Transporter, etc.). continue to apply to all terms not defined in today's rule.

1. Competent Authorities

Competent Authorities means the regulatory authorities of concerned countries having jurisdiction over transfrontier movements of wastes destined for recovery operations.

The competent authority will be the agency or similar entity that has authority over environmental or hazardous waste issues in the receiving country. A list of the contacts for competent authorities of OECD countries is provided in the docket for this rule. The competent authority of the United States is the U.S. Environmental Protection Agency. All notices and required information must be sent to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. The words ''Attention: OECD Export Notification'' should be displayed prominently on the envelope.

2. Concerned Countries

Concerned Countries means the exporting and importing OECD countries and any OECD countries of transit.

The OECD countries subject to this Decision are: Australia, Austria, Belgium, Canada,[7] Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States.[8]

3. Consignee

Consignee means the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the importing country.

Currently there is a definition of ''consignee'' at 40 CFR 262.51, which means the ultimate treatment, storage, or disposal facility in the receiving country to which the hazardous waste will be sent. The OECD's definition, however, refers to the first person to take physical or legal custody of the waste. This is broader than the Agency's definition in 40 CFR 262.51, but imposes no new obligations on importers. A consignee could be a recognized trader, transporter, storage facility operator, or recovery facility operator. The OECD definition for consignee will be codified today for exports/imports of hazardous wastes destined for recovery among OECD countries to replace the current definition found at 40 CFR 262.51.

4. Country of Transit

Country of Transit means any OECD country other than the exporting or importing country across which a transfrontier movement of wastes is planned or takes place.

The Agency interprets this definition to mean the same as *transit country,* which is currently codified at 40 CFR 262.51 except that, for purposes of this Decision, it is limited to OECD countries as defined at 40 CFR 262.58(a).

It also should be noted that the United States made a declaration that a state is a transit state or ''country of transit'' within the meaning of the Decision only if wastes are moved, or are planned to be moved, through its inland waterways, inland waters, or land territory. Thus, in the United States' view, the movement of waste subject to Subpart H through an OECD country's territorial sea but not through its inland waterways, inland waters, or land territory would not make that country a transit country for the purposes of today's rule.

5. Exporting Country

Exporting Country means any OECD country from which a transfrontier movement of wastes is planned or has commenced.

6. Generator

Generator means a person whose activities create wastes.

It is the Agency's interpretation that the current RCRA regulatory definition of generator found at 40 CFR 260.10 is consistent with the OECD definition. The RCRA definition states that a ''generator'' means any person, by site, whose act or process produces hazardous waste identified or listed in 40 CFR part 261 or whose act first causes a hazardous waste to become subject to regulation. This is particularly relevant with respect to section II(8) of the Decision, which provides that a person who mixes two or more wastes,

[7] Although Canada is subject to the Decision, movements of waste between the U.S. and Canada that otherwise would be governed by the Decision will continue to be controlled by the U.S./Canada bilateral agreement and EPA's current regulations.

[8] Mexico joined the OECD in June 1994. Movements of waste between the U.S. and Mexico will continue to be controlled by the U.S./Mexico bilateral agreement and EPA's current regulations, until such time as the U.S. and Mexico agree to switch to procedures under the OECD Decision.

or otherwise changes the physical or chemical characteristics of the waste, thereby creating a new hazardous waste becomes the generator. Such persons henceforth assume responsibility for compliance with the generator duties under RCRA and applicable notifier provisions in today's rule.

7. Importing Country

Importing Country means any OECD country to which a transfrontier movement of wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.

8. International Waste Identification Code

International Waste Identification Code (''IWIC'') is the classification system specified and described in OECD Council Decision C(88)90(Final) of 27 May 1988.

Determining the International Waste Identification Code for a particular waste requires the completion of a specified formula with information provided in each of 6 Tables. Use of the IWIC is not required by the Decision, and as a practical matter, the IWIC has not been used by all OECD countries; therefore, the definition is *not* being codified today.

9. Notifier

Notifier is the person under the jurisdiction of the exporting country who has, or will have at the time the planned transfrontier movement commences, possession or other forms of legal control of the wastes and who proposes their transfrontier movement for the ultimate purpose of submitting them to recovery operations.

When the U.S. is the exporting country, *notifier* means a person domiciled in the U.S. The Agency recognizes that in different situations recovery facilities, consignees, recognized traders, or generators can act as notifiers. If a person is a notifier, he is also a primary exporter under 40 CFR 262.51.

10. OECD Area

OECD Area means all land or marine areas under the national jurisdiction of any OECD country. As used in these regulations, the term OECD countries means OECD areas.

11. Person

Person means any natural or legal person whether public or private.

The Agency interprets this definition to be consistent with the definition of ''person'' currently found at 40 CFR 260.10, which states that a Person means an individual, trust, firm, joint stock company, Federal Agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

12. Recognized Trader

Recognized Trader means a person who, with appropriate authorization of concerned countries, acts in the role of principal to purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person may act to arrange and facilitate transfrontier movements of wastes destined for recovery operations.

Under the Decision and today's rule, recognized traders who take physical or other forms of control (e.g., legal) of the waste may act as notifiers, consignees or recovery facilities with all associated responsibilities. As provided in § 262.86 of today's rule, a recognized trader who takes physical custody of a waste and conducts recovery operations (including storage prior to recovery) is acting as the owner or operator of a recovery facility and must be so authorized in accordance with all applicable Federal, State, and local license or permit requirements. There also may be cases where recognized traders act as brokers for transfrontier movements of wastes that are not considered hazardous under U.S. national procedures, but which are considered hazardous by another OECD country. To conduct business in that OECD country, the broker would need to comply with the provisions of the Decision as implemented by the OECD country. The broker's responsibilities would most likely be addressed in his contract with his foreign business associates. Recognized traders should anticipate requests regarding contract information in such cases.

13. Recovery Facility

Recovery Facility means an entity which, under applicable domestic law, is operating or is authorized to operate in the importing country to receive wastes and to perform recovery operations on them.

Any facility in the United States that is legally allowed to operate, to receive wastes, and to perform recovery operations and that conforms with any applicable regulations may meet this definition. This includes recovery facilities that are not required to obtain a RCRA permit. Manifested hazardous waste shipments must, however, be shipped to a RCRA designated facility (authorized under 40 CFR Parts 264, 265, or 266 to accept manifested hazardous waste). It is important to note that such facilities are not relieved of any regulatory requirements associated with discharges to air and/or water that may apply under the Clean Air Act or the Clean Water Act.

14. Recovery Operations

Recovery Operations means activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses as listed in Table 2B of the Annex of OECD Council Decision C(88)90(Final) of 27 May 1988.

The Agency considers ''recovery operations'' to be consistent with the 40 CFR 261.1 and 261.2 definitions for recycling and reclamation. Note, however, that under 40 CFR 261.2, certain wastes that are directly re-used and off-specification products that are reclaimed are not solid wastes; thus, they are not subject to either current RCRA regulations or the OECD requirements implemented today.

15. Transfrontier Movement

Transfrontier Movement means any shipment of wastes destined for recovery operations from an area under the national jurisdiction of one OECD country to an area under the national jurisdiction of another OECD country.

The Agency is interpreting the phrase ''area of national jurisdiction'' in the United States to mean the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Note: The United States made a declaration that under international law, notification or authorization of coastal states is not required for passage through territorial seas and exclusive economic zones (EEZs).

16. Wastes

OECD defines *wastes* in the OECD Decision on transfrontier movements of hazardous waste C(88)90(Final) dated May 27, 1988, as materials other than radioactive materials intended for disposal. ''Disposal'' is defined in Table 2 of the same document to include typical disposal and recovery operations. The list of recovery operations are included in § 262.81(k) of today's rule. In this rule, EPA interprets *wastes* to include materials defined as solid and hazardous wastes in 40 CFR 261.2 and 261.3 and is therefore *not* codifying the OECD waste definition. Materials outside the scope of EPA's definition of solid waste are *not* subject to today's regulations. (As previously noted, EPA may, in the future, identify wastes under other statutes that are subject to the OECD Decision).

C. Notification and Consent for Exports

Notification of potential exports of hazardous waste destined for recovery operations is a key component of the OECD requirements to ensure that wastes are not moved if there is any objection from any of the concerned countries. The notification and consent requirement allows for the concerned countries (i.e., exporting, importing and transit) to determine whether the hazardous waste can be handled safely based on the requirements of their waste management system and of the systems and qualifications of the particular facility that is designated to receive the waste.

As discussed previously in today's preamble, only those hazardous wastes subject to the Federal requirements for manifesting under 40 CFR Part 262 are subject to the RCRA export/import requirements set forth in today's rule. Notifiers subject to these rules must follow the relevant amber-list or red-list control procedures, as discussed below and codified in §§ 262.82 through 262.86 of today's regulations.

1. Provisions Applicable to Amber-List and Red-List Wastes

Under the amber-list control system, there are two options for notification and consent for shipments of amber-list wastes. The first option requires written notification with tacit or written consent. The second option, a facility pre-approval system, requires written notification and is discussed in § III. C. 1. c. of today's preamble. Certain contractual obligations also apply to notifiers, recovery facilities and all other parties to the waste movement. In addition, under the red-list control system, facility pre-approval is not allowed for shipments of any red-list wastes. Finally, although the notification requirements for red-list wastes are the same as those applicable to amber-list wastes, tacit consent is not permissible for red-list wastes.

a. Notice and Consent for Specific Shipments. According to the Decision, the notifier must provide written notification of intent to export to the competent authorities of the concerned countries (i.e., exporting, importing and transit) prior to shipment.[9] The Agency today is requiring such notices to be submitted to EPA 45 days prior to the commencement date of the proposed shipment of waste for recovery within the OECD.[10] EPA considers this period of 45 days as appropriate in order to allow time for EPA to review and process the notification documents, the Acknowledgement of Receipt to be sent by the importing country (as required by the Decision), and the 30-day tacit or written consent period (required by the Decision). In addition, EPA considers this period of 45 days rather than 60 days prior notice set forth in current U.S. regulations, as appropriate for today's rule, because within the OECD context notifications and consents are often faxed and disseminated in a much more expedient manner than in other contexts. EPA, in lieu of the U.S. notifier, will forward the export notices to the importing and transit countries.

The export notification must contain the information specified in Appendix 2 of the Decision. Much of this information is already required for U.S. exports.

The OECD notification information includes:

(1) Serial number or other accepted identifier on the notification form;

(2) Notifier name, address, and telephone and telefax numbers;

(3) Importing recovery facility name, address, telephone and telefax numbers, and technologies employed;

(4) Consignee name, address, and telephone and telefax numbers if the person is different than the owner or operator of the recovery facility;

(5) Intended transporters and/or their agents;

(6) Country of export and relevant competent authority (the U.S. Environmental Protection Agency);

(7) Countries of transit and relevant competent authorities;

(8) Country of import and relevant competent authority;

(9) Statement of whether the shipment is a single-shipment notification or a general notification. If general, period of validity requested;

(10) Date foreseen for commencement of transfrontier movement;

(11) If required by any concerned country, certification that any applicable insurance or other financial guarantee is or shall be in force covering the transfrontier movement

(Note: The U.S. does not currently require such financial assurance);

(12) Designation of waste type(s) from the appropriate list (amber or red), and the wastes' description(s), probable total quantity of each, and an accepted uniform classification code (such as RCRA waste codes and UN numbers and OECD waste list codes)[11] for each;

(13) Certification that a written contract or chain of contracts or equivalent arrangement between or among all parties to the transfrontier movement, as required by § 262.85, are in place and are legally enforceable in all concerned countries; and

(14) Certification that the information is complete and correct to the best of his/her knowledge.

In accordance with the existing Part 262 export regulations, EPA will continue to require the notifier to identify facility EPA ID numbers, if applicable, and information on the points of entry to and departure from all foreign countries.

In July 1994, the OECD/WMPG finalized two forms: one to be used for export notification and the other to accompany the shipment for tracking purposes. The OECD/WMPG recommends, but does not require, using the forms. EPA also recommends using the forms, but cannot require their use until they are approved by OMB, and until EPA promulgates such requirement. Before these events occur, EPA believes that OECD countries, exporters and importers need to gain experience with using the forms to determine if any modifications are needed; thus, EPA recommends the forms be used immediately. Notification forms are to be submitted to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460, with ''Attention: OECD Export Notification'' prominently displayed on the envelope. If the notification is complete, EPA will forward a copy to the competent authorities of the importing country and any transit country. The importing country must acknowledge receipt of the notification within three working days. The Acknowledgement of Receipt will be sent by the competent authority of the importing country simultaneously to EPA, to the notifier, and to the competent authority of any transit country. EPA will accept a telephone facsimile of such acknowledgements.

During the 30-day period after the Acknowledgement of Receipt is sent to EPA and the notifier, the competent authority of the importing country as well as any transit country may object to the proposed movement of wastes. Objections by any of the concerned

[9] Note that the competent authority of the exporting country may, in accordance with domestic laws, decide to transmit this notification to importing and transit countries.

[10] Note that current U.S. regulations require 60 days prior notice. See 40 CFR 262.50–262.60.

[11] EPA requires UN numbers and RCRA waste codes in addition to the OECD waste list codes to be included per § 262.83(e)(11) of today's rule.

countries must be provided in writing to EPA, to the notifier, and to the competent authorities of other concerned countries within the 30-day period. The OECD-recommended notification form was designed to be used for Acknowledgement of Receipt, consent, and objection purposes.

In the case of amber-list wastes, if no objections to the waste movement are submitted within the 30-day period, tacit (or implied) consent is granted and the movement of wastes may begin. Tacit consent expires one calendar year after the close of the 30-day period. If a shipment for which tacit consent has been given does not take place within that time, a new notification must be submitted and a new consent obtained. Competent authorities of concerned countries may also choose to provide written consent to the notifier and concerned countries in less than 30 days. In this event, the waste shipment may begin immediately after the last consent is received from all of the competent authorities. In the case of red-list wastes, the export of such waste may not occur until the importing and all transit countries provide written consent. Written consent expires within one calendar year, unless otherwise specified.

b. General Notification. In cases where similar wastes (e.g., those having similar physical and chemical characteristics, the same UN classification, and same RCRA waste codes) are to be sent periodically to the same recovery facility by the same notifier, the competent authorities of concerned countries may elect to accept one notification for these wastes for a period of up to one year. The notifier must indicate on the form that the notification is general. Such acceptance may be renewed for additional periods of up to one year each. A concerned country may revoke its acceptance at any time by official notice to the notifier and to the competent authorities of all other concerned countries.

c. Pre-approval for Recovery Facilities Managing Amber-List Wastes. The competent authority of an importing country with jurisdiction over specific recovery facilities may decide that it will routinely consent to the shipments of certain amber-list waste types to specific recovery facilities. An importing country wishing to employ this process must inform the OECD Secretariat of the recovery facility name and address, technologies employed, waste types to which the pre-approval applies, the time period covered, and any subsequent revocations.

No specific consent is required from the importing country when waste is to be sent to a facility pre-approved to accept that waste. However, the notifier planning to ship waste to a pre-approved recovery facility must notify the Agency pursuant to § 262.83(e) prior to shipment. Therefore, the notifier must submit a notification to the Agency at least 10 days in advance of the shipment to allow time for EPA to verify that the proposed recovery facility has received pre-approval, that the pre-approval is still valid, and that the export notice meets any conditions set by the importing country. For example, the importing country may need to stop the shipment in the event that the pre-approved facility needs to shut down operations temporarily for maintenance or repair. Moreover, the competent authorities of all concerned countries may restrict or prohibit such waste shipments in accordance with applicable domestic laws. In addition, pre-approval designations may be limited to a specific time period and may be revoked at any time. Shipments may commence after the notification has been received by competent authorities of all concerned countries, unless the notifier has received information indicating that the competent authority of one or more concerned countries objects to the shipment. The general notification procedures discussed above may be used for multiple shipments of the same waste type to pre-approved facilities. In addition, the regulations pertaining to tracking documents and contracts apply. As discussed in § III. F. 3. of today's preamble, EPA has not yet decided whether or how to pre-approve U.S. recovery facilities for the purpose of granting prior consent. The issue will be addressed in a future rulemaking.

Facilities that intend to receive shipments of red-list wastes are not eligible for pre-approval. Rather, each shipment of red-list waste must proceed pursuant to a specific or general notification for which written consent was received.

d. Return or Re-Export of Shipments. If the shipment of amber-list or red-list waste cannot be managed in the importing country as planned and if alternate management is unavailable or unacceptable in the importing country, the party designated in the contract as assuming responsibility for adequate management of the waste in such cases may decide to return the waste to the notifier or to export the waste to a third OECD country where a suitable facility can manage it. Any such re-export must comply with the requirements of § 262.82(c) of today's regulations. Competent authorities of all concerned countries (importing, transit, exporting), in addition to the competent authority of the initial exporting country, must be notified. Each competent authority has up to 30 days to object to the re-export. The 30-day period begins when the competent authority of both the initial exporting country and the new importing country issue Acknowledgements of Receipt of the notification. The re-export may commence once the competent authorities of all concerned countries have consented (i.e., tacit or written for amber-list wastes, written for red-list wastes). Re-export to a third country outside the OECD is fully subject to the notification and consent requirements outlined above with respect to the initial exporting country and any OECD transit country, as well as to the domestic laws of the original importing country and to any applicable international agreements or arrangements to which the (original) importing OECD country is a Party, including (if appropriate) EPA's current regulations.

The provisions for return or re-export of red-list wastes are the same as for amber-list wastes except that written consent must be obtained from all concerned countries (i.e. tacit consent is not permissible for red-list wastes).

U.S. persons are not required to comply with the re-export provisions of today's regulations with respect to amber- or red-list wastes that are not considered hazardous under U.S. law. If the waste is considered hazardous in the other concerned OECD countries, however, U.S. exporters of such wastes may find it expedient (or necessary) to comply with return or re-export requirements of those countries in order to continue trade with them. These requirements may be addressed under the terms of their contracts with their trading partners.

2. Unlisted Wastes

If waste not appearing on the green, amber, or red lists is a RCRA hazardous waste as defined in 40 CFR 261.3 and is subject to the Federal manifesting requirements under Part 262, the waste is subject to the notification and consent requirements established for red-list wastes (i.e., prior written consent is required). However, if a waste does not appear on any of the OECD lists and is not a RCRA hazardous waste subject to manifesting requirements, the waste may be handled as a green waste; thus no prior notification to EPA is required. Notifiers should note, however, that the importing and transit countries may require notification and consent controls for such wastes if they are considered hazardous in their respective countries and if such controls are

required by the domestic law of those countries. In such cases, the foreign importer may ask U.S. notifiers to assume contractual obligations requiring compliance with such provisions.

D. Tracking Documents

The Decision requires that a tracking document must accompany each transfrontier shipment of amber-list or red-list waste until it reaches its final destination (the designated recovery facility). The purpose of the tracking document is to provide pertinent information concerning the shipment to any interested entity while the waste is en route.

All hazardous wastes subject to today's rule (whether amber, red, or unlisted, and whether constituting a U.S. import or export) must be accompanied by a tracking document that contains all the information in § 262.84 of today's regulations. This includes all the information required under § 262.83(e), plus the following information:

(a) Date shipment commenced;

(b) If not same as the notifier, name, address, and telephone and telefax numbers of primary exporter (i.e., shipper);

(c) Company name and EPA ID number of all transporters;

(d) Means and mode of transport, including types of packaging;

(e) Any special precautions to be taken by transporters;

(f) Certification by notifier that no objection has been lodged by the competent authorities of all concerned countries. The notifier must sign the certification; and

(g) Appropriate signatures for each custody transfer (transporter, consignee, and owner or operator of the recovery facility).

As discussed earlier, the OECD has developed a form for tracking purposes, in conjunction with the OECD notification form, which is recommended for use by the OECD. The OECD developed the notification and tracking forms for use by OECD countries implementing the Decision, the European Union to implement its waste regulations, and non-OECD countries for implementing the Basel Convention. After gaining experience in using the notification and tracking forms, the OECD may need to modify them. The Agency anticipates requiring their use in a future rulemaking.

Until the OECD tracking form is codified into the RCRA regulations, exporters and importers may either use the OECD tracking form itself, or may supply all the information required in § 262.84 on a separate sheet of paper. In the latter case, all information should be typed or printed and should be numbered to correspond to § 262.84 requirements. As a practical matter, most U.S. exporters and importers will be using the OECD-recommended forms if the OECD countries with which they are trading require their use.

1. Routing of Tracking Document

As with the Uniform Hazardous Waste Manifest, EPA will not require the tracking document (or information on separate paper) to accompany the waste when moving by rail or bulk shipment by water. The regulated community should continue to follow the manifest procedures for routing the forms in 40 CFR 262.11 Subpart B.

Within 3 working days of its receipt of the hazardous wastes subject to amber-list or red-list controls, the owner or operator of the recovery facility must send signed copies of the tracking document to the export notifier, to EPA's Office of Enforcement and Compliance Assurance, and to the competent authorities of the importing and transit countries. The original tracking document must be retained by the recovery facility for at least 3 years. These requirements are codified in §§ 264.12, 265.12, 264.71 and 265.71 of today's rule.

Where U.S. recovery facilities are receiving wastes from other OECD countries that are considered hazardous in that country but not in the U.S., today's regulations do not apply for the U.S. recovery facility. However, contractual provisions imposed on the foreign exporter for the shipment to the U.S. recovery facility may result in certain obligations for the facility, such as returning a signed tracking document to the notifier and to competent authorities of concerned countries. While the U.S. government does not have the authority to enforce the requirements of other countries for wastes that are not hazardous in the U.S., the U.S. may provide cooperative assistance to other OECD countries in their efforts to enforce their own laws, including sharing information and investigative support, pursuant to domestic and international law.[12] The owner or operator of the U.S. recovery facility should be aware that the exporting country is unlikely to consent to the shipment (or future similar shipments) absent performance of these duties.

[12] For example, the Hague Evidence Convention, to which the U.S. and several OECD countries belong, establishes procedures for assistance in evidence-gathering which may be used to support cooperation in civil enforcement.

E. Contracts

Under today's rule, transfrontier movement of hazardous wastes subject to amber-list or red-list controls may occur only under the terms of a valid written contract, chain of contracts, or under equivalent arrangements between facilities controlled by the same legal entity. Therefore, the export notifier and the owner or operator of the authorized recovery facility must enter into such contracts or arrangements. In addition, all persons involved in such contracts or arrangements must have appropriate legal status to assume the required contractual obligations.

For the purposes of this rule, a valid contract is one that complies with the requirements of § 262.85 of today's rule. Among other things, the contracts or equivalent arrangements must identify the generator of each type of waste being shipped, all persons who will have physical custody or legal control of the waste, and the designated recovery facility. In addition, the contracts or equivalent arrangements must identify the party who will assume responsibility for the waste if alternate management of the waste is necessary. In addition, such contracts or arrangements must identify the person responsible for obtaining consent for export of the waste to a third country, if the need should arise. Contracts or equivalent arrangements must also contain provisions requiring each contracting party to comply with all applicable requirements of today's regulation. Thus, contracts provide a mechanism to ensure that all parties involved in the transfrontier movement of waste destined for recovery operations are cognizant of and assume appropriate responsibilities for the controls placed on the waste shipment.

If required by the concerned countries, the contract, chain of contracts, or equivalent arrangement must also include provisions for financial guarantees to provide for alternate recycling, disposal, or other means of sound management should the need arise. Currently, the U.S. does not impose such a financial requirement. Competent authorities of exporting and importing countries may, under domestic law, also require the notifier to provide copies of contracts or portions thereof. Under today's rulemaking, EPA is not requiring routine submission of contracts to EPA. The Agency could, however, request such information on a case-by-case basis, if necessary to process export/import notices or for enforcement purposes. Upon request, such information shall be held as confidential to the extent allowed under

domestic law. Information for which a claim of confidentiality has been asserted will be managed in accordance with the provisions in 40 CFR Part 2 and 40 CFR 260.2 (as amended today), which allows information submitted by export notifiers in their notification of intent to export to be released to the U.S. Department of State and appropriate authorities of receiving countries regardless of claims of confidentiality.

As discussed earlier, there may be cases where U.S. parties are engaged in transfrontier movements of waste that are not considered hazardous under U.S. national procedures but that are considered hazardous by another OECD country. In order for such waste movements to proceed, U.S. parties would need to comply with the provisions of the Decision as implemented by the other OECD country. It is likely that the OECD country will rely on the contract in these situations to define the responsibilities of all parties engaged in the transfrontier movement. Thus, U.S. waste exporters, importers, and recognized traders should anticipate requests from their foreign counterparts to address these responsibilities in a contract. OECD countries are also free under the Decision to require contract elements beyond those specified in the Decision and today's rule. Such elements may include:[13]

—Delineation of when and where responsibilities shift for alternative waste management if disposition cannot be carried out as described in the Notification of Intent to Export;
—Certification of compliance with tracking document requirements, particularly the obligation of the U.S. receiving facility under § 262.84(e) to return signed tracking documents to the foreign notifier and competent authorities of the concerned countries;
—Description of the specific financial guarantee mechanism if one is required by any concerned country;
—Certification that all U.S. waste handlers in the contract are authorized under U.S. law to carry out their transporter or waste recovery functions;
—Provision requiring each contracting party to comply with all applicable laws of the concerned countries;
—Identification of parties responsible for language translations of export notifications or tracking document; and
—Procedures for modifying the contract, particularly to reflect future modifications to the Decision.

[13] This list is intended to be illustrative only; U.S. parties may find foreign business associates requesting additional elements in their contracts in accordance with the domestic laws and regulations of other OECD countries.

F. Importers

1. Definition

There is no definition of ''importer'' in the Decision, the RCRA regulations, or the RCRA statute. However, persons importing hazardous waste have various responsibilities and duties under EPA's current regulations and today's rule, including the contract provisions of § 262.85. Transfrontier movements of amber-list or red-list wastes must occur under the terms of a valid written contract, or chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). That contract or equivalent arrangement must specify responsibilities of each entity handling the waste starting with the notifier and ending with the owner or operator of the recovery facility. In addition, hazardous waste importers must comply with all applicable requirements for generators and transporters pertaining to manifesting in 40 CFR Parts 262 and 263 as well as the facility import notification requirements in 40 CFR 264.12 and 265.12 if the facility is subject to Parts 264 or 265. Also, hazardous waste importers in the U.S. must comply with U.S. Customs' rules, provisions under the Toxic Substances Control Act concerning the import of chemical substances (see § IV. B. 6. and VII of today's preamble), and any other applicable legal requirements.

Any U.S. entity that meets the definition of ''consignee'' in today's rule (i.e., the first person to whom possession or other form of legal control of the waste is assigned once received in the importing country), such as transporters, recognized traders, storage facility operators, or recovery facility operators, may be acting as an importer of hazardous wastes and therefore may be subject not only to the requirements of Subpart H but also to current regulations applicable to importers, in 40 CFR Part 262, subpart F.

2. Requirements

a. Notification of Receipt. In order to implement the Decision, today's regulations at § 262.84(d) require that the owner or operator of the U.S. recovery facility send a signed copy of the tracking document to the notifier and to the competent authorities of the concerned countries, including EPA, within three working days of receipt of a waste subject to amber-list or red-list controls. The tracking document must contain the signatures of all parties that had custody of the waste (see § III. D. discussion on tracking documents).

It is important to note that once a hazardous waste enters the U.S., that waste and its management are subject not only to the OECD procedures for transfrontier movements implemented in today's final rule, but also to all other applicable U.S. regulations. Hence, RCRA hazardous wastes subject to today's rules must be managed in accordance with any applicable generator, transporter, and facility requirements (e.g., packaging and labelling, return of manifest to the generator, manifest discrepancy, and storage facility requirements) for hazardous waste recyclables specified in 40 CFR 261.6 and part 266, in addition to the Part 268 standards and requirements under other statutes (e.g., TSCA). When EPA (as the competent authority) receives a notification of potential export from a foreign exporter, the Agency will review the proposed import notice to determine if the waste is destined for a recovery facility that is: (1) authorized to manage the specified waste in accordance with the facility's RCRA permit or interim status requirements; or (2) allowed to receive the waste under U.S. laws and regulations but is not required to have a RCRA permit.

b. Pre-Approval of U.S. Recovery Facilities. The Decision allows importing countries to pre-approve specific recovery facilities for receiving shipments of certain amber-list wastes (see § III. C. 1. c. of today's preamble). EPA has not yet determined whether or how it will pre-approve U.S. recovery facilities but has reserved § 262.88 of today's regulations for this purpose.

EPA currently exempts many waste recycling (e.g., reclamation, recovery, regeneration) units from RCRA permitting standards for the actual recycling of the materials. However, storage of hazardous wastes prior to recycling does trigger RCRA requirements, which may include a permit requirement. There are also special circumstances where EPA either totally or partially exempts certain recycling facilities from RCRA regulation (see § IV of today's preamble). In such cases, EPA waste management officials may lack sufficient information regarding a recycling facility's design and operation, and thus may be unable to adequately assess the suitability of a particular recovery operation to be pre-approved to receive certain amber-listed wastes. The Agency, therefore, will defer consideration of the issue of pre-approval for U.S. recovery facilities until a later date (see § VIII of today's preamble).

G. Reporting and Recordkeeping

The only new recordkeeping requirements imposed in today's rule pertain to recovery facilities, which are now required to send signed copies of the tracking document to the competent authorities of the concerned countries and to retain copies for three years. In addition to these new requirements, EPA recodifies in Subpart H for OECD purposes the current recordkeeping and reporting requirements at 40 CFR 262.51 that are applicable to primary exporters. Recordkeeping and reporting requirements for shipments of recyclable wastes to and from OECD countries are in § 262.87 and apply to individuals, including notifiers and recognized traders, that meet the definition of primary exporter at 40 CFR 262.51.

Annual reports on exports of hazardous waste to OECD countries for recovery must continue to be filed with the Administrator no later than March 1 of each year. As discussed in the August 8, 1986 Final Rule on exports (51 FR 28664), there may be more than one party acting as primary exporter (i.e., persons that are required to originate manifests under Part 262 and any intermediaries arranging for the export). For the purpose of today's rule, EPA expects one party (e.g., notifier or recognized trader acting as notifier) to submit the notification, keep the required records, and submit the required annual report, etc. Parties to transfrontier shipments should decide among themselves which U.S. party should fulfill these duties. Enforcement actions can, however, be taken against all waste handlers (e.g., notifiers, recognized traders, consignees, recovery facilities) associated with the transfrontier movement of wastes for recovery within the OECD.

If an individual is already required under 40 CFR 262.56 to file an annual report for other hazardous waste exports, he need only file one annual report. EPA is requiring, however, that information on OECD exports covered under this Subpart be contained in a separate section of the annual report since the U.S. must provide this information annually to the OECD.

Under § 262.87, annual reports must accurately summarize the types, quantities, frequency, and ultimate destination of all hazardous waste exported during the previous calendar year. In addition, the report must include the facility's EPA identification number, and name and address of the filer; the calendar year covered; the name and address of each final recovery facility; by each final recovery facility, a description of the waste exported, name and address of each transporter used, the total amount of hazardous waste shipped during the year, and the number of shipments during the year; a description of the waste minimization efforts and results during the year;[14] and a certification statement attesting to the accuracy of the information in the report and an acknowledgement of the potential penalties for filing false information. The annual report must also contain the designations of the waste type(s) from the OECD waste lists, the applicable waste code from the OECD lists incorporated by reference in § 262.89 of today's rule, and the U.S. Department of Transportation hazard class. Annual reports must be sent to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

EPA also is recodifying in § 262.87 the requirement in § 262.55 that persons who meet the definition of primary exporters (e.g., notifiers or recognized traders acting as notifiers) must file exception reports, under certain circumstances. For the purpose of OECD exports, the written confirmation of delivery consists of the signed copy of the tracking form sent by the owner or operator of the recovery facility to the notifier as required in the parties' contract pursuant to § 262.85(f).

The Agency is requiring individuals who meet the definition of primary exporters at 40 CFR 262.51 to continue to maintain specified records for at least three years, consistent with current practice and RCRA export recordkeeping requirements. These records include, where applicable, a copy of each annual report from the three previous years, a copy of each written consent obtained from competent authorities of concerned countries (in lieu of EPA Acknowledgement of Consent), and a copy of each confirmation of delivery by the recovery facility (i.e., tracking document). If there is an unresolved enforcement action pending or if requested by the Administrator, the record retention period may be extended.

[14] Waste minimization information is required in even numbered years only. No waste minimization information is required under this section if (1) less than 1,000 kg of waste was exported in each month of the calendar year pursuant to this subpart; or (2) the information was already submitted as part of a biennial report under 40 CFR 262.41.

IV. OECD Waste Lists and Relationship to RCRA

A. Relationship of OECD Wastes and RCRA Hazardous Wastes

The full text of the Decision containing the waste lists is included in the official record for today's rule, and the green, amber, and red waste lists are incorporated by reference in § 262.89 of today's regulations. EPA has developed a table that provides a general guideline of possible RCRA wastes and waste codes that may correspond to the amber and red listings, which is available in the docket for today's rule. Because the OECD waste category descriptions for the amber and red lists are broad and may include both RCRA hazardous waste and waste that is not hazardous under RCRA, EPA is unable to predetermine applicable RCRA waste codes in the absence of information on the physical and chemical characteristics of the particular wastes involved.

B. Status of Specific RCRA Hazardous Wastes

1. Definitions of Wastes Subject to National Procedures

The Decision establishes varying controls depending on whether a waste is considered hazardous by the country of export or import, based on the country's ''national procedures.'' For purposes of today's rule, EPA considers that a waste is hazardous under U.S. national procedures if the waste meets the following RCRA requirements: (1) Meets the Federal definition of hazardous waste in 40 CFR 261.3; and (2) is subject to either the Federal manifest procedures of 40 CFR part 262, or to the universal waste management standards of 40 CFR part 273, or to State requirements analogous to Part 273. (As previously noted, EPA may, in the future, identify wastes under other statutes that are subject to the OECD Decision). Under the RCRA regulations, however, certain wastes do not meet the Federal hazardous waste definition when they are recycled, or are not subject to the Federal manifesting requirements, or are not subject to Federal or State universal waste management standards. Such wastes are exempt from today's rules. [Please see discussion on universal wastes in section IV. B. 6. below.]

Such exempt wastes would, however, remain subject to the controls normally applied to international commercial transactions, just as green-list wastes are subject to these controls (e.g., bill of lading, international insurance, etc.). However, the exporter of U.S. exempt

wastes may still be required by her/his contract with the foreign consignee to comply with notification, consent, and contractual requirements imposed by other concerned countries as a condition of exporting the waste if one or more of those concerned countries considers the waste hazardous. OECD countries are acting within the terms of the Decision if they impose such obligations for wastes they consider hazardous, and will likely reject any shipment which does not comply with these requirements. Thus, if a person is considering exporting recyclable waste to an OECD country, that person should determine the status of the waste in question (under the national procedures of the importing and transit countries) well in advance of the proposed shipment date so that no unnecessary delays are encountered.

2. Exemptions From the Definition of Solid Waste

Current RCRA regulations subject recyclable materials to controls under Subtitle C of RCRA if they meet the definition of solid waste [15] and are identified or listed as hazardous. The determination of whether a recyclable material is a solid waste, and potentially a hazardous waste, depends on the secondary material and the recycling activity [see 50 *FR* 614 (Jan. 4, 1985) and 40 CFR 261.2 for further discussion and requirements].

There is a relatively narrow set of (large volume) hazardous secondary materials that, when recycled, are not defined as solid wastes (e.g., off-specification commercial chemicals that are reclaimed). Therefore, these materials are also not hazardous wastes when recycled, and are therefore not subject to RCRA export/import requirements. Potential notifiers of transfrontier movements of such materials should keep in mind they bear the burden of demonstrating that such materials are exempt from the definition of solid waste under 40 CFR 261.2 [see 40 CFR 261.2(f)]. Notifiers must therefore maintain documentation that can substantiate their claims, consistent with the regulations at 40 CFR 261.2(f).

[15] Under Subtitle C of RCRA, EPA authority is limited to the regulation of ''hazardous waste.'' However, to be regulated as a hazardous waste, a material must first be a ''solid waste.'' Section 1004(27) of RCRA defines solid waste to include *any garbage, refuse, sludge and other discarded material* [see RCRA § 1004(8)]. A central element of this definition is that wastes are ''discarded.'' EPA retains considerable discretion to define whether materials being recycled can be considered to be ''discarded'' [see *American Mining Congress* v. *EPA*, 907 F.2d 1179, 1185–87 (D.C. Cir. 1990); and *American Petroleum Institute* v. *EPA*, 906 F.2d 729 at 740–42 (D.C. Cir. 1990)].

3. Applicability to Hazardous Waste Subject to Special Recycling Standards

EPA's regulatory definition of ''hazardous waste'' includes solid wastes that are listed as hazardous waste or that exhibit a characteristic of ignitability, corrosivity, reactivity, or toxicity. However, there is a very small number of ''hazardous wastes'' that EPA, for various reasons, has conditionally exempted in part from domestic regulation. Because certain of these wastes are also not subject to Federal hazardous waste manifest controls, including but not limited to Federal manifest controls, EPA does not consider these wastes to be hazardous under U.S. national procedures; therefore, these wastes are not subject to the requirements set forth today. Such recyclable wastes are discussed briefly below. In order to determine whether a particular waste in fact qualifies for special recycling consideration, interested persons will need to consult the appropriate RCRA regulations.

a. Scrap Metal. EPA has determined that scrap metal is exempt from regulation as a hazardous waste under Subtitle C when recycled [see 40 CFR 261.6(a)(3)(iii); 50 FR 624 Jan. 4, 1985]. Because scrap metal is also exempt from Federal manifest requirements, it is not considered hazardous under U.S. national procedures. Additionally, scrap metal is on the OECD green list as a non-hazardous waste.

b. Lead-Acid Batteries. Persons who generate, transport, or collect whole spent lead-acid batteries for reclamation are not subject to the Federal manifest requirements. Since spent lead-acid batteries being reclaimed are exempt from Federal manifest requirements, they are not considered hazardous under U.S. national procedures [see 40 CFR 266.80, 261.6(a)(2)(iv)]. Thus, persons exporting whole spent lead-acid batteries for reclamation are not subject to today's export/import requirements. However, they may be required to notify the importing country of their intention to export lead-acid batteries, pursuant to contracts they execute with foreign consignees, because lead-acid batteries are found on the amber list and are considered to be hazardous under the national procedures of many OECD countries. Additional requirements may also apply per contracts with foreign consignees.

4. Wastes Excluded Under 40 CFR 261.4

Many wastes listed in 40 CFR 261.4 are excluded from some or all hazardous waste controls. Because some of these wastes are not defined as solid waste [see 40 CFR 261.4(a)], they cannot be defined as hazardous waste in accordance with Subtitle C of RCRA. Additionally, some of the wastes are specifically excluded from the definition of hazardous waste [see 40 CFR 261.4(b)], and therefore, are not subject to the requirements of Subtitle C. Because these wastes are not defined as hazardous and are not subject to the Federal manifesting procedures, among other procedures, they are not covered under the RCRA export/import requirements set forth today. These exempt wastes may, however, be subject to controls imposed by other OECD countries. EPA expects to bring additional solid wastes that are currently excluded from the definition of hazardous waste under export and import controls in the future.

Below are examples of wastes that are currently identified at 40 CFR 261.4(a) as excluded from the definition of solid waste. Persons interested in determining whether a particular waste is excluded from the definition of solid waste will need to consult 40 CFR 261.4(a) directly.

—Domestic sewage and any mixture of domestic sewage and other waste that passes through a sewer system to a publicly owned treatment works for treatment;
—Industrial point source wastewater discharges subject to § 402 of the Clean Water Act;
—Irrigation return flows; and
—Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.
—Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process;
—Pulping liquors reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless they are accumulated speculatively;
—Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively;
—Secondary materials that are reclaimed and returned for reuse to the original production process where they were generated provided, *inter alia*, that the process is a closed-loop system, only tank storage is involved, and there is no combustion used;
—Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and
—Coke and coal tar from the iron and steel industry that contain or are produced from decanter tank tar sludge (K087) when coke and coal tar are used as a fuel.

The solid wastes that are excluded under 40 CFR 261.4(b) from the definition of hazardous waste include the following wastes listed below. Persons interested in determining whether a particular waste is excluded from the definition of hazardous waste will need to consult 40 CFR 261.4(b) directly.

—Household waste; [16]
—Agricultural crop wastes and manures returned to soil as fertilizer;
—Mining overburden returned to the mine site;
—Fly ash waste, bottom ash waste, and flue gas emission control waste, generated primarily from the combustion of coal or other fossil fuels except as provided in 40 CFR 266.12;
—Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy;
—Certain waste streams that exhibit the characteristic of hazardous waste only for chromium and that were generated by a process using nearly exclusively trivalent chromium in a non-oxidizing process such as certain leather tanning wastes, and wastewater treatment sludges from the production of TiO_2 pigment using chromium-bearing ores by the chloride process;
—Certain solid wastes from the extraction, beneficiation, and processing of ores and minerals except as provided in 40 CFR 266.12;
—Cement kiln dust except as provided in 40 CFR 266.12;
—Under certain circumstances, solid waste that consists of discarded wood products that fail the toxicity characteristic test solely for arsenic and are not hazardous for any other reason;
—Petroleum-contaminated media resulting from an underground storage tank undergoing corrective action;
—Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment destined for reclamation;
—Samples of solid waste, water, soil, or air, which are collected for the sole purpose of testing to determine their characteristics or composition; and
—Certain samples collected for the purposes of conducting treatability testing and analysis.

5. Hazardous Waste Exempted Under 40 CFR 261.5

Under 40 CFR 261.5, hazardous wastes generated by conditionally exempt small quantity generators (CESQGs) (*i.e.*, generators of no more than 100 kilograms per calendar month) are exempt from Subtitle C requirements, including manifesting, provided such generators comply with the requirements in 40 CFR 261.5. Thus, hazardous waste generated by a CESQG or collected from CESQGs is not subject to today's rule. These exempt wastes may, however, be subject to controls imposed by other OECD countries, if those countries consider the wastes to be hazardous.

6. Applicability to Universal Wastes

Today's rule applies to universal wastes as defined in 40 CFR 273 or by State requirements analogous to Part 273. Universal wastes are defined as hazardous wastes, but are subject to streamlined management requirements for collection, accumulation and transportation. For instance, universal wastes are not subject to Federal manifesting requirements. Universal wastes exported to non-OECD countries are, however, subject to certain existing export regulations found in 40 CFR part 262 Subpart E. Today's rule amends the export sections of 40 CFR part 273 to clarify that universal wastes exported to designated OECD countries for purposes of recovery are not subject to 40 CFR 273.20, 273.40, 273.56, but are instead subject to 40 CFR part 262, Subpart H of today's rule. Furthermore, today's rule amends the import section of 40 CFR part 273 to clarify that universal wastes imported from designated OECD countries for purposes of recovery are subject to 40 CFR 273.70 in addition to 40 CFR part 262, Subpart H of today's rule.

7. Non-RCRA Wastes and Other Regulatory Regimes

There are other wastes on the OECD lists that may or may not be regulated under RCRA in the U.S., but that are controlled under other statutes. Such wastes may include PCBs, asbestos, and some chlorinated dioxins and chlorinated furans.[17] Because these materials themselves are not hazardous wastes as defined by RCRA, in most cases, they are not subject to today's requirements (although other OECD countries may subject them to controls). If, however, PCBs, asbestos, chlorinated dioxins, or chlorinated furans are constituents in a waste or waste mixture that is a RCRA listed or characteristic hazardous waste that is subject to Federal manifest requirements under RCRA, these wastes are subject to all applicable export and import requirements under RCRA, including today's regulations. (As previously noted, EPA may, in the future, identify wastes under other statutes that are subject to the OECD Decision).

The Toxic Substances Control Act (TSCA) generally addresses the regulation of materials containing PCBs [see 15 U.S.C. § 6(e)(2)(A)]. EPA proposed a rule on December 6, 1994 (59 FR 62788) which addressed imports and exports of PCBs. EPA plans to promulgate final rules in the near future.

Potential exporters of these wastes may consider contacting the government of the specific OECD country for clarification as to requirements associated with a particular waste type before planning the waste shipment because other countries also may have restrictions on the import or export of such wastes.

C. OECD Waste Lists Incorporated by Reference

The OECD Green List of Wastes (revised May 1994), Amber List of Wastes and Red List of Wastes (both revised May 1993) as set forth in Appendix 3, Appendix 4 and Appendix 5, respectively, to the OECD Council Decision C(92)39/FINAL (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) were approved by the Director of the Federal Register to be incorporated by reference in today's rule on July 11, 1996. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the Federal Register. The materials are available for inspection at: the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC; the U.S. Environmental Protection Agency, 401 M Street, SW, Room M2616, Washington, DC; the Organization for Economic Cooperation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France; and, on the Internet (see instructions for accessing these materials in electronic format in the **SUPPLEMENTARY INFORMATION** section of the preamble to today's rule).

[16] Note that household waste and ash from incineration of household waste appear on the amber list and may, therefore, be subject to OECD procedures outside of the United States. Household waste will be subject to export controls once EPA obtains new statutory authority for exports and imports of waste. In addition, the U.S. Supreme Court has ruled that ash from the incineration of municipal solid waste that exhibits a characteristic of hazardous waste must be managed as hazardous waste. Such characteristically hazardous MSW ash will be subject to Amber controls when exported.

[17] Some dioxin wastes are included in listed RCRA hazardous waste from non-specific sources, hazardous waste numbers F020, F021, F022, F023, F026, and F027 [see 40 CFR 261.31(a)].

V. Applicability in Authorized States

In the same way that existing RCRA export requirements of 40 CFR 262 Subpart E are administered exclusively by EPA and not by States, States may not receive authorization from EPA to control exports of hazardous waste subject to Subpart H. This is because the exercise of foreign relations and international commerce powers is reserved to the Federal government under the Constitution. In the Agency's view, foreign policy interests and exporter interests in expeditious processing are better served by EPA's retention of these functions. In addition, concentrating these responsibilities within EPA will provide the U.S Department of State with a single contact point regarding the transfrontier waste program and will better allow for uniformity and expeditious transmission of information between the United States and foreign countries.

States do, however, play a key role in providing EPA with information on whether U.S. facilities designated to receive hazardous waste imports are authorized to manage specific wastes and in ensuring facility compliance with all applicable environmental laws and regulations. Additionally, EPA may authorize States to receive facility import notifications required under 40 CFR 264.12(a) and 265.12(a).

For the purposes of the transfrontier movement of wastes under current RCRA requirements (and by extension, under today's rule), only those wastes identified or listed under the Federal program that are subject to Federal manifesting requirements are subject to the U.S. requirements for exporting and importing. Thus, hazardous wastes identified or listed by a State under State law that are not included in the Federal hazardous waste universe (*i.e.*, where the State program is broader in scope than the federal hazardous waste program) will not be subject to today's export and import regulations.

VI. Relationship to U.S. Bilateral Agreements

The U.S. has existing bilateral agreements that address transboundary movements of hazardous waste between the U.S. and Mexico and between the U.S. and Canada. Mexico became an OECD member in June 1994. Today's rule implementing the provisions of the Decision will not apply to imports or exports of hazardous waste between the U.S. and Mexico; the provisions of the bilateral agreement with Mexico continue to apply as well as EPA's current export and import regulations, such as those in 40 CFR 262, Subparts E and F, and 40 CFR 264.12(a) and 265.12(a).

Canada is a member of the OECD and has adopted the Decision. Shipments of hazardous waste to and from Canada, both for the purposes of recycling and final disposal, will continue to be subject to the provisions of the U.S./Canada bilateral agreement and to EPA's current import and export regulations. After the Agency has more experience with implementing today's rule for transfrontier shipments between the U.S. and other OECD countries, EPA may revisit this Decision. If so, EPA will publish a notice in the Federal Register and allow the regulated community adequate time to comply with any new requirements imposed.

VII. Relationship to Other Programs

Under Section 13 of the Toxic Substances Control Act (TSCA), importers of ''chemical substances and mixtures'' must certify compliance with TSCA at the point of entry into the United States (see 40 CFR 707.20). Some chemical substances or mixtures as defined by TSCA also can be hazardous wastes as defined by RCRA. Therefore, if a hazardous waste as defined by RCRA meets the definition of a chemical substance or mixture under TSCA, importers [18] must certify compliance with TSCA in accordance with 40 CFR 707.20. This TSCA compliance certification provision requires all importers of chemical substances and mixtures to certify that their shipments are in compliance with all applicable rules or orders under TSCA [see 40 CFR 707.20(b)(2)(i)]. Compliance with TSCA may require, among other things, that the substances are not banned from importation, that they are listed in the TSCA Inventory of chemical substances, and that the substances are not being imported for a ''significant new use'' without first providing notice to EPA at least 90 days prior to the import. If the shipment (including a hazardous waste) contains no material covered by TSCA (*e.g.*, pesticides), then the importer must certify that the substances in the shipment are not subject to TSCA [see 40 CFR 707.20(b)(2)(ii)].

U.S. Customs' regulations for importing require that the importer of record or a Customs broker be responsible for filing entry documentation.[19] The importer of record may be a foreign entity, provided that, in the state or territory where the port of entry is located, there is a resident who is authorized to accept service of process against such foreign entity. Such resident must file a bond having a resident corporation surety to secure payment of any increased or additional duties that may be found due.

VIII. Future Rulemaking

This Decision is a negotiated international agreement that provides nations with some limited flexibility to implement the Decision within their unique domestic waste management schemes. As such, certain definitions and procedures in the Decision are less explicit than current RCRA regulations. It may be appropriate in the future to revise today's regulations to address additional elements of the Decision. Some of the elements of the Decision that the Agency may address in future regulations include:

—Notification and tracking documents. The OECD/WMPG developed recommended, standardized notification and tracking documents for shipments of amber-list and red-list wastes. Once the notification and tracking documents have been in use, they may need to be modified according to experience by the member countries. When use of the forms becomes mandatory by the OECD, the Agency will amend its regulations to require their use.

—Pre-approval of recovery facilities. The Decision allows importing countries to pre-approve recovery facilities. The Agency has not yet decided whether to pre-approve recovery facilities and, if so, whether only RCRA permitted or interim status recovery facilities should qualify for pre-approval or whether pre-approval criteria can feasibly be established for recovery facilities currently exempt from RCRA permit or technical standards. The Agency has already received a proposal for such criteria from the International Precious Metals Institute (IPMI). IPMI's proposal is included in the public docket for today's rule.

—Recognized traders. Consistent with the Decision, today's regulations set forth certain responsibilities for

[18] Under TSCA, an importer is considered the ''manufacturer.'' The term ''manufacture'' is defined in § 3(7) of the act as: ''* * * to import into the Customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States) * * *.''

[19] Under Federal regulations (19 CFR 111), a Customs broker is an individual, a partnership, or an association or corporation who is licensed under Part 111 to transact customs business on behalf of others (19 CFR 111.1). Among other requirements, an individual seeking a broker's license must be a U.S. citizen (19 CFR 111.11(a)). For a partnership, association, or corporation to act as a Customs broker, at least one member or officer must be a licensed Customs broker, which requires U.S. citizenship [19 CFR 111.11(b) and (c)].

recognized traders of hazardous wastes destined for recovery within the OECD. The Agency will be further assessing the relationship of recognized traders, as defined in today's regulations, to waste brokers and whether additional regulations are needed to clarify the scope of coverage and associated responsibilities.

As the Agency gains experience implementing today's regulations, it may identify additional issues requiring further regulatory action.

IX. Regulatory Impact Analysis

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 October 4, 1993), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. This rule raises no novel legal or policy issues. It simply implements the Decision which the U.S. has already supported. The rule promulgates regulatory language that differs from the language of the Decision in only a minimal, nonsubstantive manner, in order to conform this rule to existing RCRA rules. The rule's scope is not broader than that of the Decision. The only costs of this rule are those associated with the additional notification and tracking costs. Analysis in the ICR (Information Collection Request) shows that the annual burden for U.S. exporters and importers will total less than $225,000. This rule will not cause any inconsistencies or interfere with other Agencies' actions, nor materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof.

While EPA recognizes that some companies may experience economic dislocation if there are significant delays in processing notifications and consents, the Agency believes that judicious planning on the part of these companies could eliminate or lessen the impact of such delays, if any. Moreover, the Agency again emphasizes that the Decision imposed these new notification and consent requirements. EPA is merely codifying those requirements in this rule.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, a Regulatory Flexibility Analysis must be performed if the regulatory requirements have a significant impact on a substantial number of small entities. No Regulatory Flexibility Analysis is required where the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Since the enactment of RCRA Section 3017 and the 1986 regulations at 40 CFR part 262, subpart E, generators subject to the manifesting requirements for exports of hazardous waste have been required to comply with notification and consent requirements as a condition of exporting such wastes. Generators who generate less than 100 kgs/mo (conditionally exempt small quantity generators) were not required to comply with these requirements because they are not subject to the manifesting requirements. Conditionally exempt small quantity generators are not subject to any of the requirements of today's rule; thus, the universe of regulated individuals is not changing.

EPA does not believe this rule will increase burdens for any small entities that are not already exempt as small quantity generators. Today's rule is not expected to have a significant economic impact on a substantial number of small entities and does not require a Regulatory Flexibility Analysis. Therefore, pursuant to 5 U.S.C. 601(b), I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

1. Display of OMB Control Numbers

EPA is amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. This amendment updates the table to accurately display those information requirements contained in this final rule. This display of the OMB control number and its subsequent codification in the Code of Federal Regulations satisfies the requirements of the *Paperwork Reduction Act* (44 USC 3501 *et seq.*) and OMB's implementing regulations at 5 CFR 1320.

EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to amend this table without prior notice and comment. Due to the technical nature of the table, further notice and comment would be unnecessary. For the same reasons, EPA also finds that there is good cause under 5 U.S.C. 553(d)(3).

2. Burden Statement

The information collection requirements in this rule have been approved by the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and have been assigned control number 2050–0143.

This collection of information has an estimated reporting burden averaging from 5.74 hours per year per exporter to 2.99 hours per year per importer. This includes time for reviewing regulations/instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch (2136); U.S. Environmental Protection Agency; 401 M Street, S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.''

List of Subjects

40 CFR Part 9

Environmental protection, Information collection, OMB approval, Paperwork reduction.

40 CFR Part 260

Administrative practice and procedure, Confidential business information, Hazardous waste.

40 CFR Part 261

Hazardous waste, Recycling, Reporting and recordkeeping.

40 CFR Part 262

Exports, Hazardous waste, Imports, Incorporation by reference, International agreements, Labeling, Manifest,

Packaging and containers, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 263

Export, Hazardous waste, Hazardous waste transportation, Import, Manifesting, Tracking documents.

40 CFR Part 264

Hazardous waste, Imports, Manifest, Recordkeeping, Recycling.

40 CFR Part 265

Hazardous waste, Imports, Manifest, Recordkeeping requirements, Recycling.

40 CFR Part 266

Precious metals, Recycling.

40 CFR Part 273

Hazardous waste, Recycling, Universal waste.

Dated: November 29, 1995.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter 1, subchapter I of the Code of Federal Regulations, is amended as set forth below.

PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT

1. In Part 9:

a. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1321, 1326, 1330, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

b. Section 9.1 is amended by adding a new entry and heading in numerical order to the table to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
Public Information:	
Part 2, subpart B	2050–0143

* * * * *

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

2. In part 260:

a. The authority citation continues to read as follows:

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

b. Section 260.2(b) is revised to read as follows:

§ 260.2 Availability of information; confidentiality of information.

* * * * *

(b) Any person who submits information to EPA in accordance with parts 260 through 266 and 268 of this chapter may assert a claim of business confidentiality covering part or all of that information by following the procedures set forth in § 2.203(b) of this chapter. Information covered by such a claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in part 2, subpart B, of this chapter except that information required by § 262.53(a) and § 262.83 that is submitted in a notification of intent to export a hazardous waste will be provided to the U.S. Department of State and the appropriate authorities in the transit and receiving or importing countries regardless of any claims of confidentiality. However, if no such claim accompanies the information when it is received by EPA, it may be made available to the public without further notice to the person submitting it.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

3. In 40 CFR part 261:

a. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

b. Section 261.6 is amended by adding paragraph (a)(5) to read as follows:

§ 261.6 Requirements for recyclable materials.

(a) * * *

(5) Hazardous waste that is exported to or imported from designated member countries of the Organization for Economic Cooperation and Development (OECD) (as defined in § 262.58(a)(1)) for purpose of recovery is subject to the requirements of 40 CFR part 262, subpart H, if it is subject to either the Federal manifesting requirements of 40 CFR Part 262, to the universal waste management standards of 40 CFR Part 273, or to State requirements analogous to 40 CFR Part 273.

* * * * *

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

4. The authority citation for part 262 is revised to read as follows:

Authority: 42 U.S.C 6906, 6912, 6922, 6923, 6925, 6937, and 6938.

5. Section 262.10 is amended by redesignating paragraphs (d), (e), (f), and (g) as (e), (f), (g), and (h) respectively and adding a new paragraph (d) to read as follows:

§ 262.10 Purpose, scope, and applicability.

* * * * *

(d) Any person who exports or imports hazardous waste subject to the Federal manifesting requirements of part 262, or subject to the universal waste management standards of 40 CFR Part 273, or subject to State requirements analogous to 40 CFR Part 273, to or from the countries listed in § 262.58(a)(1) for recovery must comply with subpart H of this part.

* * * * *

6. Section 262.53(b) is revised to read as follows:

§ 262.53 Notification of intent to export.

* * * * *

(b) Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, Ariel Rios Bldg., 12th St. and Pennsylvania Ave., NW., Washington, DC. In both cases, the following shall be prominently displayed on the front of the envelope: ''Attention: Notification of Intent to Export.''

* * * * *

7. Section 262.56(b) is revised to read as follows:

§ 262.56 Annual reports.

* * * * *

(b) Annual reports submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Hand-delivered reports should be sent to: Office of Enforcement and Compliance Assurance, Office of

Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, Ariel Rios Bldg., 12th St. and Pennsylvania Ave., NW., Washington, DC.

8. Section 262.58 is amended by adding text to read as follows:

§ 262.58 International agreements.

(a) Any person who exports or imports hazardous waste subject to Federal manifest requirements of Part 262, or subject to the universal waste management standards of 40 CFR Part 273, or subject to State requirements analogous to 40 CFR Part 273, to or from designated member countries of the Organization for Economic Cooperation and Development (OECD) as defined in paragraph (a)(1) of this section for purposes of recovery is subject to Subpart H of this part. The requirements of Subparts E and F do not apply.

(1) For the purposes of this Subpart, the designated OECD countries consist of Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States.

(2) For the purposes of this Subpart, Canada and Mexico are considered OECD member countries only for the purpose of transit.

(b) Any person who exports hazardous waste to or imports hazardous waste from: a designated OECD member country for purposes other than recovery (*e.g.*, incineration, disposal), Mexico (for any purpose), or Canada (for any purpose) remains subject to the requirements of subparts E and F of this part.

9. Part 262 is amended by adding subpart H consisting of §§ 262.80 through 262.89 to read as follows:

Subpart H—Transfrontier Shipments of Hazardous Waste for Recovery within the OECD

Sec.

262.80 Applicability.
262.81 Definitions.
262.82 General conditions.
262.83 Notification and consent.
262.84 Tracking document.
262.85 Contracts.
262.86 Provisions relating to recognized traders.
262.87 Reporting and recordkeeping.
262.88 Pre-approval for U.S. Recovery Facilities (Reserved).
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Subpart H—Transfrontier Shipments of Hazardous Waste for Recovery within the OECD

§ 262.80 Applicability.

(a) The requirements of this subpart apply to imports and exports of wastes that are considered hazardous under U.S. national procedures and are destined for recovery operations in the countries listed in § 262.58(a)(1). A waste is considered hazardous under U.S. national procedures if it meets the Federal definition of hazardous waste in 40 CFR 261.3 and it is subject to either the Federal manifesting requirements at 40 CFR Part 262, Subpart B, to the universal waste management standards of 40 CFR Part 273, or to State requirements analogous to 40 CFR Part 273.

(b) Any person (notifier, consignee, or recovery facility operator) who mixes two or more wastes (including hazardous and non-hazardous wastes) or otherwise subjects two or more wastes (including hazardous and non-hazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under RCRA and any notifier duties, if applicable, under this subpart.

§ 262.81 Definitions.

The following definitions apply to this subpart.

(a) *Competent authorities* means the regulatory authorities of concerned countries having jurisdiction over transfrontier movements of wastes destined for recovery operations.

(b) *Concerned countries* means the exporting and importing OECD member countries and any OECD member countries of transit.

(c) *Consignee* means the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the importing country.

(d) *Country of transit* means any designated OECD country in § 262.58(a)(1) and (a)(2) other than the exporting or importing country across which a transfrontier movement of wastes is planned or takes place.

(e) *Exporting country* means any designated OECD member country in § 262.58(a)(1) from which a transfrontier movement of wastes is planned or has commenced.

(f) *Importing country* means any designated OECD country in § 262.58(a)(1) to which a transfrontier movement of wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.

(g) *Notifier* means the person under the jurisdiction of the exporting country who has, or will have at the time the planned transfrontier movement commences, possession or other forms of legal control of the wastes and who proposes their transfrontier movement for the ultimate purpose of submitting them to recovery operations. When the United States (U.S.) is the exporting country, notifier is interpreted to mean a person domiciled in the U.S.

(h) *OECD area* means all land or marine areas under the national jurisdiction of any designated OECD member country in § 262.58. When the regulations refer to shipments to or from an OECD country, this means OECD area.

(i) *Recognized trader* means a person who, with appropriate authorization of concerned countries, acts in the role of principal to purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person may act to arrange and facilitate transfrontier movements of wastes destined for recovery operations.

(j) *Recovery facility* means an entity which, under applicable domestic law, is operating or is authorized to operate in the importing country to receive wastes and to perform recovery operations on them.

(k) *Recovery operations* means activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses as listed in Table 2.B of the Annex of OECD Council Decision C(88)90(Final) of 27 May 1988, (available from the Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, first floor, Arlington, VA 22203 (Docket # F–94–IEHF-FFFFF) and the Organisation for Economic Co-operation and Development, Environment Direcorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France) which include:

R1 Use as a fuel (other than in direct incineration) or other means to generate energy
R2 Solvent reclamation/regeneration
R3 Recycling/reclamation of organic substances which are not used as solvents
R4 Recycling/reclamation of metals and metal compounds
R5 Recycling/reclamation of other inorganic materials
R6 Regeneration of acids or bases
R7 Recovery of components used for pollution control
R8 Recovery of components from catalysts
R9 Used oil re-refining or other reuses of previously used oil

R10 Land treatment resulting in benefit to agriculture or ecological improvement

R11 Uses of residual materials obtained from any of the operations numbered R1–R10

R12 Exchange of wastes for submission to any of the operations numbered R1–R11

R13 Accumulation of material intended for any operation in Table 2.B

(l) *Transfrontier movement* means any shipment of wastes destined for recovery operations from an area under the national jurisdiction of one OECD member country to an area under the national jurisdiction of another OECD member country.

§ 262.82 General conditions.

(a) *Scope.* The level of control for exports and imports of waste is indicated by assignment of the waste to a green, amber, or red list and by U.S. national procedures as defined in § 262.80(a). The green, amber, and red lists are incorporated by reference in § 262.89 (e).

(1) Wastes on the green list are subject to existing controls normally applied to commercial transactions, except as provided below:

(i) Green-list wastes that are considered hazardous under U.S. national procedures are subject to amber-list controls.

(ii) Green-list waste that are sufficiently contaminated or mixed with amber-list wastes, such that the waste or waste mixture is considered hazardous under U.S. national procedures, are subject to amber-list controls.

(iii) Green-list wastes that are sufficiently contaminated or mixed with other wastes subject to red-list controls such that the waste or waste mixture is considered hazardous under U.S. national procedures must be handled in accordance with the red-list controls.

(2) Wastes on the amber list that are considered hazardous under U.S. national procedures as defined in § 262.80(a) are subject to the amber-list controls of this Subpart.

(i) If amber-list wastes are sufficiently contaminated or mixed with other wastes subject to red-list controls such that the waste or waste mixture is considered hazardous under U.S. national procedures, the wastes must be handled in accordance with the red-list controls.

(ii) [Reserved].

(3) Wastes on the red list that are considered hazardous under U.S. national procedures as defined in § 262.80(a) are subject to the red-list controls of this subpart.

Note to paragraph (a)(3): Some wastes on the amber or red lists are not listed or otherwise identified as hazardous under RCRA (*e.g.*, polychlorinated biphenyls) and therefore are not subject to the amber- or red-list controls of this subpart. Regardless of the status of the waste under RCRA, however, other Federal environmental statutes (e.g., the Toxic Substances Control Act) may restrict certain waste imports or exports. Such restrictions continue to apply without regard to this Subpart.

(4) Wastes not yet assigned to a list are eligible for transfrontier movements, as follows:

(i) If such wastes are considered hazardous under U.S. national procedures as defined in § 262.80(a), these wastes are subject to the red-list controls; or

(ii) If such wastes are not considered hazardous under U.S. national procedures as defined in § 262.80(a), such wastes may move as though they appeared on the green list.

(b) *General conditions applicable to transfrontier movements of hazardous waste.*

(1) The waste must be destined for recovery operations at a facility that, under applicable domestic law, is operating or is authorized to operate in the importing country;

(2) The transfrontier movement must be in compliance with applicable international transport agreements; and

Note to paragraph (b)(2): These international agreements include, but are not limited to, the Chicago Convention (1944), ADR (1957), ADNR (1970), MARPOL Convention (1973/1978), SOLAS Convention (1974), IMDG Code (1985), COTIF (1985), and RID (1985).

(3) Any transit of waste through a non-OECD member country must be conducted in compliance with all applicable international and national laws and regulations.

(c) *Provisions relating to re-export for recovery to a third country.*

(1) Re-export of wastes subject to the amber-list control system from the U.S., as the importing country, to a third country listed in § 262.58(a)(1) may occur only after a notifier in the U.S. provides notification to and obtains consent of the competent authorities in the third country, the original exporting country, and new transit countries. The notification must comply with the notice and consent procedures in § 262.83 for all concerned countries and the original exporting country. The competent authorities of the original exporting country as well as the competent authorities of all other concerned countries have 30 days to object to the proposed movement.

(i) The 30-day period begins once the competent authorities of both the initial exporting country and new importing country issue Acknowledgements of Receipt of the notification.

(ii) The transfrontier movement may commence if no objection has been lodged after the 30-day period has passed or immediately after written consent is received from all relevant OECD importing and transit countries.

(2) Re-export of waste subject to the red-list control system from the original importing country to a third country listed in § 262.58(a)(1) may occur only following notification of the competent authorities of the third country, the original exporting country, and new transit countries by a notifier in the original importing country in accordance with § 262.83. The transfrontier movement may not proceed until receipt by the original importing country of written consent from the competent authorities of the third country, the original exporting country, and new transit countries.

(3) In the case of re-export of amber or red-list wastes to a country other than those in § 262.58(a)(1), notification to and consent of the competent authorities of the original OECD member country of export and any OECD member countries of transit is required as specified in paragraphs (c)(1) and (c)(2) of this section in addition to compliance with all international agreements and arrangements to which the first importing OECD member country is a party and all applicable regulatory requirements for exports from the first importing country.

§ 262.83 Notification and consent.

(a) *Applicability.* Consent must be obtained from the competent authorities of the relevant OECD importing and transit countries prior to exporting hazardous waste destined for recovery operations subject to this Subpart. Hazardous wastes subject to amber-list controls are subject to the requirements of paragraph (b) of this section; hazardous wastes subject to red-list controls are subject to the requirements of paragraph (c) of this section; and wastes not identified on any list are subject to the requirements of paragraph (d) of this section.

(b) *Amber-list wastes.* The export from the U.S. of hazardous wastes as described in § 262.80(a) that appear on the amber list is prohibited unless the notification and consent requirements of paragraph (b)(1) or paragraph (b)(2) of this section are met.

(1) Transactions requiring specific consent:

(i) *Notification.* At least 45 days prior to commencement of the transfrontier

movement, the notifier must provide written notification in English of the proposed transfrontier movement to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, with the words ''Attention: OECD Export Notification'' prominently displayed on the envelope. This notification must include all of the information identified in paragraph (e) of this section. In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, and the same RCRA waste codes are to be sent periodically to the same recovery facility by the same notifier, the notifier may submit one notification of intent to export these wastes in multiple shipments during a period of up to one year.

(ii) *Tacit consent.* If no objection has been lodged by any concerned country (*i.e.*, exporting, importing, or transit countries) to a notification provided pursuant to paragraph (b)(1)(i) of this section within 30 days after the date of issuance of the Acknowledgment of Receipt of notification by the competent authority of the importing country, the transfrontier movement may commence. Tacit consent expires one calendar year after the close of the 30 day period; renotification and renewal of all consents is required for exports after that date.

(iii) *Written consent.* If the competent authorities of all the relevant OECD importing and transit countries provide written consent in a period less than 30 days, the transfrontier movement may commence immediately after all necessary consents are received. Written consent expires for each relevant OECD importing and transit country one calendar year after the date of that country's consent unless otherwise specified; renotification and renewal of each expired consent is required for exports after that date.

(2) Shipments to facilities pre-approved by the competent authorities of the importing countries to accept specific wastes for recovery:

(i) The notifier must provide EPA the information identified in paragraph (e) of this section in English, at least 10 days in advance of commencing shipment to a pre-approved facility. The notification should indicate that the recovery facility is pre-approved, and may apply to a single specific shipment or to multiple shipments as described in paragraph (b)(1)(i) of this section. This information must be sent to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, with the words ''OECD Export Notification—Pre-approved Facility'' prominently displayed on the envelope.

(ii) Shipments may commence after the notification required in paragraph (b)(1)(i) of this section has been received by the competent authorities of all concerned countries, unless the notifier has received information indicating that the competent authorities of one or more concerned countries objects to the shipment.

(c) *Red-list wastes.* The export from the U.S. of hazardous wastes as described in § 262.80(a) that appear on the red list is prohibited unless notice is given pursuant to paragraph (b)(1)(i) of this section and the notifier receives *written* consent from the importing country and any transit countries prior to commencement of the transfrontier movement.

(d) *Unlisted wastes.* Wastes not assigned to the green, amber, or red list that are considered hazardous under U.S. national procedures as defined in § 262.80(a) are subject to the notification and consent requirements established for red-list wastes in accordance with paragraph (c) of this section. Unlisted wastes that are not considered hazardous under U.S. national procedures as defined in § 262.80(a) are not subject to amber or red controls when exported or imported.

(e) *Notification information.* Notifications submitted under this section must include:

(1) Serial number or other accepted identifier of the notification form;

(2) Notifier name and EPA identification number (if applicable), address, and telephone and telefax numbers;

(3) Importing recovery facility name, address, telephone and telefax numbers, and technologies employed;

(4) Consignee name (if not the owner or operator of the recovery facility) address, and telephone and telefax numbers; whether the consignee will engage in waste exchange or storage prior to delivering the waste to the final recovery facility and identification of recovery operations to be employed at the final recovery facility;

(5) Intended transporters and/or their agents;

(6) Country of export and relevant competent authority, and point of departure;

(7) Countries of transit and relevant competent authorities and points of entry and departure;

(8) Country of import and relevant competent authority, and point of entry;

(9) Statement of whether the notification is a single notification or a general notification. If general, include period of validity requested;

(10) Date foreseen for commencement of transfrontier movement;

(11) Designation of waste type(s) from the appropriate list (amber or red and waste list code), descriptions of each waste type, estimated total quantity of each, RCRA waste code, and United Nations number for each waste type; and

(12) Certification/Declaration signed by the notifier that states:

I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally-enforceable written contractual obligations have been entered into, and that any applicable insurance or other financial guarantees are or shall be in force covering the transfrontier movement.

Name: _____

Signature: _____

Date: _____

Note to paragraph (e)(12): The U.S. does not currently require financial assurance; however, U.S. exporters may be asked by other governments to provide and certify to such assurance as a condition of obtaining consent to a proposed movement.

§ 262.84 Tracking document.

(a) All U.S. parties subject to the contract provisions of § 262.85 must ensure that a tracking document meeting the conditions of § 262.84(b) accompanies each transfrontier shipment of wastes subject to amber-list or red-list controls from the initiation of the shipment until it reaches the final recovery facility, including cases in which the waste is stored and/or exchanged by the consignee prior to shipment to the final recovery facility, except as provided in §§ 262.84(a)(1) and (2).

(1) For shipments of hazardous waste within the U.S. solely by water (bulk shipments only) the generator must forward the tracking document with the manifest to the last water (bulk shipment) transporter to handle the waste in the U.S. if exported by water, (in accordance with the manifest routing procedures at § 262.23(c)).

(2) For rail shipments of hazardous waste within the U.S. which originate at the site of generation, the generator must forward the tracking document with the manifest (in accordance with the routing procedures for the manifest in § 262.23(d)) to the next non-rail transporter, if any, or the last rail transporter to handle the waste in the U.S. if exported by rail.

(b) The tracking document must include all information required under § 262.83 (for notification), and the following:

(1) Date shipment commenced.

(2) Name (if not notifier), address, and telephone and telefax numbers of primary exporter.

(3) Company name and EPA ID number of all transporters.

(4) Identification (license, registered name or registration number) of means of transport, including types of packaging.

(5) Any special precautions to be taken by transporters.

(6) Certification/declaration signed by notifier that no objection to the shipment has been lodged as follows:

I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally-enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantees are or shall be in force covering the transfrontier movement, and that:

1. All necessary consents have been received; OR

2. The shipment is directed at a recovery facility within the OECD area and no objection has been received from any of the concerned countries within the 30 day tacit consent period; OR

3. The shipment is directed at a recovery facility pre-authorized for that type of waste within the OECD area; such an authorization has not been revoked, and no objection has been received from any of the concerned countries.

(delete sentences that are not applicable)

Name: _____

Signature: _____

Date: _____

(7) Appropriate signatures for each custody transfer (e.g. transporter, consignee, and owner or operator of the recovery facility).

(c) Notifiers also must comply with the special manifest requirements of 40 CFR 262.54(a), (b), (c), (e), and (i) and consignees must comply with the import requirements of 40 CFR part 262, subpart F.

(d) Each U.S. person that has physical custody of the waste from the time the movement commences until it arrives at the recovery facility must sign the tracking document (*e.g.* transporter, consignee, and owner or operator of the recovery facility).

(e) Within 3 working days of the receipt of imports subject to this Subpart, the owner or operator of the U.S. recovery facility must send signed copies of the tracking document to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and to the competent authorities of the exporting and transit countries.

§ 262.85 Contracts.

(a) Transfrontier movements of hazardous wastes subject to amber or red control procedures are prohibited unless they occur under the terms of a valid written contract, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Such contracts or equivalent arrangements must be executed by the notifier and the owner or operator of the recovery facility, and must specify responsibilities for each. Contracts or equivalent arrangements are valid for the purposes of this section only if persons assuming obligations under the contracts or equivalent arrangements have appropriate legal status to conduct the operations specified in the contract or equivalent arrangement.

(b) Contracts or equivalent arrangements must specify the name and EPA ID number, where available, of:

(1) The generator of each type of waste;

(2) Each person who will have physical custody of the wastes;

(3) Each person who will have legal control of the wastes; and

(4) The recovery facility.

(c) Contracts or equivalent arrangements must specify which party to the contract will assume responsibility for alternate management of the wastes if its disposition cannot be carried out as described in the notification of intent to export. In such cases, contracts must specify that:

(1) The person having actual possession or physical control over the wastes will immediately inform the notifier and the competent authorities of the exporting and importing countries and, if the wastes are located in a country of transit, the competent authorities of that country; and

(2) The person specified in the contract will assume responsibility for the adequate management of the wastes in compliance with applicable laws and regulations including, if necessary, arranging their return to the original country of export.

(d) Contracts must specify that the consignee will provide the notification required in § 262.82(c) prior to re-export of controlled wastes to a third country.

(e) Contracts or equivalent arrangements must include provisions for financial guarantees, if required by the competent authorities of any concerned country, in accordance with applicable national or international law requirements.

Note to paragraph (e): Financial guarantees so required are intended to provide for alternate recycling, disposal or other means of sound management of the wastes in cases where arrangements for the shipment and the recovery operations cannot be carried out as foreseen. The U.S. does not require such financial guarantees at this time; however, some OECD countries do. It is the responsibility of the notifier to ascertain and comply with such requirements; in some cases, transporters or consignees may refuse to enter into the necessary contracts absent specific references or certifications to financial guarantees.

(f) Contracts or equivalent arrangements must contain provisions requiring each contracting party to comply with all applicable requirements of this subpart.

(g) Upon request by EPA, U.S. notifiers, consignees, or recovery facilities must submit to EPA copies of contracts, chain of contracts, or equivalent arrangements (when the movement occurs between parties controlled by the same corporate or legal entity). Information contained in the contracts or equivalent arrangements for which a claim of confidentiality is asserted accordance with 40 CFR 2.203(b) will be treated as confidential and will be disclosed by EPA only as provided in 40 CFR 260.2.

Note to paragraph (g): Although the U.S. does not require routine submission of contracts at this time, OECD Council Decision C(92)39/FINAL allows members to impose such requirements. When other OECD countries require submission of partial or complete copies of the contract as a condition to granting consent to proposed movements, EPA will request the required information; absent submission of such information, some OECD countries may deny consent for the proposed movement.

§ 262.86 Provisions relating to recognized traders.

(a) A recognized trader who takes physical custody of a waste and conducts recovery operations (including storage prior to recovery) is acting as the owner or operator of a recovery facility and must be so authorized in accordance with all applicable Federal laws.

(b) A recognized trader acting as a notifier or consignee for transfrontier shipments of waste must comply with all the requirements of this Subpart associated with being a notifier or consignee.

§ 262.87 Reporting and recordkeeping.

(a) *Annual reports.* For all waste movements subject to this Subpart, persons (*e.g.*, notifiers, recognized traders) who meet the definition of

primary exporter in § 262.51 shall file an annual report with the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter is required to file an annual report for waste exports that are not covered under this Subpart, he may include all export information in one report provided the following information on exports of waste destined for recovery within the designated OECD member countries is contained in a separate section). Such reports shall include the following:

(1) The EPA identification number, name, and mailing and site address of the notifier filing the report;

(2) The calendar year covered by the report;

(3) The name and site address of each final recovery facility;

(4) By final recovery facility, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from 40 CFR part 261, subpart C or D), designation of waste type(s) from OECD waste list and applicable waste code from the OECD lists, DOT hazard class, the name and U.S. EPA identification number (where applicable) for each transporter used, the total amount of hazardous waste shipped pursuant to this Subpart, and number of shipments pursuant to each notification;

(5) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than 100kg but less than 1000kg in a calendar month, and except for hazardous waste for which information was already provided pursuant to § 262.41:

(i) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and

(ii) A description of the changes in volume and toxicity of the waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984; and

(6) A certification signed by the person acting as primary exporter that states:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment.

(b) *Exception reports.* Any person who meets the definition of primary exporter in § 262.51 must file an exception report in lieu of the requirements of § 262.42 with the Administrator if any of the following occurs:

(1) He has not received a copy of the tracking documentation signed by the transporter stating point of departure of the waste from the United States, within forty-five (45) days from the date it was accepted by the initial transporter;

(2) Within ninety (90) days from the date the waste was accepted by the initial transporter, the notifier has not received written confirmation from the recovery facility that the hazardous waste was received;

(3) The waste is returned to the United States.

(c) *Recordkeeping.* (1) Persons who meet the definition of primary exporter in § 262.51 shall keep the following records:

(i) A copy of each notification of intent to export and all written consents obtained from the competent authorities of concerned countries for a period of at least three years from the date the hazardous waste was accepted by the initial transporter;

(ii) A copy of each annual report for a period of at least three years from the due date of the report; and

(iii) A copy of any exception reports and a copy of each confirmation of delivery (*i.e.*, tracking documentation) sent by the recovery facility to the notifier for at least three years from the date the hazardous waste was accepted by the initial transporter or received by the recovery facility, whichever is applicable.

(2) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

§ 262.88 Pre-approval for U.S. Recovery Facilities (Reserved).

§ 262.89 OECD Waste Lists.

(a) *General.* For the purposes of this Subpart, a waste is considered hazardous under U.S. national procedures, and hence subject to this Subpart, if the waste:

(1) Meets the Federal definition of hazardous waste in 40 CFR 261.3; and

(2) Is subject to either the Federal RCRA manifesting requirements at 40 CFR part 262, subpart B, to the universal waste management standards of 40 CFR part 273, or to State requirements analogous to 40 CFR part 273.

(b) If a waste is hazardous under paragraph (a) of this section and it appears on the amber or red list, it is subject to amber- or red-list requirements respectively;

(c) If a waste is hazardous under paragraph (a) of this section and it does not appear on either amber or red lists, it is subject to red-list requirements.

(d) The appropriate control procedures for hazardous wastes and hazardous waste mixtures are addressed in § 262.82.

(e) The OECD Green List of Wastes (revised May 1994), Amber List of Wastes and Red List of Wastes (both revised May 1993) as set forth in Appendix 3, Appendix 4 and Appendix 5, respectively, to the OECD Council Decision C(92)39/FINAL (Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations) are incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 on July 11, 1996. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the Federal Register. The materials are available for inspection at: the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC; the U.S. Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, first floor, Arlington, VA 22203 (Docket # F–94–IEHF–FFFFF) and may be obtained from the Organisation for Economic Co-operation and Development, Environment Direcorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France.

PART 263—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

10. The authority citation for part 263 is revised to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922, 6923, 6925, 6937, and 6938.

11. Section 263.10 is amended by adding paragraph (d) to read as follows:

§ 263.10 Scope.

* * * * *

(d) A transporter of hazardous waste subject to the Federal manifesting requirements of 40 CFR part 262, or subject to the waste management standards of 40 CFR part 273, or subject

to State requirements analogous to 40 CFR part 273, that is being imported from or exported to any of the countries listed in 40 CFR 262.58(a)(1) for purposes of recovery is subject to this Subpart and to all other relevant requirements of subpart H of 40 CFR part 262, including, but not limited to, 40 CFR 262.84 for tracking documents.

12. Section 263.20(a) is revised to read as follows:

§ 263.20 The manifest system.

(a) A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest signed in accordance with the provisions of 40 CFR 262.20. In the case of exports other than those subject to subpart H of 40 CFR part 262, a transporter may not accept such waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgement of Consent; and unless, in addition to a manifest signed in accordance with the provisions of 40 CFR 262.20, such waste is also accompanied by an EPA Acknowledgement of Consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of subpart H of 40 CFR part 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by 40 CFR 262.84.

* * * * *

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

13a. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a) 6924, and 6925, 13b. Section 264.12 is amended by redesignating paragraph (a) as paragraph (a)(1) and by adding a paragraph (a)(2) to read as follows:

§ 264.12 Required notices.

(a) * * *

(2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to 40 CFR part 262, subpart H must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the competent authorities of all other concerned countries within three working days of receipt of the shipment. The original of the signed tracking document must be maintained at the facility for at least three years.

* * * * *

14. Section 264.71 is amended by adding paragraph (d) after the comment to read as follows:

§ 264.71 Use of manifest system.

* * * * *

(d) Within three working days of the receipt of a shipment subject to 40 CFR part 262, subpart H, the owner or operator of the facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

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

15. The authority citation for part 265 is revised to read as follows:

Authority: 42 U.S.C 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, and 6937.

16. Section 265.12 is amended by redesignating paragraph (a) as paragraph (a)(1) and by adding paragraph (a)(2) to read as follows:

§ 265.12 Required notices.

(a) * * *

(2) The owner or operator of a recovery facility that has arranged to receive hazardous waste subject to 40 CFR part 262, subpart H must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460 and to the competent authorities of all other concerned countries within three working days of receipt of the shipment. The original of the signed tracking document must be maintained at the facility for at least three years.

* * * * *

17. Section 265.71 is amended by adding paragraph (d) after the comment to read as follows:

§ 265.71 Use of the manifest system.

* * * * *

(d) Within three working days of the receipt of a shipment subject to 40 CFR part 262, subpart H, the owner or operator of facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

18. The authority citation for part 266 is revised to read as follows:

Authority: 42 U.S.C 1006, 2002(a), 3004, 3014, 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6934, and 6937.

19. Section 266.70 is amended by adding paragraph (b)(3) and by adding the word ''and'' at the end of paragraph (b)(2) to read as follows:

§ 266.70 Applicability and requirements.

* * * * *

(b) * * *

(3) For precious metals exported to or imported from designated OECD member countries for recovery, subpart H of part 262 and § 265.12(a)(2) of this chapter. For precious metals exported to or imported from non-OECD countries for recovery, subparts E and F of 40 CFR part 262.

* * * * *

PART 273—STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

20a. The authority citation for part 273 continues to read as follows:

Authority: 42 U.S.C. 6922, 6923, 6924, 6925, 6930, and 6937. 20b. The introductory text for § 273.20 is revised to read as follows:

§ 273.20 Exports.

A small quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58(a)(1) (in which case the handler is subject to the requirements of 40 CFR part 262, subpart H) must:

* * * * *

21. The introductory text for § 273.40 is revised to read as follows:

§ 273.40 Exports.

A large quantity handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58(a)(1) (in which case the handler is subject to the requirements of 40 CFR part 262, subpart H) must:

* * * * *

22. The introductory text for § 273.56 is revised to read as follows:

§ 273.56 Exports.

A universal waste transporter transporting a shipment of universal waste to a foreign destination other than to those OECD countries specified in 40 CFR 262.58(a)(1) (in which case the transporter is subject to the requirements of 40 CFR part 262, subpart H) may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must ensure that:

* * * * *

23. Section 273.70 is amended by revising the introductory text and by adding a new paragraph (d) to read as follows:

§ 273.70 Imports.

Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this part, immediately after the waste enters the United States, as indicated in paragraphs (a) through (c) of this section:

* * * * *

(d) Persons managing universal waste that is imported from an OECD country as specified in 40 CFR 262.58(a)(1) are subject to paragraphs (a) through (c) of this section, in addition to the requirements of 40 CFR part 262, subpart H.

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Friday
April 12, 1996

Part III

Department of Health and Human Services

Administration for Children and Families

Discretionary Grants Program, Fiscal Year 1996; Application; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–96–01]

Request for Applications Under the Office of Community Services' Fiscal Year 1996 Discretionary Grants Program

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Request for applications under the Office of Community Services' Discretionary Grants Program.

SUMMARY: The Administration for Children and Families, Office of Community Services (OCS) announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under sections 681(a) and (b) of the Community Services Block Grant Act of 1981, as amended. This Program Announcement consists of seven parts: Part A covers information on legislative authorities and defines terms used in the Program Announcement;

Part B lists the two program priority areas under which grants will be made, describes the types of projects that will be considered for funding under each priority area, and defines which organizations are eligible to apply;

Part C provides details on application prerequisites, funds available in each priority area, limitations on grant amounts, project periods, who should benefit from the programs, and other application requirements;

Part D describes the application procedures, including the availability of forms, where and how to submit an application, the criteria used in screening and evaluating applications, and compliance with Federal requirements regarding the drug-free workplace and debarment requirements in submitting the application;

Part E describes the contents of the application package and receipt process;

Part F provides instructions for completing the SF–424 following standard Federal guidelines as well as OCS specific requirements, and describes how the project narrative should be ordered and presented; and

Part G details post-award information and reporting requirements.

CLOSING DATES: The closing date and time for receipt of applications is 4:30 p.m., eastern time zone, on June 11, 1996. Applications received after 4:30 p.m. on that day will be classified as late. Postmarks and other similar documents do not establish receipt of an application. Detailed application submission instructions including the addresses where applications must be received are found in Part D of this announcement.

FOR FURTHER INFORMATION CONTACT: Office of Community Services, Joseph Carroll, Division of Community Discretionary Programs, Administration for Children and Families, 370 L'Enfant Promenade S.W., Washington, D.C. 20447, Telephone (202) 401–9345.

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Part A—Preamble

1. Legislative Authority

Section 681(a) and 681(b)(2) of the Community Services Block Grant Act, as amended, authorizes the Secretary to make funds available to support program activities of national or regional significance to alleviate the causes of poverty in distressed communities with special emphasis on community and economic development activities.

2. Departmental Goals

This announcement is particularly relevant to the Departmental goal of strengthening the American family and promoting self-sufficiency. These programs have objectives of increasing the access of low-income people to employment- related opportunities, improving job skills, and improving the integration, coordination, and continuity of the various HHS (and other Federal Departments') funded services potentially available to families living in poverty.

3. Definition of Terms

For purposes of this Program Announcement the following definitions apply:

—Community development corporation: a private, nonprofit entity, governed by a board consisting of residents of the community and business and civic leaders, which has as a principal purpose planning, developing, or managing low-income housing or community development projects.

—Displaced worker: An individual who is in the labor market but has been unemployed for six months or longer.

—Distressed community: A geographic urban neighborhood or rural community of high unemployment and pervasive poverty.

—Eligible applicant: (See appropriate Priority Area under Part B.)

—Empowerment Zones and Enterprise Communities: Those communities designated as such by the Secretaries of Agriculture or Housing and Urban Development.

—Indian tribe: A tribe, band, or other organized group of Indians recognized in the State in which it resides or which is considered by the Secretary of the Interior to be an Indian tribe or an Indian organization for any purpose. For the purpose of Priority Area 1.0 (Urban and Rural Community Economic Development) an Indian tribe or Indian organization is ineligible unless the applicant organization is a private non-profit community economic development corporation.

—Job Creation: To bring about, by activities and services funded under this program, new jobs, that is, jobs that were not in existence before the start of the project. These activities can be the development of new business ventures or the expansion of existing businesses.

(Note: Do not confuse this with Job Placement which is placing a person in a vacant job.)

—Job Retention: Jobs that are saved as a result of the OCS grant. (For

example, saving a business that may be headed towards bankruptcy or stopping a business that may be relocating which would cause the loss of low-income jobs).

—Budget period: The interval of time into which a grant period of assistance is divided for budgetary and funding purposes.

—Project period: The total time for which a project is approved for support, including any approved extensions.

—Employment Education and Training Program: A program that provides education and/or training to welfare recipients, at-risk youth, public housing tenants, displaced workers, homeless and low-income individuals and that has demonstrated organizational experience in education and training for these populations (JOBS, JTPA, etc).

—Technical Assistance: A problem-solving event generally utilizing the services of an expert. Such services may be provided on-site, by telephone, or other communications. These services address specific problems and are intended to assist with the immediate resolution of a given problem or set of problems.

4. Availability of Funds

All grant awards are subject to the availability of appropriated funds.

Part B—Program Priority Areas

The program priority areas of the Office of Community Services' Discretionary Grants Program are as follows:

Priority Area 1.0 Urban and Rural Community Economic Development.

Sub-Priority Areas Under 1.0

1.1 Urban and Rural Community Economic Development (Operational).
1.2 Urban and Rural Community Economic Development (HBCU Set-Aside).
1.3 Urban and Rural Community Economic Development (Pre-Developmental Set-Aside).
1.4 Urban and Rural Community Economic Development (Developmental Set-Aside).
1.5 Administrative and Management Expertise (Set-Aside).
1.6 Training and Technical Assistance (Set-Aside).

Priority Area 2.0 Rural Community Development Activities.

Sub-Priority Area 2.1 Rural Community Facilities Development (Water and Waste Water Treatment Systems Development).

Priority Area 1.0 Urban and Rural Community Economic Development.

Eligible applicants are private, non-profit community development corporations governed by a board consisting of residents of the community and business and civic leaders which have as a principal purpose planning, developing, or managing low-income housing or community development projects.

The purpose of this priority area is to encourage the creation of projects intended to provide employment and business development opportunities for low-income people through business, physical or commercial development, and generally to improve the quality of the economic and social environment of low-income residents, including displaced workers, at-risk teenagers, individuals residing in public housing, and individuals who are homeless, especially those with developmental disabilities. It is intended to provide resources to eligible applicants but also has the broader objectives of arresting tendencies toward dependency, chronic unemployment, and community deterioration in urban and rural areas. Sub-Priority Area 1.5 is intended to provide administrative and management expertise to current Office of Community Services' grantees who are experiencing problems in the implementation of urban and rural community economic development projects. Sub-Priority Area 1.6 is intended to provide training and technical assistance to groups of community development corporations in developing or implementing projects funded under this section and to generally enhance the viability and competence of community development corporations.

To this end, the program also seeks to attract additional private capital into distressed communities, including empowerment zones and enterprise communities, and to build and/or expand the ability of local institutions to better serve the economic needs of local residents.

Sub-Priority Area 1.1 Urban and Rural Community Economic Development (Operational)

Funds will be provided to a limited number of private non-profit community development corporations for business development activities at the local level. Funding will be provided for specific projects and will require the submission of business plans or developmental proposals that meet the test of economic feasibility.

For Fiscal Year 1996, it is anticipated that approximately twenty (20) grants up to a maximum of $350,000 will be awarded and approximately ten (10) grants over $350,000 but up to $700,000 will be made. Competition for these funds will be restricted to either the $350,000 and under or over $350,000 but up to $700,000 categories. Each category of funds will compete only among themselves.

Projects must further the Departmental goals of strengthening American families and promoting their self-sufficiency. OCS is particularly interested in receiving applications that stress public-private partnerships that are directed toward the development of economic self-sufficiency through a focus on economic expansion.

Applicants located in empowerment zones and enterprise communities are urged to submit applications. Such applicants may request funds for a business development project or a project that demonstrates innovative ways to create jobs in the community.

Applications must show that the proposed project:

(1) Creates full-time permanent jobs except where an applicant demonstrates that a permanent part-time job produces actual wages that exceed the HHS poverty guidelines. Seventy-five percent (75%) of those jobs created must be filled by low-income residents of the community and must also provide for career development opportunities. Project emphasis should be on employment of individuals who are unemployed or on public assistance, with particular emphasis on at-risk teenagers, AFDC recipients who are participating in the JOBS program, individuals residing in public housing, and individuals who are homeless. While projected employment in future years may be included in the application, it is essential that the focus of employment projects concentrate on those jobs created during the duration of the OCS project period; and/or

(2) Creates a significant number of business development opportunities for low-income residents of the community or significantly aids such residents in maintaining economically viable businesses; and

(3) Provides for establishing the self-sufficiency of program participants.

In the evaluation process, favorable consideration will be given to applicants under this priority area who show the lowest cost-per-job created. Unless there are extenuating circumstances, OCS will not fund projects where the cost-per-job in OCS funds exceeds $15,000.

In addition, favorable consideration in the evaluation process will be given to applicants who demonstrate their intention to coordinate services with the local public assistance offices and/or other employment education and training offices that serve the proposed area. The JOBS or other employment education and training offices should serve welfare recipients, at-risk youth, public housing tenants, displaced workers, homeless and low-income individuals (as defined by DHHS poverty guidelines). Applicants should submit a written agreement from the JOBS or other local employment education and training office that indicates what actions will be taken to integrate/coordinate services that relate directly to the project for which funds are being requested. The agreement should include the goals and objectives (including target groups) that the applicant and the employment education and training office expect to reach through their collaboration. It should describe the cooperative relationship, including specific activities and/or actions each of these entities proposes to carry out in support of the project, and the mechanism(s) to be used in coordinating those activities if the project is funded by OCS. Documentation that illustrates the organizational experience of the employment education and training office should also be included.

Any applicant which proposes to use the requested OCS funds to make an equity investment such as the purchase of stock, or a loan to a business concern, including a wholly-owned subsidiary, or to make a sub-grant with a portion of the OCS funds, must include the terms of the proposed transaction. For example, regarding a stock purchase, the cost per share, number of shares and percentage of ownership is needed. Also the application must include a written agreement with the third party that commits the latter to the following:

1. A minimum of 75% of the jobs to be created under the grant will be for low-income individuals.

2. The grantee will have authority to screen applicants for jobs to be filled by low-income individuals and to verify their eligibility.

3. The grantee will have a seat on the Board of Directors of the third party's firm if the grantee's investment equals 25% or more of the firm's assets. (Not applicable to loans made to third parties.)

4. Reports will be made on a quarterly basis to the grantee on the use of grant funds.

5. A procedure will be developed to assure that there are no duplicative counts of jobs created.

6. Detailed information will be provided on how the grant funds will be used by the third party by submitting a Source and Use of Funds Statement. In addition, the agreement will provide details on how the community development corporation will provide support and technical assistance to the third-party in areas of recruitment and retention of low-income individuals.

OCS encourages applications that will develop linkages or agreements with local agencies responsible for administering public assistance programs. OCS would expect these programs to train public assistance recipients and create new jobs for public assistance recipients through a variety of business development projects funded under this priority area, i.e., business expansions, new business development and start up entities, etc.

Any funds that are proposed to be used for training purposes must be limited to providing specific job-related training to those individuals who have been selected for employment in the grant supported project for newly created positions. Projects involving training and placement for existing vacant positions will be disqualified.

Projects which would result in the relocation of a business from one geographic area to another with the possible displacement of employees are discouraged.

OCS will not consider applications that propose to establish or expand revolving loan funds, nor proposals that are geared towards the establishment of Small Business Investment Corporations or Minority Enterprise Small Business Investment Corporations.

OCS does not anticipate approving the funding of applications which propose to sub-grant all or most of the grant activities to an unrelated entity.

Applicants must be aware that projects funded under this priority area must be operational by the end of the project period, i.e., businesses must be in place, and low-income individuals actually employed in those businesses.

See Part F, 7, d, for special instructions on developing a work program for this priority area.

Sub-Priority Area 1.2 Urban and Rural Community Economic Development (HBCU Set-Aside)

For Fiscal Year 1996, it is anticipated that a set-aside fund of $2,100,000 will be included under this priority area for eligible applicants that submit projects that will be carried out in conjunction with Historically Black Colleges and Universities through contract or sub-grant. Such projects must conform to the purposes, requirements and prohibitions applicable to those submitted under Sub-Priority Area 1.1.

These projects should reflect a significant partnership role for the college or university, and the applicant in doing so will be considered to have fulfilled the goals of the Public-Private Partnerships evaluation criterion and will be granted the maximum number of points in that category. Applications for these set-aside funds which are not funded due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants under Sub-Priority Area 1.1. Any funds that are not used under this sub-priority area due to the limited number of highly scored applications will be rolled over into Sub-Priority Area 1.1.

Any funds that are proposed to be used for training must be directly related to the project and individuals trained should be placed in the *newly created* job or business.

See Part F, 7, d, for special instructions on developing a work program for this priority area.

Sub-Priority Area 1.3 Urban and Rural Community Economic Development (Pre-Developmental Set-Aside)

OCS intends in this priority area to provide funds to recently-establishment private, non-profit community development corporations which propose to undertake economic development activities in distressed communities.

OCS recognizes that there are a number of newly-organized non-profit community development corporations who have identified needs in their communities but who have not had the staff or other resources to develop projects to address those needs. This lack of resources also might be affecting their ability to compete for funds, such as those provided under OCS's Urban and Rural Community Development Program (Operational Grants) since their limited resources would preclude them from developing a comprehensive business plan and/or mobilizing resources. OCS has an interest in providing support to these new entities in order to enable them to become more firmly established in their communities, thereby bringing technical expertise and new resources to these previously unserved or underserved communities. Therefore, OCS is setting aside funds in Fiscal Year 1996 for grants to private non-profit community development corporations that have never received OCS funding; have been in existence for

no more than three years or have been in existence longer than three years but have no record of participation in economic development type projects. For the latter, a CDC must state that it has not been active. We anticipate that grants of up to $75,000 each will be made to eligible applicants. These grants will be made for a period of one year and will not require matching funds.

These grants will be pre-developmental grants under which CDCs may incur costs to: (1) Evaluate the feasibility of potential projects which address identified needs in the low-income community and which conform to those projects and activities allowable under Sub-Priority Areas 1.1, 1.2, and 1.4; (2) develop a Business Plan related to one of those projects; and (3) mobilize resources to be contributed to projects, including the utilization of Historically Black Colleges and Universities.

Based on the availability of funds in Fiscal Year 1997, OCS will consider establishing a set-aside to provide operational funds to those organizations which received pre-developmental grants. Grants might be for a maximum of $250,000 and competition for those funds would be restricted to those organizations receiving Fiscal Year 1996 pre-developmental grants. The Business Plan developed as a result of the pre-developmental grant would be submitted as part of the competitive application.

Each application for Fiscal Year 1996 funded under this Priority Area must include the following as part of the project narrative.

1. Description of the impact area, i.e., a description of the low-income area it proposes to address;

2. Analysis of need in the distressed community;

3. Project objectives and measurable impact, i.e., a discussion of the types of projects that might be implemented to address the identified needs and how the proposed projects relate to the applicant's organizational goals and previous experience (if any); and

4. Implementation factors and quarterly work plans with specific task timelines.

Applications for these set-aside funds which are not funded due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants under Sub-Priority Area 1.1.

Sub-Priority Area 1.4 Urban and Rural Community Economic Development (Developmental Set Aside)

OCS intends in this priority area to provide funds to organizations who received grants from OCS in Fiscal Years 1994 and 1995 under the Pre-Developmental grant program. These organizations will compete only among themselves. Such projects must conform to the purposes, requirements and prohibitions applicable to those submitted under Priority Area 1.1. Applications which are not funded within this set-aside due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants under Sub-Priority Area 1.1.

Sub-Priority Area 1.5 Administrative and Management Expertise

OCS believes that one of the most effective means of assuring the successful operation of a project under the Discretionary Grants Program area is through the sharing amongst CDCs of their experiences in dealing with the day to day issues and challenges presented in promoting community economic development. Accordingly, OCS strongly encourages more experienced CDCs to share their administrative and management expertise with less experienced CDCs or with those who have encountered difficulties in operationalizing their work programs. In order to facilitate this, OCS will provide funds to one or more community development corporations (as defined in Part A.3) to assist with their efforts to enhance the management and operational capacities of the less experienced CDCs or those having difficulties.

We anticipate that the grant(s) would be for a maximum of $500,000 with a project period not to exceed 17 months. OCS will share with the grantee(s) information on other grantees seeking to benefit from such assistance. Such formal requests could also be initiated by a grantee with the concurrence of OCS. These contacts may occur on-site, by telephone, or by other methods of communication. Costs incurred in connection with participating in such activities will be borne by the recipient(s) of the OCS grant under this sub-priority area.

Sub-Priority Area 1.6 Training and Technical Assistance

Funds will be awarded to one organization under this priority area for the purpose of providing training and technical assistance to strengthen the network of CDCs.

We anticipate that the grant will be for $210,000 with a grant period not to exceed 17 months. Applicant must have the ability to collect and analyze data nationally that may benefit CDCs and be able to disseminate information to all of OCS funded grantees; publish a national directory of funding sources for CDCs (public, corporate, foundation, religious); publish research papers on specific aspects of job creation by CDCs; design and provide information on successful projects and economic niches that CDCs can target. The applicant will also be responsible for the development of instructional programs, national conferences, seminars, and other activities to assist community development corporations.

Eligible applicants are private non-profit organizations. Applicants must operate on a national basis and have significant and relevant experiences in working with community development corporations.

Priority Area 2.0 Rural Community Development Activities

Sub-Priority Area 2.1 Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)

Funds will be provided under this priority area to help low-income rural communities develop the capability and expertise to establish and/or maintain affordable, adequate and safe water and waste water treatment facilities. Funds provided under this priority area may not be used for construction of water and waste water treatment systems or for operating subsidies for such systems, but other mobilized funds may be used for these activities. Therefore, it is suggested that applicants coordinate projects with the Farmers Home Administration (FmHA) and other Federal and State agencies to ensure that funds for hardware for local community projects are available.

Eligible applicants are multi-state, regional private non-profit organizations that can provide training and technical assistance to small, rural communities in meeting their community facility needs.

See Part F, 7, d, for special instructions on developing a work program for this priority area.

Part C—Application Prerequisites

1. Eligible Applicants

Priority areas included in this Program Announcement have differing eligibility requirements. Therefore, eligible applicants are identified in the

individual priority area descriptions found in Part B, above.

2. Availability of Funds

a. FY 1996 Funds

The approximate amount of funds anticipated to be available for each Priority Area is summarized below:

Priority area	Fiscal year 1996 funds
1.0 Urban and Rural Community Economic Development:	
1.1 Urban and Rural Community Economic Development (Operational)	$14,000,000
1.2 Urban and Rural Community Economic Development (HBCU Set-Aside)	2,100,000
1.3 Urban and Rural Community Economic Development (Pre-Developmental Set-Aside)	750,000
1.4 Urban and Rural Community Economic Development (Developmental Set-Aside)	2,500,000
1.5 Grantee Assistance (Set-side)	500,000
1.6 Training & Technical Assistance (Set-Aside)	210,000
2.1 Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)	3,009,000

b. Grant Amounts

The approximate amounts to be granted for projects under the Priority Areas are indicated below:

Sub-priority area	Funding limit
1.1	Approximately 10 at $700,000. Approximately 20 at $350,000.
1.2	Approximately 6 at $350,000.
1.3	Approximately 10 at $75,000.
1.4	Approximately 10 at $250,000.
1.5	Approximately 1 at $500,000.
1.6	Approximately 1 at $210,000.
2.1	Approximately 7 from $221,000–$425,000.

3. Project and Budget Periods

For Sub-Priority Areas 1.1, 1.2, and 1.4, applicants with projects involving construction only, may request project and budget periods up to 36 months. Applicants for non-construction under these priority areas may request project periods up to 36 months and budget periods up to 17 months. Sub-Priority Areas 1.5, and 1.6 may request project and budget periods of up to 17 months. For Sub-Priority Area 2.1, grantees will be funded for a 12 month project period. For Sub-Priority Area 1.3, applicants may request project and budget periods of up to 12 months.

4. Mobilization of Resources

OCS encourages and strongly supports mobilization of resources through public/private partnerships which can mobilize cash and/or third-party in-kind contributions.

5. Program Beneficiaries

Projects proposed for funding under this Announcement must result in direct benefits to low-income people as defined in the most recent Annual Revision of Poverty Income Guidelines published by DHHS.

Attachment A to this Announcement is an excerpt from the Poverty Income Guidelines currently in effect. Annual revisions of these guidelines are normally published in the Federal Register in February or early March of each year. Grantees will be required to apply the most recent guidelines throughout the project period. These revised guidelines may be obtained by accessing the OCS Electronic Bulletin Board (see ''For Further Information Contact'' at the beginning of this Announcement), at public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

No other government agency or privately-defined poverty guidelines are applicable for the determination of low-income eligibility for these OCS programs.

Note, however, that low-income individuals granted lawful temporary resident status under Sections 245A or 210A of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986 (Public Law 99–603) may not be eligible for direct or indirect assistance based on financial need under this program for a period of five years from the date such status was granted.

6. Number of Projects in Application

An application may contain only one project (except for Sub-Priority Areas 1.3, 1.5, and 1.6) where applicants are researching various opportunities, are sharing administrative and management expertise with current OCS grantees, or are providing training and/or technical assistance for current OCS grantees, including the organization of seminars and other activities in assisting Community Development Corporations. Applications which are not in compliance with this requirement will be ineligible for funding.

7. Multiple Submittals

There is no limit to the number of applications that can be submitted under a specific program priority area as long as each application contains a proposal for a different project. However, an applicant can receive only one grant in each Priority Area.

8. Sub-Contracting or Delegating Projects

OCS does not fund projects where the role of the applicant is *primarily* to serve as a conduit for funds to organizations other than the applicant. The applicant must have a substantive role in the implementation of the project for which funding is requested.

9. Previous Performance and Current Grants

Previous performance of applicants will be considered an important determining factor in the grant award decisions. Any applicant which has three or more active OCS grants may only be funded under exceptional circumstances.

Part D—Application Procedures

1. Availability of Forms

Attachments B, C, and D contain all of the standard forms necessary for the application for awards under these OCS programs. These forms may be photocopied for the application.

Copies of the Federal Register containing this announcement are available at most local libraries and Congressional District Offices for reproduction. If copies are not available at these sources, they may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION CONTACT** at the beginning of this announcement.

For purposes of this announcement, all applicants will use the following forms:

SF 424
SF 424A
SF 424B

Applications proposing construction projects will also present all required financial data using SF–424A. Instructions for completing the SF–424, SF–424A, and SF–424B are found in Attachments B, C, and D.

Part F contains instructions for the project narrative and project abstract. They will be submitted on plain bond paper along with the SF–424 and related forms.

Attachment K provides a checklist to aid applicants in preparing a complete application package for OCS.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments E and F.

2. Application Submission

The closing time and date for receipt of applications are 4:30 p.m. (Eastern Standard Time) on June 11, 1996. Applications received after 4:30 p.m. will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U. S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S. W., Mail Stop 6C–462, Washington, D. C. 20447, Attention: Application for Discretionary Grants Program. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications handcarried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., at the U. S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, S. W., Washington, D. C. 20024, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is widespread disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

One signed original application and four copies are required. The first page of the SF–424 must contain in the lower right-hand corner, a designation indicating under which sub-priority area funds are being requested (for example, 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, or 2.1). See Part F, section 1, subsection 11 for details.

3. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Virginia, Washington, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., 6th Floor, Washington, D.C. 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment G of this announcement.

4. Application Consideration

Applications which meet the screening requirements in sections 5a and b below may be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program priority area guidelines and evaluation criteria published in this announcement.

Applications submitted under all priority areas (with the exception of Sub-Priority Area 1.6) will be reviewed by persons outside of the OCS unit which will be directly responsible for programmatic management of the grant. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since the Director may also consider other factors deemed relevant including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on previous OCS or other Federal agency grants. Applicants with

three or more active OCS grants at the time of review may be denied funding. In addition, for applications received under 1.0, OCS will consider the relative proportion of funding among rural and urban areas in accordance with Section 681(b)(1)(D) of the Act.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

5. Criteria for Screening Applicants

a. Initial Screening

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

(1) The application must contain a Standard Form 424 ''Application for Federal Assistance'' (SF–424), a budget (SF–424A), and signed ''Assurances'' (SF 424B) completed according to instructions published in Part F and Attachments B, C, and D of this Program Announcement.

(2) An Executive Summary and a project abstract must also accompany the standard forms.

(3) The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

(4) The application must be submitted for consideration under one priority area only.

b. Pre-Rating Review

Applications which pass the initial screening will be forwarded to reviewers and/or OCS staff prior to the programmatic review to verify that the applications comply with this Program Announcement in the following areas:

(1) *Eligibility:* Applicant meets the eligibility requirements for the priority area under which funds are being requested. Proof of non-profit status must be included in the Appendices of the Project Narrative where applicable. Applicants must also be aware that the applicant's legal name as required in SF–424 (Item 5) *must match* that listed as corresponding to the Employer Identification Number (Item 6).

(2) *Number of Projects:* An application may contain only one project (except for Sub-Priority Areas 1.3, 1.5, and 1.6) where applicants are researching various opportunities, sharing administrative and management expertise with current OCS grantees, or are providing assistance to current OCS grantees, or providing training and/or technical assistance for current OCS grantees, including the organization of seminars and other activities to assist Community Development Corporations and this project must be identified as responding to one of the program priority areas stated in this Announcement.

Applicants which are not in compliance with this requirement will be ineligible for funding.

(3) *Grant amount:* The amount of funds requested does not exceed the limits indicated in Part C, 2, b for the appropriate priority area.

(4) *Written Agreement When Applicant Proposes to Make Equity Investment, Loan, or Sub-Grant:* (Sub-Priority Areas 1.1, 1.2 and 1.4); The application contains a written agreement signed by the applicant and the third party which includes all of the elements required in Part B.

An application may be disqualified from the competition and returned if it does not conform to one or more of the above requirements.

c. Evaluation Criteria

Applications which pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the announcement.

The in-depth evaluation and review process will use the following criteria coupled with the specific requirements contained under each program priority area as described in Part B.

d. Paperwork Reduction

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0970–0062.

6. Criteria for Review and Evaluation of All Applications

Sub-Priority Areas 1.1, 1.2, and 1.4

(a) Criterion I: Analysis of Need (Maximum: 5 Points)

The application documents that the project addresses a vital need in a distressed community. (0–3 points)

Statistics and other data and information are provided in support of its contention. (0–2 points)

(b) Criterion II: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 25 Points)

(i) Organizational Experience in Program Area (Sub-rating: 0–15 Points)

Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided permanent benefits to the low-income population. (0–5 Points)

The applicant has demonstrated the ability to implement major activities in such areas as business development, commercial development, physical development, or financial services; the ability to mobilize dollars from sources such as the private sector (corporations, banks, etc.), foundations, the public sector, including State and local governments, or individuals; that it has a sound organizational structure and proven organizational capability; and an ability to develop and maintain a stable program in terms of business, physical or community development activities that will provide needed permanent jobs, services, business development opportunities, and other benefits to community residents. (0–10 points)

(ii) Staff Skills, Resources and Responsibilities (Sub-rating 0–10 Points)

The application describes in brief resume form the experience and skills of the project director who is not only well qualified, but his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. (0–5 points)

The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. (0–2 points)

The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to

assure timely implementation and cost effective management of the project. (0–3 points)

(c) Criterion III: Project Implementation (Maximum: 20 Points)

The Work Plan, or Business Plan where appropriate, is both sound and feasible. The project is responsive to the needs identified in the Analysis of Need. (0–5 points)

It sets forth realistic quarterly time targets by which the various work tasks will be completed. (0–5 points)

Critical issues or potential problems that might impact negatively on the project are defined and the project objectives can be reasonably attained despite such potential problems. (0–5 points)

The following financials must be included for the first three years of the business' operations: (Profit and Loss Forecasts; Cash Flow Projections; Proforma balance sheet); and Sources and Uses of Fund Statement. (0–5 points)

(d) Criterion IV: Significant and Beneficial Impact (Maximum: 25 Points)

(i) Significant and Beneficial Impact (Sub-rating: Maximum: 0–10 Points)

The application contains a full and accurate description of the proposed use of the requested financial assistance. (0–5 points)

The proposed project will produce permanent and measurable results that will reduce the incidence of poverty in the community. (0–3 points)

The OCS grant funds, in combination with private and/or other public resources, are targeted into low-income communities, distressed communities, and/or designated enterprise zones and enterprise communities. (0–2 points)

(ii) Community Empowerment Consideration (Maximum: 0–5 Points)

Special consideration will be given to applicants who are located in areas which are characterized by poverty and other indicators of socio-economic distress such as a poverty rate of at least 20%, designation as an Empowerment Zone or Enterprise Community, high levels of unemployment, and high levels of incidences of violence, gang activity, crime, or drug use. (0–3 points)

Applicants should document that they were involved in the preparation and planned implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner. (0–2 points)

(iii) Cost-per-Job (Sub-rating: 0–5 Points)

During the project period the proposed project will create new, permanent jobs or maintain permanent jobs for low-income residents at a cost-per-job below $15,000 in OCS funds *unless* there are extenuating circumstances, i.e., Alaska where the cost of living is much higher.

(Note: The maximum number of points will be given to those applicants proposing cost-per-job estimates of $10,000 or less of OCS requested funds. Higher cost-per-job estimates will receive correspondingly fewer points unless adequately justified by extenuating circumstances.)

(iv) Career Development Opportunities (Sub-rating: 0–5 Points)

The application documents that the jobs to be created for low-income people have career development opportunities which will promote self-sufficiency.

(e) Criterion V: Public-Private Partnerships (Maximum: 20 Points)

(i) Mobilization of Resources: (Sub-rating: 15 Points)

The application documents that the applicant will mobilize from public and/or private sources cash and/or in-kind contributions valued at an amount equal to the OCS funds requested. Applicants documenting that the value of such contributions will be at least equal to the OCS funds requested will receive the maximum number of points for this Criterion. Lesser contributions will be given consideration based upon the value documented.

NOTE: Applicants under Sub-Priority Area 1.2 who are proposing to enter into a partnership with Historically Black Colleges and Universities are deemed to have fully met this criterion and will receive the maximum number of points if they document the participation of the HBCU.

(ii) Integration/Coordination of Services: (Sub-rating: 5 Points)

The applicant demonstrates a commitment to or agreements with local agencies responsible for administering employment, education and training programs (such as JTPA) to ensure that welfare recipients, at-risk youth, displaced workers, public housing tenants, homeless and low-income individuals will be trained and placed in the newly created jobs. The applicant provides a written agreement from the local JOBS or other employment education and training office indicating what actions will be taken to integrate/coordinate services that relate directly to the project for which funds are being requested. (0–2 points)

Specifically, the agreement should include: (1) The goals and objectives that the applicant and the JOBS or other employment education and training office expect to achieve through their collaboration; (2) the specific activities/actions that will be taken to integrate/coordinate services on an on-going basis; (3) the target population that this collaboration will serve; (4) the mechanism(s) to be used in integrating/coordinating activities; (5) how those activities will be significant in relation to the goals and objectives to be achieved through the collaboration; and (6) how those activities will be significant in relation to their impact on the success of the OCS-funded project. (0–2 points)

The applicant should also provide documentation that illustrates the organizational experience related to the employment education and training program (refer to Criterion II for guidelines). (0–1 point)

(f) Criterion VI: Budget Appropriateness and Reasonableness (Maximum: 5 Points)

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. (0–2 points)

The application includes a detailed budget break-down for each of the budget categories in the SF–424A. The applicant presents a reasonable administrative cost. (0–2 points)

The estimated cost to the government of the project also is reasonable in relation to the anticipated results. (0–1 point)

7. Criteria for Review and Evaluation of Applications Submitted Under Sub-Priority Area 1.3

a. Criterion I: Organizational Capability and Capacity (Maximum: 20 Points)

(1) *Organizational experience in program area (Sub-rating: 5 Points).* Where the applicant has a history of prior achievement in economic development, the documentation must address the relevance and effectiveness of projects undertaken, especially their cost effectiveness and the relevance and effectiveness of any services and the permanent benefits provided to the targeted population. Applicants must also indicate why they feel that they can successfully implement the project for which they are requesting funds.

(2) *Management capacity (Sub-rating: 5 Points).* Applicants must fully detail their ability to implement sound and effective management practices and if they have been recipients of other Federal or other governmental grants, they must also detail that they have consistently complied with financial

and program progress reporting and audit requirements. Applicants should submit any available documentation on their management practices and progress reporting procedures along with a statement by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect adequately any Federal funds awarded under the application submitted.

(3) *Staffing (Sub-rating: 5 Points).* The application must fully describe (e.g., resumes) the experience and skills of key staff showing that they are not only well qualified but that their professional capabilities are relevant to the successful implementation of the project.

(4) *Staffing responsibilities (Sub-rating: 5 Points).* The application must describe how the assigned responsibilities of the staff are appropriate to the tasks identified for the project.

b. Criterion II: Significant and Beneficial Impact (Maximum: 35 Points)

The work plan funded under this announcement must show that there is a clearly identified need in a low-income area which is not being effectively addressed currently. (0–10 points)

Project funds under this announcement must be used to develop a Business Plan for a project which would produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted and mobilize non-discretionary program dollars from private sector individuals, public resources, corporations, and foundations if the project is implemented. (0–10 points)

The project around which the Business Plan is developed with the use of OCS grant funds must be targeted to low-income communities, and/or designated empowerment zones or enterprise communities with the goals of increasing the economic conditions and social self-sufficiency of residents. (0–10 points)

Activities must be designed to achieve the specific Program Priority Area 1.3 objectives as defined in this program announcement. (0–5 points)

c. Criterion III: Project Implementation and Evaluation (Maximum: 30 Points)

(1) *Project implementation component (sub-rating: 25 points).* The application must contain a detailed and specific work plan that is both sound and feasible. (0–10 points)

It must set forth realistic quarterly time targets by which the various work tasks will be completed. Because quarterly time schedules are used by OCS as a key instrument to monitor progress, failure to include these time targets will seriously reduce an applicant's point score in this criterion. (0–10 points)

It must define critical issues or potential problems that might impact negatively on the project and it must indicate how the project objectives will be attained notwithstanding any such potential problems. (0–5 points)

(2) *Evaluation component (sub-rating: 5 points).* All proposals should include a self-evaluation component. The evaluation data collection and analysis procedures should be specifically oriented to assess the degree to which the stated goals and objectives are achieved. (0–3 points)

Qualitative and quantitative measures reflective of the scheduling and task delineation in (1) above should be used to the maximum extent possible. This component should indicate the ways in which the potential grantee would integrate qualitative and quantitative measures of accomplishment and specific data into its program progress reports that are required by OCS from all grantees. (0–2 points)

d. Criterion IV: Budget Appropriateness and Reasonableness (Maximum: 15 Points)

Each applicant should carefully review the requirements of Program Sub-Priority Area 1.3 and the budget submitted must coincide with those requirements. (0–10 points)

The proposal's request for funds must include a detailed budget breakout for each of the pertinent budget categories in part III, section B of the SF–424. (Please identify any positions for which less than full-time funding is requested.) (0–5 points)

8. Criteria for Review and Evaluation of Applications Submitted Under Sub-Priority Area 1.5

(a) Criterion I: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 20 Points)

(i) Organizational Experience in Program Area (sub-rating: 0–10 Points)

Applicant has documented the capability to provide leadership in solving long-term and immediate problems locally and/or nationally in such areas as business development, commercial development, organizational and staff development, board training, and micro-entrepreneurship development. (0–2 points)

Applicant must document a capability (including access to a network of skilled individuals and/or organizations) in two or more of the following areas: Business Management, including strategic planning and fiscal management; Finance, including development of financial packages and provision of financial/accounting services; and Regulatory Compliance, including assistance with zoning and permit compliance. (0–2 points)

Further, the applicant has the demonstrated ability to mobilize dollars from sources such as the private sector (corporations, banks, foundations, etc.) and the public sector, including state and local governments. (0–2 points)

Applicant also demonstrates that it has a sound organizational structure and proven organizational capability as well as an ability to develop and maintain a stable program in terms of business, physical or community development activities that have provided permanent jobs, services, business development opportunities, and other benefits to poverty community residents. (0–2 points)

Applicants must indicate why they feel that their successful experiences would be of assistance to existing grantees which are experiencing difficulties in implementing their projects. (0–2 points)

(ii) Staff Skills, Resources and Responsibilities (Sub-rating 0–10 Points)

The application describes in brief resume form the experience and skills of the project director who is not only well qualified, but who has professional capabilities relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. (0–5 points)

The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. (0–3 points)

The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project. (0–2 points)

(b) Criterion II: Work Program (Maximum: 30 Points)

Based upon the applicant's knowledge and experience related to OCS's Discretionary Grants Program (particularly community economic

development), the application should demonstrate in some specificity a thorough understanding of the problems a grantee may encounter in implementing a successful project. (0–15 points)

The application should include a strategy for assessing the specific nature of the problems, outlining a course of action and identifying the resources required to resolve the problems. (0–15 points)

(c) Criterion III: Significant and Beneficial Impact (Maximum: 30 Points)

Project funds under this sub-priority area must be used for the purposes of transferring expertise directly, or by a contract with a third party, to other OCS funded grantees. Applicants must document how the success or failure of collaboration with these grantees will be documented. (0–15 points)

Applicants must demonstrate an ability to disseminate results on the kinds of programmatic and administrative expertise transfer efforts in which they participated and successful strategies that they may have developed to share expertise with grantees during the grant period. (0–10 points)

Applicants must also state whether the results of the project will be included in a handbook, a progress paper, an evaluation report or a general manual and why the particular methodology chosen would be most effective. (0–5 points)

d. Criterion IV: Public-Private Partnerships (15 Points)

The applicant demonstrates that it has worked with local, regional, state or national offices to ensure that welfare recipients, at-risk youth, displaced workers, public housing tenants, homeless and low-income individuals have been trained and placed in newly created jobs. (0–10 points)

Applicant should demonstrate how it will design a comprehensive strategy which makes use of other available resources to resolve typical and recurrent grantee problems. (0–5 points)

e. Criterion V: Budget Appropriateness and Reasonableness (Maximum: 5 Points)

Applicant documents that the funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The application includes a detailed budget break-down for each of the appropriate budget categories in the SF–424A. (0–3 points)

The estimated cost to the government of the project also is reasonable in relation to the anticipated results. (0–2 points)

9. Criteria for Review and Evaluation of Applications Submitted Under Sub-Priority Area 1.6

(a) Criterion I: Need for Assistance (Maximum: 10 Points)

The application documents that the project addresses a vital nationwide need related to the purposes of Priority Area 1.0 and provides data and information in support of its contention.

(b) Criterion II: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 20 Points)

(i) Organizational Experience

Applicant has documented the capability to provide leadership in solving long-term and immediate problems locally and/or nationally in such areas as business development, commercial development, organizational and staff development, board training, and micro-entrepreneurship development. Applicant must document a capability (including access to a network of skilled individuals and/or organizations) in two or more of the following areas: Business Management, including strategic planning and fiscal management; Finance, including development of financial packages and provision of financial/accounting services; and Regulatory Compliance, including assistance with zoning and permit compliance. (0–10 points)

(ii) Staff Skills

The applicants's proposed project director and primary staff are well qualified and their professional experiences are relevant to the successful implementation of the proposed project. (0–10 points)

(c) Criterion III: Work Plan (Maximum 35 Points)

Based upon the applicant's knowledge and experience related to OCS's Discretionary Grants Program (particularly community economic development), the applicant must develop and submit a detailed and specific work plan that is both sound and feasible. The work plan should—

(i) Demonstrate that all activities are comprehensive and nationwide in scope, and adequately described and appropriately related to the goals of the program. (0–10 points)

(ii) Demonstrate in some specificity a thorough understanding of the kinds of training and technical assistance that can be provided to the network of Community Development Corporations. (0–10 points)

(iii) Delineate the tasks and sub-tasks involved in the areas necessary to carry out the responsibilities to include training, technical assistance, research, outreach, seminars, etc. (0–5 points)

(iv) State the intermediate and end products to be developed by task and sub-task. (0–5 points)

(v) Provide realistic time frames and chronology of key activities for the goals and objectives. (0–5 points)

(d) Criterion IV: Significant and Beneficial Impact (Maximum: 25 Points)

Project funds under this sub-priority area must be used for the purpose of providing training and technical assistance on a national basis to the network of Community Development Corporations. Applicant must document how the success or failure of the assistance provided will be documented.

(i) Application should adequately describe how the project will assure long-term program and management improvements for Community Development Corporations; (0–10 points)

(ii) The project will impact on a significant number of Community Development Corporations; (0–10 points)

(iii) Applicant should document how the project will leverage or mobilize significant other non-federal resources for the direct benefit of the project; (0–5 points)

(e) Criteria V: Budget Reasonableness (Maximum 10 Points)

(i) The resources requested are reasonable and adequate to accomplish the project. (0–5 points)

(ii) Total costs are reasonable and consistent with anticipated results. (0–5 points)

10. Criteria for Review and Evaluation of All Applications Under Priority Areas 2.1

(a) Criterion I: Analysis of Need (Maximum: 5 Points)

The application documents that the project addresses a vital need in a distressed community and provides statistics and other data and information in support of its contention.

(b) Criterion II: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 15 Points)

(i) Organizational Experience in Program Area (Sub-rating: 0–5 Points)

Documentation provided indicates that projects previously undertaken

have been relevant and effective and have provided permanent benefits to the low-income population.

Organizations which propose providing training and technical assistance have detailed competence in the specific program priority area and as a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants also addresses related achievements and competence of each cooperating or sponsoring organization.

(ii) Staff Skills, Resources and Responsibilities (Sub-rating 0–10 Points)

The application describes in brief resume form the experience and skills of the project director who is not only well qualified, but his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

(c) Criterion III: Project Implementation (Maximum: 25 Points)

The Business Plan is both sound and feasible. The project is responsive to the needs identified in the Analysis of Need. It sets forth realistic quarterly time targets by which the various tasks will be completed. Critical issues or potential problems that might impact negatively on the project are defined and the project objectives can be reasonably attained despite such potential problems.

(d) Criterion IV: Significant and Beneficial Impact (Maximum: 30 Points)

The application contains a full and accurate description of the proposed use of the requested financial assistance. The proposed project will produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted and significantly enhance the self sufficiency of program participants. Results are quantifiable in terms of program area expectations, e.g., number of units of housing rehabilitated, agricultural and non-agricultural job placements, etc. The OCS grant funds, in combination with private and/or other public resources, are targeted into low-income and/or distressed communities and/or designated empowerment zones and enterprise communities.

(e) Criterion V: Public-Private Partnerships (Maximum: 20 Points)

The application documents that the applicant will mobilize from public and/or private sources cash and/or in-kind contributions valued at an amount equal to the OCS funds requested. Applicants documenting that the value of such contributions will be at least equal to the OCS funds requested will receive the maximum number of points for this Criterion. Lesser contributions will be given consideration based upon the value documented.

(f) Criterion VI: Budget Appropriateness and Reasonableness (Maximum: 5 Points)

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The application includes a detailed budget break-down for each of the budget categories in the SF–424A. The applicant presents a reasonable administrative cost. The estimated cost to the government of the project also is reasonable in relation to the anticipated results.

Part E—Contents of Application and Receipt Process

1. Contents of Application

Each application, whether involving construction or not, should include one original and four additional copies of the following:

I. A signed ''Application for Federal Assistance'' (SF–424);
II. ''Budget Information-Non-Construction Programs'' (SF–424A);
III. A signed ''Assurances-Non-Construction Programs'' (SF–424B);
IV. A Project Abstract (a paragraph which succinctly describes the project (in*500* characters or less));
V. A Project Narrative consisting of the following elements preceded by a consecutively numbered Table of Contents that will describe the project in the following order:
  A. Eligibility Confirmation
  B. Analysis of Need (except for Sub-Priorities 1.5, and 1.6)
  C. Organizational Experience in Program Area and Staff Responsibilities
  1. Organizational experience in program area
  a. Grantee
  b. HBCU (if applicable)
  2. Staff Skills, Resources and Responsibilities
  D. Project Implementation (Business/Work Plan)
  1. The Business and Its Industry (except for Priority Areas 1.5 and 1.6)
  2. Products and Services
  3. Financial Plans
  E. Significant and Beneficial Impacts
  1. Significant and Beneficial Impacts
  2. Cost Per Job
  3. Career Development Opportunities
  F. Public/Private Partnership Agreements
  G. Budget Appropriateness and Reasonableness
VI. Appendices, including By-Laws and/or Articles of Incorporation which confirm eligibility of organization as a CDC (relevant sections); proof of non-profit status where applicable; resumes; written agreements re: grants, coordination with JOBS, etc.; Single Point of Contact comments, where applicable; certification regarding anti-lobbying activities; smokefree workplace assurance; and a disclosure of lobbying activities.

The application package should not exceed 65 pages for applications submitted under sub-priority areas 1.1, 1.2 and 1.4, and 30 pages for all applications submitted under the other sub-priority areas.

Applications should be two hole punched at the top center and fastened with a compressor slide paper fastener or a binder clip. The submission of bound applications, or applications enclosed in binders, is especially discouraged.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ × 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded, if included.

2. Acknowledgement of Receipt

All applicants will receive an acknowledgement notice with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgement notice. The identification number and the program priority area letter code must be referred to in all subsequent communications with OCS concerning the application. If an acknowledgement is not received within three weeks after the deadline

date, please notify ACF by telephone (202) 401–9365.

Part F—Instructions for Completing Application Package

It is suggested that you reproduce the SF–424 and SF–424A, and type your application on the copies. If an item on the SF–424 cannot be answered or does not appear to be related or relevant to the assistance requested, write ''NA'' for ''Not Applicable.''

Prepare your application in accordance with the standard instructions given in Attachments B and C corresponding to the forms, as well as the OCS specific instructions set forth below:

1. SF–424 ''Application for Federal Assistance'' Item

1. For the purposes of this announcement, all proposals are considered ''Applications''; there are no ''Pre-Applications.'' Also for the purposes of this announcement, construction projects are those which involve major renovations or new construction. All others are considered non-construction. Check the appropriate box under ''Application.''

5. and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (EIN) and the Payment Identifying Number (PIN), if one has been assigned, in the Block entitled ''Federal Identifier'' located at the top right hand corner of the form.

7. If the applicant is a non-profit corporation, enter ''N'' in the box and specify ''non-profit corporation'' in the space marked ''Other.'' Proof of non-profit status, such as IRS determination or appropriate sections of the Articles of Incorporation, or By-laws, must be included as an appendix to the project narrative.

8. For the purposes of this announcement, all applications are ''New''.

9. Enter DHHS-ACF/OCS.

10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.570. The title is ''CSBG Discretionary Awards.''

11. The following letter program priority area designations must be used:

UR—for Sub-Priority Area 1.1. Urban and Rural Community Economic Development (Operational)

HB—for Sub-Priority Area 1.2. Urban and Rural Community Economic Development (HBCU Set-Aside)

PD—for Sub-Priority Area 1.3. Urban and Rural Community Economic Development (Pre-Developmental Set-Aside)

DD—for Sub-Priority Area 1.4. Urban and Rural Community Economic Development (Developmental Set-Aside)

AM—for Sub-Priority Area 1.5. Administrative and Management (Set-Aside)

UT—for Sub-Priority Area 1.6. Technical Assistance (Set-Aside)

RF—for Sub-Priority Area 2.1. Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)

2. SF–424A ''Budget Information-Non-Construction Programs''

See Instructions accompanying this form as well as the instructions set forth below:

In completing these sections, the ''Federal Funds'' budget entries will relate to the requested OCS discretionary funds only, and ''Non-Federal'' will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS discretionary funding should be included in ''Non-Federal'' entries.

The budget forms in SF–424A are only to be used to present grant administrative costs and major budget categories. Financial data that is generated as part of a project Business Plan or other internal project cost data must be separate and should appear as part of the project Business Plan or other project implementation data.

Sections A and D of SF–424A must contain entries for both Federal (OCS) and non-Federal (mobilized) funds. Section B contains entries for Federal (OCS) funds only. Clearly identified continuation sheets in SF–424A format should be used as necessary.

Section A—Budget Summary

Lines 1–4

Col. (a):

Line 1 Enter ''CSBG Discretionary''; Col. (b):

Line 1 Enter ''93.570''; Col. (c) and (d):

Applicants should leave columns (c) and (d) blank.

Col. (e)-(g):

For line 1, enter in columns (e), (f) and (g) the appropriate amounts needed to support the project for the budget period.

Line 5 Enter the figures from Line 1 for all columns completed as required, (c), (d), (e), (f), and (g).

Section B Budget Categories

Allowability of costs are governed by applicable cost principles set forth in 45 CFR Parts 74 and 92. A budget narrative must be submitted that includes the appropriate justifications as stated.

Columns (1) and (5):

In OCS applications, it is only necessary to complete Columns (1) and (5).

Column 1: Enter the total requirements for OCS Federal funds by the Object Class Categories of this section:

Personnel—Line 6a: Enter the total costs of salaries and wages of applicant/grantee staff only. A breakdown of amounts and percentage of time that comprises the salary must be noted. Do not include costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits—Line 6b: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate which is entered on line 6j. Provide a breakdown of amounts and percentages that comprise fringe benefit costs.

Travel—Line 6c: Enter total estimated costs of all travel by employees of the project. The purpose, traveler, number of days, airfare and per diem rates must be stated. Travel costs for the Executive Director or Project Director to attend a two day national workshop in Washington, DC should be included. Do not enter costs for consultant's travel. Provide justification for requested travel costs.

Equipment—Line 6d: Enter the total estimated costs of all non-expendable personal property to be acquired by the project. ''Non-expendable personal property'' means tangible non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

Supplies—Line 6e: Enter the total estimated costs of all tangible personal property (supplies) other than that included on line 6d. Identify the item, unit cost and quantity to be purchased.

Contractual-Line 6f: Enter the total estimated costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations including delegate agencies and specific project(s) or businesses to be financed by the applicant. Identify the purpose and costs associated. Also include any contracts with organizations for the provision of technical assistance. Do not

include payments to individual service contractors on this line. If available at the time of application, attach a list of contractors indicating the name of the organization, the purpose of the contract and the estimated dollar amount of the award.

Note: Whenever the applicant/grantee intends to delegate part of the program to another agency, the applicant/grantee must submit Sections A and B of this form (SF–424A), completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions. The total costs of all such agencies will be part of the amount shown on Line 6f. Provide back-up documentation identifying name of contractor, purpose of contract and major cost elements.

Construction-Line 6g: Enter the estimated costs of renovation, repair, or new construction. Identify the type of construction activity and costs associated, i.e., concrete, HVAC, electrical, etc. Provide narrative justification and breakdown of costs.

Other-Line 6h: Enter the total of all other costs. Such costs, where applicable, may include but are not limited to insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, space and equipment rentals, printing and publication, computer use, training costs, including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs. Note that costs identified as ''miscellaneous'' and ''honoraria'' are not allowable.

Total Direct Charges-Line 6i: Show the total of Lines 6a through 6h.

Indirect Charges-Line 6j: Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or another Federal agency or is awaiting such approval. With the exception of local governments and State agencies, applicants should enclose a copy of the current rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately, upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent *DHHS Guide for Establishing Indirect Cost Rates,* and submit it to the appropriate DHHS Regional Office.

It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not be also charged as direct costs to the grant.

Totals-Line 6k: Enter the total amounts of Lines 6i and 6j.

The total amount shown in Section B, Column (5), Line 6k, should be the same as the amount shown in Section A, Line 5, Column (e).

Program Income-Line 7: Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Column 5: Carry totals from Column 1 to Column 5 for all line items.

Section C—Non-Federal Resources

This section is to record the amounts of ''non-Federal'' resources that will be used to support the project. ''Non-Federal'' resources mean other than OCS funds for which the applicant is applying. Therefore, mobilized funds from other Federal programs, such as the Job Training Partnership Act program, should be entered on these lines. Provide a brief listing of the non-Federal resources on a separate sheet and describe whether it is a grantee-incurred cost or a third-party in-kind contribution. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the Public-Private Partnerships criterion.

Except in unusual situations, this documentation must be in the form of letters of commitment from the organization(s)/individuals from which funds will be received.

Line 8

Column (a): Enter the project title.

Column (b): Enter the amount of contributions to be made by the applicant to the project.

Column (c): Enter the State contribution. If the applicant is a State agency, enter the non-Federal funds to be contributed by the State other than the applicant.

Column (d): Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e): Enter the total of columns (b), (c), and (d). Lines 9, 10, and 11 should be left blank.

Line 12: Carry the total of each column of Line 8, (b) through (e). The amount in Column (e) should be equal to the amount on Section A, Line 5, column (f).

Section D—Forecasted Cash Needs

Line 13: Enter the amount of Federal (OCS) cash needed for this grant by quarter. During the budget period for grants which are more than twelve (12) months, submit a separate sheet for each additional twelve (12) months or portion thereof.

Line 14: Enter the amount of cash from all other sources needed by quarter during the budget period.

Line 15: Enter the total of Lines 13 and 14.

Section E—Budget Estimates of Federal Funds Needed for Balance of Project(s)

Completion not required.

Section F—Other Budget Information

Line 21—Use this space and continuation sheets as necessary to fully explain and justify the major items included in the budget categories shown in Section B. Include sufficient detail to facilitate determination of allowability, relevance to the project, and cost benefits. Particular attention must be given to the explanation of any requested direct cost budget item which requires explicit approval by the Federal agency. Budget items which require identification and justification shall include, but not be limited to, the following:

A. Salary amounts and percentage of time worked for those key individuals who are identified in the project narrative;

B. Any foreign travel;

C. A list of all equipment and estimated cost of each item to be purchased wholly or in part with grant funds which meet the definition of nonexpendable personal property provided on Line 6d, Section B. The need for equipment must be supported in program the narrative.

D. Contractual: Major items or groups of smaller items; and

E. Other: group into major categories all costs for consultants, local transportation, space, rental, training allowances, staff training, computer equipment, etc. Provide a complete breakdown of all costs that make up this category.

Line 22—Enter the type of HHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a

copy of the rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

Line 23—Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3. SF–424B ''Assurances-Non-Construction''

All applicants, whether or not project involves construction, must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B, found at Attachment D, with their applications.

4. Restrictions on Lobbying Activities

Applicants must provide a certification concerning Lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. Applicants must sign and return the certification, found at Attachment H, with their applications.

5. Disclosure of Lobbying Activities

SF–LLL: Fill out, sign and date form found at Attachment H, if applicable.

6. Certification Regarding Environmental Tobacco Smoke

Applicants must sign and return the certification, found at Attachment J, with their applications.

7. Project Abstract

The project abstract is a brief summary of the project to include specific benefits such as number of jobs to be created, especially jobs for low-income individuals. The abstract must not exceed 500 characters (including words, spaces and punctuation) on a separate sheet of plain paper headed by the applicant's name as shown in item 5 of the SF 424 and the priority area number as shown by you at the bottom of the SF 424.

8. Project Narrative

The project narrative must address the specific concerns mentioned under the relevant priority area description in Part B. The narrative should provide information on how the application meets the evaluation criteria in Part D, Section 5c of this Program Announcement and should follow the format below:

a. Eligibility Confirmation

This section must explain how the applicant has complied with each of the basic requirements listed in Part D, 5b(1)–(5), i.e., (1) that the applicant meets the eligibility requirements for the sub-priority area under which funds are being requested; (2) an application submitted under sub-priority areas 1.1, 1.2, 1.4, or 2.1, contains only one project; (3) the amount of funds requested does not exceed the limits indicated in Part C, Section 2b for the appropriate sub-priority area; (4) (Sub-Priority Areas 1.1, 1.2, and 1.4) if an applicant proposes to use OCS funds for an equity investment, a loan, or a sub-grant, the application contains a written agreement signed by the applicant and the third party which includes all of the elements required in Part B. An application may be disqualified from the competition and returned if it does not conform to one or more of the above requirements.

b. Analysis of Need

The application should include a description of the target area and population to be served as well as a discussion of the nature and extent of the problem to be solved. It should also include documentation supportive of its needs assessment such as employment statistics, housing statistics, etc.

c. Organizational Experience and Staff Responsibilities

(i) Organizational Experience

Each applicant must document competence in the specific program priority area under which an application is submitted.

Documentation must be provided which addresses the relevance and effectiveness of projects previously undertaken in the specific priority area for which funds are being requested and especially their cost effectiveness, the relevance and effectiveness of any services provided, and the permanent benefits provided to the low-income population. Organizations which propose providing training and technical assistance must detail their competence in the specific program priority area and as a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants must also address related achievements and competence of each cooperating or sponsoring organization.

Applicable to Sub-Priority Areas 1.1, 1.2, 1.4 and 1.5

Applicants in these priority areas must also document a firmly established and quantifiable performance record that shows the following:

—The ability to implement major activities such as business development, commercial development, physical development, or financial services;
—Successful working relationships within the community including public officials, financial institutions, corporations, other community organizations and residents;
—A sound asset base and organizational structure in terms of (a) net worth, (b) management stability, and (c) organizational capability;
—An ability to develop and maintain a stable program in terms of business, physical or community development activities that will provide needed permanent jobs, services, business development opportunities and other benefits to community residents, and impact on community-wide economic problems and needs;
—Sound administrative and fiscal systems and controls, and the ability to establish and maintain partnerships with the private sector in such forms as financial support, volunteerism or executives on loan.

(ii) Staff Skills, Resources and Responsibilities

The application must fully describe (e.g. a resume or position description) the experience and skills of the proposed project director showing that the individual is not only well qualified but that his/her professional capabilities are relevant to the successful implementation of the project.

The application must include statements regarding who will have the responsibilities of the chief executive officer, who will be responsible for grant coordination with OCS, and how the assigned responsibilities of the staff are appropriate to the tasks identified for the project. It must show clearly that sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

d. Business Plan

The application must contain a detailed and specific Business Plan (to include an Executive Summary) that is both sound and feasible. (For those applicants submitting proposals under Sub-Priority Areas 1.5, and 1.6, a Work Plan will be accepted in lieu of the Business Plan.) The Executive Summary should not exceed five pages. This summary must address the program principles within this announcement and document that the proposed project will have national or regional significance. The business plan will be evaluated according to Criteria III, IV, and V set forth in Part D of this announcement: Project Implementation,

Significant and Beneficial Impact, and Public-Private Partnerships.

Projects funded under this announcement must be designed to produce permanent and measurable results. The OCS grant funds, in combination with private and/or other public resources, must be targeted into low-income, distressed communities, and/or designated empowerment zones or enterprise communities. Projects must be designed to achieve the specific program priority area objectives defined in this Program Announcement.

It must set forth realistic quarterly time targets by which the various work tasks will be completed. It must identify critical issues or potential problems that might impact negatively on the project and it must indicate how the project objectives will be attained despite such potential problems.

If an applicant is proposing a project which will affect a property listed in, or eligible for inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of Section 106 of the National Historic Preservation Act of 1966 as amended. If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant should consult with the State Historic Preservation Officer. (See Attachment D: SF–424B, Item 13 for additional guidance.) The applicant should contact OCS early in the development of its application for instructions regarding compliance with the Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act may result in the application being ineligible for funding consideration.

Applicable to Sub-Priority Areas 1.1, 1.2, and 1.4

Applications submitted under Sub-Priority Areas 1.1, 1.2 and 1.4 which propose to use the requested OCS funds to make an equity investment or a loan to a business concern, including a wholly-owned subsidiary, or to make a sub-grant with a portion of the OCS funds, must include a written agreement between the community development corporation and the recipient of the grant funds which contains all of the elements listed in Part B under the appropriate Priority Area.

Applications submitted under Sub-Priority Areas 1.1, 1.2, and 1.4 must include a complete Business Plan where it is appropriate to the project/venture. An application that does not include a Business Plan where one is appropriate may be disqualified and returned to the applicant.

In some cases a Business Plan may not be required under the Priority Areas. All applicants under the Priority Areas, however, must nevertheless submit the information which is required in Sections 7 through 10, as set forth below.

The Business Plan is one of the major components that will be evaluated by OCS to determine the feasibility of an economic development project. It must be well prepared and address all the major issues noted herein.

The following guidelines show what should be included in order to produce a complete and professional Business Plan which makes an orderly presentation of the facts necessary to be judged responsive to the program announcement.

Because the guidelines were written to cover a variety of possibilities, rigid adherence to them is not possible nor even desirable for all projects. For example, a plan for a service business would not require a discussion of manufacturing nor product design.

The Business Plan should include the following:

1. *The business and its industry.* This section should describe the nature and history of the business and provide some background on its industry.

a. *The Business:* as a legal entity; the general business category;

b. *Description and Discussion of Industry:*

Current status and prospects for the industry;

2. *Products and Services:* This section deals with the following:

a. *Description:* Describe in detail the products or services to be sold;

b. *Proprietary Position:* Describe proprietary features if any of the product, e.g. patents, trade secrets;

c. *Potential:* Features of the product or service that may give it an advantage over the competition;

3. *Market Research and Evaluation:* This section should present sufficient information to show that the product or service has a substantial market and can achieve sales in the face of competition;

a. *Customers:* Describe the actual and potential purchasers for the product or service by market segment.

b. *Market Size and Trends:* State the size of the current total market for the product or service offered;

c. *Competition:* An assessment of the strengths and weaknesses of competitive products and services;

d. *Estimated Market Share and Sales:* Describe the characteristics of the product or service that will make it competitive in the current market;

4. *Marketing Plan:* The marketing plan should detail the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The marketing plan must describe what is to be done, how it will be done and who will do it. The plan should address the following topics—Overall Marketing Strategy, Packaging, Service and Warranty, Pricing, Distribution and Promotion.

5. *Design and Development Plans:* If the product, process or service of the proposed venture requires any design and development before it is ready to be placed on the market, the nature and extent and cost of this work should be fully discussed. The section should cover items such as Development Status and Tasks, Difficulties and Risks, Product Improvement and New Products, and Costs.

6. *Manufacturing and Operations Plan:* A manufacturing and operations plan should describe the kind of facilities, plant location, space, capital equipment and labor force (part and/or full time and wage structure) that are required to provide the company's product or service.

7. *Management Team:* The management team is the key in starting and operating a successful business. The management team should be committed with a proper balance of technical, managerial and business skills, and experience in doing what is proposed. This section must include a description of: the key management personnel and their primary duties; compensation and/or ownership; the organizational structure; Board of Directors; management assistance and training needs; and supporting professional services.

8. *Overall Schedule:* A schedule that shows the timing and interrelationships of the major events necessary to launch the venture and realize its objectives. Prepare, as part of this section, a month-by-month schedule that shows the timing of such activities as product development, market planning, sales programs, and production and operations. Sufficient detail should be included to show the timing of the primary tasks required to accomplish each activity.

9. *Critical Risks and Assumptions:* The development of a business has risks and problems and the Business Plan should contain some explicit assumptions about them. Accordingly, identify and discuss the critical assumptions in the Business Plan and the major problems that will have to be solved to develop the venture. This should include a description of the risks

and critical assumptions relating to the industry, the venture, its personnel, the product's market appeal, and the timing and financing of the venture.

10. *Community Benefits:* The proposed project must contribute to economic, community and human development within the project's target area. A section that describes and discusses the potential economic and non-economic benefits to low-income members of the community must be included as well as a description of the strategy that will be used to identify and hire individuals being served by public assistance programs and how linkages with community agencies/organizations administering the JOBS program will be developed. The following project benefits must be described:

Economic

—Number of permanent jobs that will be created especially those for low-income people during the grant period;
—Number of jobs that will have career development opportunities and a description of those jobs
—Number of jobs that will be filled by individuals on public assistance;
—Ownership opportunities created for poverty-level project area residents;
—Specific steps to be taken to promote the self-sufficiency of program participants. Other benefits which might be discussed are:

Human Development

—New technical skills development and associated career opportunities for community residents;
—Management development and training.

Community Development

—Development of community's physical assets;
—Provision of needed, but currently unsupplied, services or products to community;
—Improvement in the living environment.

11. *The Financial Plan:* The Financial Plan is basic to the development of a Business Plan. Its purpose is to indicate the project's potential and the timetable for financial self-sufficiency. In developing the Financial Plan, the following exhibits must be prepared for the first three years of the business' operation:

a. Profit and Loss Forecasts-quarterly for each year;

b. Cash Flow Projections-quarterly for each year;

c. Pro forma balance sheets-quarterly for each year;

d. Initial sources of project funds;

e. Initial uses of project funds; and

f. Any future capital requirements and sources.

Applicable to Sub-Priority Area 1.5 Only

An applicant in this priority area must document its experience and capability in several of the following areas:

—Business/Development;
—Micro-Entrepreneurship Development;
—Commercial Development;
—Organizational and Staff Development;
—Board Training;
—Business Management, including Strategic Planning and Fiscal Management;
—Finance, including Business Packaging and Financial/Accounting Services, and/or
—Regulatory Compliance including Zoning and Permit Compliance
—Incubator Development
—Tax Credits and Bond Financing
—Marketing

The applicant must document staff competence or the accessibility of third party resources with proven competence. If the work program requires the significant use of third party (consultant/contractor) resources, those resources should be identified and resumes of the individuals or key organizational staff provided. Resumes of the applicant's staff, who are to be directly involved in programmatic and administrative expertise sharing, should also be included. The applicant must document successful experience in the mobilization of resources (both cash and in-kind) from private and public sources. The applicant must also clearly state how the information learned from this project may be disseminated to other interested grantees.

Applicable to Sub-Priority Area 1.6 Only

An applicant in this priority area must document its experience and capability in implementing projects national in scope and have significant and relative experiences in working with Community Development Corporations.

The applicant must have the ability to collect and analyze data nationally that may benefit CDCs and be able to disseminate information to all of OCS funded grantees; publish a national directory of funding sources for CDCs (public, corporate, foundation, religious); publish research papers on specific aspects of job creation by CDCs; design and provide information on successful projects and economic niches that CDCs can target. The applicant will also be responsible for the development of instructional programs, national conferences, seminars, and other activities to assist community development corporations; and provide peer-to-peer technical assistance to OCS funded CDCs.

Applicable to Sub-Priority Area 2.1

Each applicant must include a full discussion of how the proposed use of funds will enable low-income rural communities to develop the capability and expertise to establish and maintain affordable, adequate and safe water and waste water systems. Applicants must also discuss how they will disseminate information about water and waste water programs serving rural communities, and how they will better coordinate Federal, State, and local water and waste water program financing and development to assure improved service to rural communities.

Among the benefits that merit discussion under this sub-priority area are: The number of rural communities to be provided with technical and advisory services; the number of rural poor individuals who are expected to be directly served by applicant-supported improved water and waste water systems; the decrease in the number of inadequate water systems related to applicant activity; the number of newly-established and applicant-supported treatment systems (all of the above may be expressed in terms of equivalent connection units); the increase in local capacity in engineering and other areas of expertise; and the amount of non-discretionary program dollars expected to be mobilized.

Part G—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the budget period for which support is provided, the terms and conditions of the award, the total project period for which support is contemplated, and the total financial participation from the award recipient.

General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grants, are subject to the provisions of 45 CFR Parts 74 and 92.

Grantees will be required to submit semi-annual progress and financial

reports (SF–269) as well as a final progress and financial report.

Grantees are subject to the audit requirements in 45 CFR Parts 74 and 92 and OMB Circular A–128 or A–133. If an applicant will not be requesting indirect costs, it should anticipate in its budget request the cost of having an audit performed at the end of the grant period.

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of nonappropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or subgrantees will pay with the *nonappropriated* funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification. The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment H for certification and disclosure forms to be submitted with the applications for this program.

Attachment I indicates the regulations which apply to all applicants/grantees under the Discretionary Grants Program.

Dated: April 1, 1996.

Donald Sykes,

Director, Office of Community Services.

ATTACHMENT A.—1996 POVERTY INCOME GUIDELINES FOR ALL STATES (EXCEPT ALASKA AND HAWAII) AND THE DISTRICT OF COLUMBIA

Size of family unit	Poverty guideline
1	$7,470
2	10,030
3	12,590
4	15,150
5	17,710
6	20,270
7	22,830
8	25,390

For family units with more than 8 members add $2,580 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

ATTACHMENT A.—1996 POVERTY INCOME GUIDELINES FOR ALL STATES (EXCEPT ALASKA AND HAWAII) AND THE DISTRICT OF COLUMBIA—Continued

Size of family unit	Poverty guideline
Poverty Income Guidelines for Alaska	
1	9,340
2	12,540
3	15,740
4	18,940
5	22,140
6	25,340
7	28,540
8	31,740

For family units with more than 8 members, add $3,200 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in figures above.)

Poverty Guidelines for Hawaii	
1	8,610
2	11,550
3	14,490
4	17,430
5	20,370
6	23,310
7	26,250
8	29,190

For family units with more than 8 members add $2,940 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

BILLING CODE 4184–01–P

Attachment B

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a. Applicant	b. Project

15. ESTIMATED FUNDING:	
a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Entry Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation for contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project, if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

Attachment C

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6K—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment D—Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers,

or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are no limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of authorized certifying official

_____

Title

_____

Applicant organization

_____

Date submitted

Attachment E—U.S. Department of Health and Human Services—Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the changes(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

''Controlled substance'' means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

''Conviction'' means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

''Criminal drug statute'' means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

''Employee'' means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All ''direct charge'' employees; (ii) all ''indirect charge'' employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code

_____

_____

Check ____ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635 (a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, S.W., Washington, DC 20201.

Attachment F—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(c) are not presently indicated or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department of agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled ''Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions'' without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Attachment G—OMB State Single Point of Contact Listing

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315, Fax: (602) 280–1305

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, Fax: (501) 682–5206

Alabama

Jon C. Strickland, Alabama Department of Economic and Community Affairs, Planning and Economic Development Division, 401 Adams Avenue, Montgomery, Alabama 36103–5690, Telephone: (205) 242–5483, Fax: (205) 242–5515

California

Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone: (916) 323–7480, Fax: (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, P.O. Box 1401, Dover, Delaware 19903, Telephone: (302) 739–3326, Fax: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. and Dev., 717 14th Street, N.W.—Suite 500, Washington, D.C. 20005, Telephone: (202) 727–6554, Fax: (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399–2100, Telephone: (904) 922–5438, Fax: (904) 487–2899

Georgia

Tom L. Reid, III, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W.—Room 401J, Atlanta, Georgia 30334, Telephone: (404) 656–3855 or (404) 656–3829, Fax: (404) 656–7938

Illinois

Barbara Beard, State Single Point of Contact, Department of Commerce and Community Affairs, 620 East Adams, Springfield, Illinois 62701, Telephone: (217) 782–1671, Fax: (217) 534–1627

Indiana

Amy Brewer, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone: (317) 232–5619, Fax: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, Fax: (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601–8204, Telephone: (502) 573–2382, Fax: (502) 573–2512

Maine

Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone: (207) 287–3261, Fax: (207) 287–6489

Maryland

William G. Carroll, Manager, State Clearinghouse for Intergovernmental Assistance, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 225–4490, Fax: (410) 225–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 1900 Edison Plaza, 660 Plaza Drive, Detroit, Michigan 48226, Telephone: (313) 961–4266

Mississippi

Cathy Malette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39202–3087, Telephone: (601) 359–6762, Fax: (601) 359–6764

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 760, Truman Building, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, Fax: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–4065, Fax: (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, Fax: (603) 271–1728

New Jersey

Gregory W. Adkins, Assistant Commissioner, New Jersey Department of Community Affairs

Please direct all correspondence and questions about intergovernmental review to:

Andrew J. Jaskolka, State Review Process, Intergovernmental Review Unit CN 800, Room 813A, Trenton, New Jersey 08625–0800, Telephone: (609) 292–9025, Fax: (609) 633–2132

New Mexico

Robert Peters, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, Fax: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, Fax: (701) 224–2308

Ohio

Larry Weaver, State Single Point of Contact, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411

Please direct correspondence and questions about intergovernmental review to:

Linda Wise, Telephone: (614) 466–0698, Fax: (614) 466–5400

Rhode Island

Daniel W. Varin, Associate Director, Department of Administration/Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, Fax: (401) 277–2083

Please direct correspondence and questions to:

Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street—Room 477, Columbia, South Carolina 29201, Telephone: (803) 734–0494, Fax: (803) 734–0385

Texas

Tom Adams, Governor's Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, Fax: (512) 463–1880

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116, State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, Fax: (801) 538–1547

Vermont

Nancy McAvoy, State Single Point of Contact, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05609, Telephone: (802) 828–3326, Fax: (802) 828–3339

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, Fax: (304) 558–3248

Wisconsin

Martha Kerner, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–2125, Fax: (608) 267–6931

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building, 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone: (307) 777–7574, Fax: (307) 638–8967

Territories

Guam

Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, Fax: 011–671–472–2825

Puerto Rico

Norma Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (809) 727–4444, (809) 723–6190, Fax: (809) 724–3270, (809) 724–3103

North Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Virgin Islands

Jose George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovernmental review to:

Linda Clarke, Telephone: (809) 774–0750, Fax: (809) 776–0069

Attachment H—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

BILLING CODE 4184–01–C

Attachment I

Optional Checklist (for Use of Applicant Only) to Verify Contents of Application

	Check
A. Application contains:	
1. Table of Contents	[ ]
2. A Project Abstract (no more than 200 words)	[ ]
3. Completed SF–424, Application for Federal Assistance	[ ]
4. Completed SF–424A, Budget Information—Non-construction Programs	[ ]
5. Signed SF 424B, Assurances—Non-Construction Programs	[ ]
6. A project narrative with the following components:	
a. Analysis of need	[ ]
b. Project design	[ ]
c. Organizational experience in program	[ ]
d. Management history	[ ]
e. Staffing and resources (resume or job description)	[ ]
f. Staff responsibilities	[ ]
7. Relevant portions of the organization's By-Laws or Articles of Incorporation confirming eligibility	[ ]
8. A signed copy of Certification Regarding the Anti-Lobbying Provision	[ ]
9. A completed Disclosures of Lobbying Activities Form, if appropriate	[ ]
10. A self-addressed mailing label which can be used to acknowledge receipt of application	[ ]
B. Application does not exceed a total of 30 pages	[ ]
C. Application includes one original and four copies, printed on white 8-½ by 11 inch paper	[ ]
D. Applicant is aware that in signing and submitting the application for funds under the CFN Program, it is certifying that it has read and understood the Federal Guidelines concerning a drug-free workplace, the debarment regulations, and environmental tobacco smoke, set forth in Attachments C, D and E respectively	[ ]

Attachment J—Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that is will require the language of the certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

Attachment K—Checklist for Use in Submitting OCS Grant Applications (Optional)

The application should contain:

1. A completed, signed SF–424, ''Application for Federal assistance''. The letter code for the priority area e.g., (UR) should be in the lower right hand corner.
2. A completed ''Budget Information—Non-Construction'' (SF–424A);
3. A signed ''Assurances—Non-Construction'' (SF–424A);
4. A Project Abstract
5. A Project Narrative beginning with a Table of Contents that describes the project in the following order:

(a) Eligibility Confirmation
(b) Analysis of Need (except for Sub-Priority 1.5)
(c) Organizational Experience in Program Area and Staff Responsibilities
  (1) Organizational experience in program area
  (2) Staff Skills, Resources and Responsibilities
(d) Project Implementation (Business Plan)
  (1) The Business and Its Industry
  (2) Products and Services
(e) Significant and Beneficial Impacts
  (1) Significant and Beneficial Impacts
  (2) Cost Per Job
  (3) Career Development Opportunities
(f) Public/Private Partnerships
(g) Budget Appropriateness and Reasonableness
(h) Appendices (including relevant sections of By-Laws and/or Articles of Incorporation which confirm applicant's eligibility as a CDC; proof of non-profit status where applicable; resumes, written agreements re grants, coordination with JOBS, etc.; Single Point of Contact comments (where applicable); certification regarding anti-lobbying activities; anti-smoking assurance; and a disclosure of lobbying activities.

6. A signed copy of ''Certification Regarding Anti-Lobbying Activities.''
7. A completed ''Disclosures of Lobbying Activities'', if appropriate; and
8. A self-addressed mailing label which can be affixed to a notice to acknowledge receipt of application.

The application should not exceed a total of 65 pages for applications submitted under sub-priority areas 1.1, 1.2, and 1.4 and 30 pages for all applications submitted under the other sub-priority areas. It should include one original and four identical copies, printed on white 8½ by 11 inch paper only. Applications should be two holed punched at the top center and fastened with a compressor slide paper fastener or a binder clip. All pages should be numbered.

[FR Doc. 96–8594 Filed 4–11–96; 8:45 am]

BILLING CODE 4184–01–P

federal register

Friday
April 12, 1996

Part IV

Environmental Protection Agency

40 CFR Parts 141 and 142

Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL–5449–7]

RIN 2040–AC27

Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is giving notice that it is considering several minor changes to the national primary drinking water regulations for lead and copper to improve its implementation. The intended effect of this action is to eliminate unnecessary requirements, streamline and reduce reporting burden, and promote consistent national implementation. The changes proposed in this action do not affect the lead or copper maximum contaminant level goals or the basic regulatory requirements.

DATES: Written comments should be postmarked or delivered by hand by July 11, 1996. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. (Eastern time) July 11, 1996.

ADDRESSES: Send written comments on the proposed revisions only to the Lead and Copper Rule Comment Clerk; Water Docket MC–4101; Environmental Protection Agency; 401 M Street, SW., Washington, DC 20460. See Supplementary Information under the heading ''Submission of Comment Information'' for additional details.

Supporting documents for this proposed rulemaking are available for review at EPA's Water Docket; 401 M Street, SW., Washington, DC 20460. For access to the Docket materials, call (202) 260–3027 between 9 a.m. and 3:30 p.m. for an appointment.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, toll free (800) 426–4791, or Judy Lebowich; Drinking Water Implementation Division; Office of Ground Water and Drinking Water; EPA (4604), 401 M Street SW., Washington, DC 20460; telephone (202) 260–7595.

SUPPLEMENTARY INFORMATION:

Submission of Comment Information

Commenters are requested to submit any references cited in their comments. Commenters also are requested to submit an original and 3 copies of their written comments and enclosures. Commenters who want receipt of their comments acknowledged should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted. The Agency would prefer for commenters to type or print comments in ink. Commenters should use a separate paragraph for each issue discussed.

EPA will also accept comments electronically. Comments should be addressed to the following Internet address: ow-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Electronic comments will be transferred into a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission.

EPA is experimenting with electronic commenting, therefore commenters may wish to submit both electronic comments and duplicate paper comments. This document has also been placed on the Internet for public review and downloading at the following location: gopher.epa.gov.

A. Background

In 1991, the Environmental Protection Agency (EPA) promulgated maximum contaminant level goals (MCLGs) and national primary drinking water regulations (NPDWRs) for lead and copper (''Lead and Copper Rule''). (56 FR 26460, June 7, 1991) The goal of the rule is to provide maximum human health protection by reducing lead and copper levels at consumers' taps to as close to the MCLGs as is feasible. To accomplish this goal, the regulations established requirements for community water systems (CWSs) and non-transient non-community water systems (NTNCWSs). These systems must conduct periodic monitoring and optimize corrosion control. In addition, these systems must perform public education when the level of lead at the tap exceeds the lead action level, treat source water if it is found to contribute significantly to high levels of lead or copper at the tap, and replace lead service lines in the distribution system if the level of lead at the tap continues to exceed the lead action level after optimal corrosion control has been installed. Implementation of the rule was phased based on system size. Large-size systems (those serving more than 50,000 people) were to begin monitoring January 1, 1992. Medium-size systems (those serving between 3,301 and 50,000 people) were to begin monitoring July 1, 1992. Small-size systems (those serving 3,300 or fewer people) were to begin monitoring July 1, 1993.

Today's action proposes several minor revisions to improve implementation of the Lead and Copper Rule. Most of these changes were recommended by a work group EPA formed in 1993 composed of Headquarters and Regional EPA staff, and several State drinking water officials, to identify implementation issues. The proposed changes resulting from those recommendations cover the following topics: requirements for systems deemed to have optimized corrosion control; accelerated reduced monitoring; monitoring waivers for ''all plastic'' systems; selection of sample sites under reduced monitoring; systems that have reduced the number and frequency of monitoring and that change treatment or water source; entry point monitoring for water quality parameters in ground water systems; NTNCWS sampling locations and times; public education; source water monitoring; holding times for acidified lead and copper samples; and reporting requirements for systems and States. In addition, EPA is requesting comment on the following paperwork burden reduction suggestions that the Agency has not had time to fully assess but believes are worth considering and may include in the final rule: eliminate the requirement for systems to calculate and report 90th percentile values; reduce the frequency of entry point water quality parameter monitoring; allow flushing and bottled water instead of corrosion control in NTNCWSs; eliminate the requirement for systems to justify not recommending specific corrosion control treatment; allow alternatives to tap samples to assess the effectiveness of corrosion control; and reduce the frequency of State reporting of 90th percentile values and treatment milestones.

Two other revisions proposed today result from legal challenges to the 1991 Lead and Copper Rule brought by the American Water Works Association (AWWA) and the Natural Resources Defense Council (NRDC). (*AWWA et al.* v. *EPA*, Nos. 91–1338, 91–1343 (DC Circuit) First, as a result of settlement discussions with AWWA in that litigation, EPA agreed to propose regulatory provisions that would authorize States to invalidate the results of lead and copper sampling under certain circumstances. That issue is discussed in section B.3 below. Second, the U.S. Court of Appeals for the District of Columbia Circuit held in this case that the Agency had failed to provide adequate notice and opportunity for public comment regarding the provision in the regulations defining the extent to which a public water system (PWS) has

''control'' over lead service lines, for purposes of determining the systems's obligation to replace such lines under the rule. The Agency is therefore proposing a revised definition of this term for public comment.

NRDC challenged the rule's exclusion of transient, non-community water systems (TNCWSs). In *AWWA*, the court granted the Agency's request for a voluntary remand so that the Agency could provide a more detailed justification of this exclusion. The Agency is not proposing in this rulemaking to alter the current exclusion that exists in the regulation for TNCWSs. Based on the information currently available, the Agency believes that this exclusion continues to be appropriate in light of the fact that the chronic health effects associated with lead in drinking water should not be of concern in such systems (e.g., gas stations, motels, restaurants, campgrounds, rest stops). EPA is currently collecting additional information relevant to this issue that will be made available for public review and comment prior to the promulgation of a final rule. The Agency solicits comment regarding the continued appropriateness of this exclusion, whether modification of the current exclusion would be appropriate and, if so, what alternative approaches are available for addressing these systems. After consideration of the additional information being collected by the Agency and public comments, EPA will either retain the current exclusion or make appropriate modification. If EPA decides to retain the current exclusion, EPA's preamble to the final rule will fully explain the Agency's rationale for such a decision.

In that same ruling, the Court addressed two other NRDC challenges to the 1991 rule: (1) the decision to establish a treatment technique in lieu of a maximum contaminant level (MCL); and (2) the schedules for completing the rule's treatment requirements. The Court upheld the Agency's decisions on these two issues as consistent with the Safe Drinking Water Act (SDWA).

B. 40 CFR 141, Subpart I—Control of Lead and Copper

1. Requirements for Systems Deemed To Have Optimized Corrosion Control

Section 141.81(b) specifies three ways by which a water system can demonstrate that corrosion control already has been optimized and, following such a demonstration, forego the steps of conducting treatment studies and installing additional treatment. EPA inadvertently omitted requirements for systems making such a demonstration under two of the § 141.81(b) provisions and is today proposing the modifications discussed below to correct that oversight.

(a) Water Systems Deemed to Have Optimized Corrosion Control in Accordance with § 141.81(b)(2). A water system deemed to have optimized corrosion control in accordance with § 141.81(b)(2) has demonstrated to the State that it already has completed activities equivalent to the corrosion control steps specified in § 141.81(d) for large-sized systems or in § 141.81(e) for medium- and small-sized systems. The rule requires systems that have optimized corrosion control pursuant to § 141.81(b)(2) to meet water quality parameters specified by the State as reflecting optimal corrosion control treatment. This requirement ensures that these systems will continue to provide adequate treatment to minimize lead and copper levels at the tap. The Agency intended that, once the State designated the optimal water quality control parameters, the system would continue monitoring in the same manner as those systems that installed corrosion control treatment to comply with § 141.81 (d) or (e). This requirement is not clear in the current regulations. EPA today proposes to clarify this requirement by revising § 141.81(b)(2) to require that systems deemed to have optimized corrosion control under that paragraph comply with the same continuing monitoring requirements as any system that optimizes corrosion control pursuant to § 141.81 (d) or (e) of the regulations.

(b) Water Systems Deemed to Have Optimized Corrosion Control in Accordance with § 141.81(b)(3). Under § 141.81(b)(3), systems may show they have optimized corrosion control by demonstrating that the difference between the 90th percentile lead level measured at the tap and the highest source water samples lead concentration is below the Practical Quantitation Limit (PQL) for lead (0.005 mg/L) for two consecutive 6-month monitoring periods. In these instances, the primary source of lead contamination, if any, is the source water and the Agency does not believe that systems could produce quantifiable improvements in lead levels at the tap through corrosion control when corrosion is introducing, at most, minimal amounts of lead. (56 FR 26480–26481)

The current rule does not require these water systems with minimal lead corrosion to meet the copper action level in order to be deemed to have optimized corrosion control. This clearly was not the intent of the rule which seeks to minimize the levels of both lead and copper at the tap. To correct this problem, EPA proposes to add a criterion to § 141.81(b)(3) requiring water systems to meet the copper action level to qualify as having optimized corrosion control under the provisions of § 141.81(b)(3).

This requirement would become effective 18 months after promulgation. In cases where systems have been deemed as having optimal corrosion control under § 141.83(b)(3) based on source water and tap water lead samples, the State should review those systems in terms of their copper tap sample results from the initial rounds of monitoring as well. If a system meets the lead criteria (difference between source water and 90th percentile tap water concentrations is below the lead PQL), but exceeded the copper action level during initial monitoring, the State could direct the system to conduct a new round of sampling consistent with § 141.86(a)–(c) for both copper and lead to determine current levels before this requirement becomes effective and the system is triggered into the corrosion control treatment steps. In such cases, the latest round of sampling should be used in determining whether the system meets the requirements of § 141.81(b)(3).

Even though systems meeting the § 141.81(b)(3) criteria are not required to install corrosion control treatment, they may be treating the water for other water quality considerations, or they may install treatment in the future. Changes in treatment such as disinfection for microbial contamination can affect the corrosivity of the water in the distribution system (56 FR 26486–24867). Thus it is important that these systems continue to monitor periodically to ensure that lead and copper levels do not increase in the future. EPA therefore proposes to further modify § 141.81(b)(3) to require such systems deemed to have optimized corrosion control in accordance with § 141.81(b)(3) to continue tap water monitoring for lead and copper at least once every three calendar years (triennially) using the reduced number of sample sites specified in § 141.86(c) and following the requirements of § 141.86(d)(4)(iv) regarding the location and timing of such sampling. Since some large systems may not have monitored since 1992, the Agency proposes that the first round of this triennial monitoring occur during the first June–September period that occurs after the effective date of the revision, with the exception that systems that have monitored pursuant to § 141.86 (d)(3) or (d)(4) during the three years prior to the effective date be allowed to

use those results and continue triennial monitoring based on the date of that monitoring.

EPA believes that, in most instances, this reduced monitoring will provide information to help ensure that these systems maintain minimal levels of corrosion in the distribution system. The Agency recognizes that system-specific circumstances such as changes in the source water, or changes in treatment to comply with existing or future regulations, may necessitate more frequent monitoring or other appropriate action to ensure that such systems maintain minimal corrosion in the distribution system. Adequate data and case histories are not available to ensure accurate *a priori* estimates of time and location of problems associated with treatment changes in different types of systems. EPA therefore proposes to add language to § 141.81(b)(3) giving States flexibility to require additional monitoring and/or other action(s) the State deems appropriate in these situations.

Finally, EPA recognizes that the revised requirements in § 141.81(b)(3) may result in a few systems being triggered into corrosion control treatment. The Agency is proposing that any such system comply with the requirements of § 141.81(e) and that any such large system adhere to the schedule specified in that paragraph for medium-sized systems.

2. Accelerated Reduced Monitoring for Water Systems With Very Low Lead and Copper Levels

(a) Monitoring for Lead and Copper at the Tap. EPA is proposing to allow water systems that demonstrate for two consecutive 6-month monitoring periods that they have very low lead and copper levels at the tap to reduce the frequency of lead and copper tap water monitoring to once every three years (triennial monitoring) more rapidly than the current regulations permit. Under the current regulations, qualifying systems must demonstrate they have maintained optimal corrosion control for three consecutive years of monitoring before they are eligible to reduce to triennial monitoring.

Sampling results for the initial two rounds of monitoring submitted by large and medium-size systems indicate that over 20% of these systems had 90th percentile lead levels less than or equal to 0.005 mg/L for two consecutive 6-month monitoring periods.[1] EPA expects similar results for the small-size systems. EPA believes it is reasonable to allow systems with lead and copper results significantly below the action levels during consecutive monitoring periods to reduce the frequency of monitoring for lead and copper at the tap to triennially without first going through three years of monitoring.

EPA proposes to add provisions for accelerated reduced monitoring to § 141.86(d)(4) by redesignating paragraph (d)(4)(v) as (d)(4)(vi) and adding a new paragraph (d)(4)(v) containing the accelerated reduced monitoring provisions. In order to qualify for accelerated reduced monitoring, a water system would need to demonstrate to the State that its 90th percentile lead level was less than or equal to the PQL for lead (i.e., the lead level was less than or equal to 0.005 mg/L) and its 90th percentile copper level was less than or equal to one-half the copper action level (i.e., the copper level was less than or equal to 0.65 mg/L) for two consecutive 6-month monitoring periods.

Because of the high degree of variability in lead and copper levels at household taps, EPA believes it is important to establish criteria that minimize the risk of allowing systems that are likely to have elevated levels of lead or copper at the tap during subsequent monitoring periods to accelerate reduced monitoring. The PQL represents the lowest level that laboratories can reliably and consistently measure within specified limits of precision and accuracy. The Agency considered using the PQL as the upper limit for allowing accelerated reduced monitoring for both lead and copper. EPA believes the PQL for lead, which is one-third of the lead action level, is the appropriate lead level to set for accelerated reduced monitoring. EPA believes the PQL for copper for these purposes would be unnecessarily restrictive, however. The copper PQL is less than one-tenth the copper action level. Moreover, unlike the lead action level, the copper action level is the same as the copper MCLG. For these reasons, EPA proposes to use one-half the copper action level as the copper threshold for determining eligibility for accelerated reduced monitoring.

The Agency believes water systems that have met these low levels for two consecutive 6-month monitoring periods will still provide adequate public health protection if such systems are allowed to conduct accelerated reduced monitoring while saving significant monitoring costs and minimizing the inconvenience to homeowners in the sampling pool.

(b) Monitoring for Water Quality Parameters at the Tap. EPA is proposing that water systems which meet the criteria for accelerated reduced monitoring for lead and copper at the tap also be allowed to accelerate reduced monitoring for water quality parameters at the tap to once every three years more rapidly than currently allowed. Because small and medium-size systems that have very low levels of lead and copper at the tap are not required to conduct water quality parameter monitoring, this proposed change would apply only to large water systems. EPA proposes to add provisions for accelerated reduced water quality monitoring by redesignating the current § 141.87(e)(2) as § 141.87(e)(2)(i) and adding a new § 141.87(e)(2)(ii) containing the provisions for accelerated reduced monitoring at the tap. Systems eligible for this accelerated reduced monitoring would have to continue to monitor for water quality parameters at the entry points to the distribution system. The frequency of this monitoring is one sample every two weeks, as specified in § 141.87(c).

3. Sample Invalidation

EPA proposes to add provisions, in a new § 141.86(f), to allow States to invalidate samples under four circumstances: (1) if the laboratory establishes that improper sample analysis caused erroneous results; (2) if the State determines that the sample was taken from a site that does not meet the site selection criteria of § 141.86; (3) if the sample container is damaged in transit; or (4) if the State has substantial reason to believe that the sample was subject to tampering. EPA agrees that these circumstances are likely to yield results that may not represent the tap water levels of lead and copper from the water system's high risk sites and therefore the State should have authority to exclude such results.

Systems will be required to report the results of all samples to the State and must provide evidence of documentation for any sample the system believes should be invalidated. The proposed § 141.86(f)(3) requires States to document all decisions in writing and prohibits States from invalidating a sample solely on the grounds that a follow-up sample is higher or lower than the original sample. In addition, § 141.86(f)(4) would require that any replacement sample be taken at the same location as

[1] Based on 90th percentile lead levels for large and medium-size systems reported to EPA through March 20, 1995 (EPA, 1995a). Prior to August 15, 1995, the EPA data system of record was known as the Federal Reporting Data System (FRDS). Effective August 15, 1995, the Safe Drinking Water Information System (SDWIS) became the official EPA data system of record.

the invalidated sample or, if that is not possible, then at a location other than those already used for sampling during the monitoring period. Any replacement samples also must be taken by the end of the applicable monitoring period, if possible, or within 20 days of the date the State invalidates the sample, whichever date is later.

Allowing at least a 20-day window to replace invalidated samples provides water systems the opportunity to correct what might otherwise be a monitoring violation. The Agency recognizes that, in some cases, the system may not know before the end of the applicable monitoring period that a sample has been invalidated. Some water systems take only the required number of samples, and, in such cases, any invalidated samples would mean an insufficient number of samples would be available for 90th percentile calculations. Absent the opportunity to replace invalidated samples, the system would incur a monitoring violation under this scenario. EPA believes it is reasonable to allow such systems to replace invalidated samples as long as the replacement samples are taken in a timely manner. Any replacement samples taken after the end of the applicable monitoring period cannot also be used to meet the sampling requirements of the subsequent monitoring period.

A water system would need to replace invalidated samples only if it did not have sufficient valid samples to meet minimum sampling requirements. EPA encourages systems to take more samples than required by the rule and not to wait until the end of the monitoring period to complete sampling. In this way, if one or more samples is invalidated, the system has a ''cushion'' and should not need to take replacement samples. If replacement samples are required, however, the system will still have the opportunity to avoid a monitoring violation.

Adding provisions for sample invalidation necessitates a change to the system reporting requirements in § 141.90. EPA proposes to add the requirement, as a new § 141.90(a)(1)(ii),[2] for a system requesting sample invalidation to submit the appropriate documentation to the State.

4. Monitoring Waivers for ''All Plastic'' Systems

Small systems that believe they are free of sources of lead and copper contamination within the system view the tap water monitoring requirements for lead and copper to be excessive. Some States also have requested relief from monitoring requirements for such systems from both a common sense and a public health standpoint. EPA believes such relief makes sense for small systems, so long as the State is satisfied that the system is free of faucets, valves, and water meters made of brass or bronze containing lead, lead service lines, lead solder pipe joints, copper pipes, and other sources of lead and copper contamination within the system itself and all buildings, and that source waters are not subject to lead or copper contamination.

Many manufacturers of brass and bronze fittings and fixtures (e.g., faucets) are attempting to meet the standard recently established by NSF, International for lead leaching from faucets (NSF, 1995) by producing faucets that contain low levels of lead or are completely free of lead-containing materials. EPA believes the existence of so-called ''all plastic'' systems will become more common as industry practices evolve. This makes it more likely that smaller systems can demonstrate that they are free of lead-containing materials. The Agency is therefore proposing to give States discretion to waive some of the monitoring requirements for small systems where the State has determined that, after at least one round of standard tap water monitoring for lead and copper performed since the system became ''all plastic,'' that the system is free of lead and copper-containing materials in the distribution and plumbing systems.

EPA proposes to provide States this discretion by adding a new paragraph (g) to § 141.86. This provision specifies that any small-size system, in which the distribution system and service lines, and all buildings (e.g., residences, schools, commercial buildings), are free of lead or copper pipes or service lines, leaded brass or bronze fittings or fixtures, lead soldered pipe joints and other sources of lead and copper contamination, may apply to the State for a waiver from the tap water monitoring requirements of § 141.86(d) once it has completed one six-month round of standard tap water monitoring for lead and copper since it became free of these materials. The system must demonstrate that the 90th percentile lead level for any monitoring period since the system became free of lead-containing and copper-containing materials did not exceed 0.005 mg/L and that the 90th percentile copper level did not exceed 0.65 mg/L. The system must also support this request with certification regarding the absence of lead and copper materials throughout the system, including buildings.

States would have to notify the system of its determination in writing, setting forth the basis of its decision and any conditions of the waiver. As a condition of the waiver, the State may require certain activities such as monitoring at specific sites or public education. Even if a waiver is approved, limited monitoring at a reduced number of sites would be required once every nine years. A system would have to resume more frequent tap water monitoring if it could no longer certify that it was free of materials containing lead or copper and the State would have the discretion to require the system to resume more frequent tap water monitoring based on changes in treatment, source waters, or tap water lead or copper levels.

In some cases, States or local communities may have plumbing codes that prohibit the use of faucets not meeting the NSF, International lead leaching standard. Where such codes do not exist, States may decide, as a condition of the waiver, to require that systems provide consumers with public education materials encouraging the use of faucets meeting the standard. Some States may wish to review all waivers periodically even in the absence of any changes in treatment or materials which would necessitate such a review.

EPA does not expect any decrease in public health protection if States implement the proposed waiver provisions. The Agency believes that these waivers will be granted where States have substantive documentation or equivalent evidence that the system is truly free of lead and copper, e.g., uniform construction and plumbing specifications requiring lead-free and copper-free materials. In the circumstances under which a waiver would be permitted (very low lead and copper levels in tap water monitoring, absence of lead and copper materials in the system), the Agency sees no value to requiring States and water systems to invest limited resources on a situation that appears to be non-existent. EPA believes such resources should be redirected to areas of the program where the potential of higher public health risk exists.

These provisions necessitate two changes to the system reporting requirements in § 141.90. The introductory text at § 141.90(a) specifies that water systems must provide monitoring data to the State within the first 10 days following the end of each applicable monitoring period specified in §§ 141.86, 141.87, and 141.88. EPA

[2] EPA is proposing to eliminate the current requirement at § 141.90(a)(1)(ii). See preamble discussion in section B.8.

proposes to revise this paragraph to include a frequency of ''every 9 years'' to reflect the monitoring frequency of ''all plastic'' systems with monitoring waivers. EPA also proposes to include the reporting requirements associated with applying for the waiver at a new § 141.90(a)(4).[3]

5. Sample Site Location

(*a*) *Systems Unable to Locate Sufficient Tier 1, 2, and 3 Sites.* The current regulations do not address situations where a water system is unable to locate a sufficient number of sites meeting the tiering criteria specified in § 141.86(a). This has resulted in some confusion regarding whether such systems are required to monitor and, if so, how they should select sample sites. The Agency intended that all CWSs and NTNCWSs monitor for lead and copper at the tap. EPA therefore proposes to revise paragraph 141.86(a)(5) to clarify that any CWS with insufficient tier 1, 2, and 3 sites shall complete its sampling pool with representative sites throughout the distribution system. Likewise, EPA proposes to revise paragraph 141.86(a)(7) to clarify that any NTNCWS with insufficient tier 1 and 2 sites shall complete its sampling pool with representative sites. EPA's guidance, *Lead and Copper Rule Guidance Manual; Volume I: Monitoring,* contains suggestions for selecting sites in these circumstances.

(*b*) *NTNCWSs Without Enough Taps That Can Provide First-Draw Samples.* The existing regulations require that lead and copper tap samples must ''have stood motionless in the plumbing * * * for at least six-hours.'' This is known as a ''first-draw'' sample. In implementing the regulations, States have found that some NTNCWSs cannot achieve this standing time because they operate 24 hours a day. Such facilities may include factories operating on a three-shift basis and other facilities that provide drinking water continuously. These systems are unable to ensure that water will have stood in the plumbing for at least six hours. EPA believes that requiring such systems to sample after a standing time that does not exist is unnecessary. The Agency therefore proposes to add paragraph § 141.86(b)(5) to allow NTNCWSs that do not have enough taps where the water will have stood in the plumbing for at least six hours to ask the State, in writing, for approval to sample from taps where the water will have stood for less than six hours. Such systems will be required to collect first-draw samples from as many appropriate taps as possible. Section 141.86(b)(5) also will require such systems to identify sampling times and locations that would likely result in the longest standing time and to sample at times and locations approved by the State for the remaining required samples. EPA also proposes to add the corresponding reporting requirements in a new paragraph 141.90(a)(2).[4]

The Agency invites comment on an alternative which would allow NTNCWSs that do not have enough taps where the water will have stood in the plumbing for at least six hours to proceed without up-front State approval to sample from taps where the water will have stood less than six hours. The system would still be required to sample from taps with the longest standing times possible, however, States would not need to specify sites prior to monitoring. States would have discretion to verify at any time that the proper sample was conducted.

(*c*) *Sample Site Justifications.* Sections 141.86(a)(8) and 141.90(a)(2) and (3) require any water system that uses non Tier 1 sites in its sampling pool to send a letter to the State demonstrating why it is necessary to use non Tier 1 sites. Sections 141.86(a)(9) and 141.90(a)(4) require any water systems with lead service lines that cannot identify enough sites connected to lead service lines for its sampling pool to send a letter to the State demonstrating why it is unable to collect 50 percent of the samples from sites served by lead service lines. EPA included these requirements to help ensure that systems collect samples from high risk sites. The Agency expected these to be ''one time'' requirements that would be completed, if necessary, prior to the start of initial monitoring.

Water systems, particularly those not exceeding the lead and copper action levels, are finding it necessary to adjust the sampling pool every monitoring period because they are experiencing difficultly obtaining continued access to the same sites. Changes to the sampling pool frequently trigger the need for letters to the State justifying the selection of new sampling sites. EPA believes that requiring systems to justify the use of other than high risk sites on an ongoing basis imposes an unnecessary burden as States can determine whether systems are sampling routinely at appropriate sites through other mechanisms such as periodic on-site inspections and file reviews. The Agency therefore proposes to eliminate these requirements. To accomplish this, EPA proposes to: (a) delete the current §§ 141.90(a)(2) through (4); and (b) revise § 141.86(a) by deleting paragraph (8) and revising paragraph (9) and redesignating it as paragraph (8).

(*d*) *Selection of Sample Sites Under Reduced Monitoring.* Section 141.86(d)(4) allows systems serving more than 100 people that qualify for reduced monitoring to decrease the number of required sample sites by fifty percent. Section 141.86 currently does not specify which sampling sites should be included in the reduced sampling pool. EPA is concerned that, rather than select representative locations, some systems might select those sites which yielded the lowest concentrations of lead and copper during the previous rounds of tap water sampling. EPA proposes to clarify § 141.86(c) so that systems shall choose representative sites and States shall have the authority to designate which sample sites must be used for reduced monitoring in those situations where the State believes that such designation is appropriate. The Agency believes this proposed revision minimizes additional regulatory burden. The State will not be required to specify sampling sites for any system. Rather, the proposed revision allows States to specify locations for those systems that they believe may attempt to ''game'' the system, thus allowing the State to concentrate on water systems that need the extra attention.

6. Optimized Systems That Change Treatment or Source Water

EPA expects most systems that have optimized corrosion control will continue to apply the same chemicals and maintain roughly uniform dosage rates in order to maintain suitable passivation or corrosion inhibition. Some systems, however, may find it necessary to change their treatment to comply with other regulatory requirements or changes in source water. For example, more stringent regulations for disinfection and disinfection by-products could result in a water system switching from one corrosion control treatment (e.g., pH/alkalinity adjustment) to another (e.g., phosphate-based inhibitor). In addition, over time, some systems may find it necessary to switch from one source water to another and, as a result, some would have to change their corrosion control treatment to account for different water chemistry.

It is important that corrosion control treatment be maintained even in the

[3] EPA is proposing to eliminate the current reporting requirement at § 141.90(a)(4). See preamble discussion in section B.5(c).

[4] EPA is proposing to eliminate the current reporting requirement at § 141.90(a)(2). See preamble discussion in section B.5(c).

face of changes in other aspects of water quality (either because of a new source or changes in other treatment). Without properly maintained treatment, protective films in the distribution system can be solubilized within weeks or even days (Fuge et al., 1992, Colling, et al., 1992; Schock et al., 1996) and lead and/or copper can be released from the interior surfaces of pipes and other plumbing or distribution system materials. This is addressed in the current rule by requirements for systems that install treatment to continue to monitor for lead and copper as well as various water quality parameters. There is a concern, however, that the current rule may not adequately address systems deemed to have optimized corrosion control who later make changes in their treatment for reasons discussed above. Because these systems would be monitoring at a reduced frequency, increases in lead and/or copper that may occur within a relatively short time may not be detected for up to three years.

The Agency believes this will be a relatively uncommon problem. Further, the Agency recognizes that any increases in lead and/or copper levels would be unintended in systems that previously expended significant resources demonstrating they had optimized corrosion control. Nevertheless, EPA believes that such a contingency should be addressed and is proposing to amend § 141.86(d)(4) by adding a new paragraph (vii) that would apply to systems that have been on a reduced monitoring schedule and either (a) change their source water, or (b) change any water quality treatment process, including disinfection, disinfection by-product removal, and corrosion control. EPA also proposes to add the corresponding reporting requirement in a new paragraph at § 141.90(a)(3).[5] Systems falling into this category would have to inform the State of such a change. Adequate data and case histories are not available for EPA to ensure accurate *a priori* estimates of time and location of problems associated with treatment changes in different types of system. Based on such information, the State could require the system to resume standardized lead and copper tap water monitoring, or other appropriate steps such as increased water quality parameter monitoring or re-evaluation of its corrosion control treatment given the potentially different water quality considerations.

7. Entry Point Monitoring for Water Quality Parameters in Ground Water Systems

Sections 141.81 (d) and (e) require monitoring for various water quality parameters at entry points to the distribution system in those systems that install corrosion control treatment. Based on conversations with States since the rule became effective, the Agency believes that for some systems that rely on ground water sources, monitoring for water quality parameters at each entry point to the distribution system may not be necessary. Some ground water systems, especially in the western states, can have dozens or even hundreds of wells, and monitoring for numerous water quality parameters at all entry points can be difficult to coordinate and expensive.

For example, ground water systems can have distinct hydraulic zones where water from the different zones do not mix. In many of these cases, it is possible that corrosion control treatment is needed at some wells but not all. The Agency believes that there would be little value in monitoring at all wells with identical water qualities in the same hydraulic zone if the same treatment is being applied. Similarly, it would not be reasonable to monitor water quality parameters at all wells receiving no treatment, especially if the water from these sources is in a distinct hydraulic zone from wells that do receive treatment and therefore do not blend with treated water. In these cases, it could be sufficient to monitor at a representative number of wells to ensure that the treatment being applied is appropriate for the current water quality and that treatment conditions are being maintained.

The Agency proposes to amend § 141.87 by adding a new paragraph (c)(3) to allow ground water systems that have installed corrosion control treatment and are required to monitor for the water quality parameters listed in § 141.87(c), to limit their entry point monitoring to those locations that are representative of water quality conditions throughout the system. For those systems, monitoring for water quality parameters would be required at some entry points receiving treatment as well as at some points receiving no corrosion control treatment if the water from those points mixes with other source water in the system that is treated. Systems taking advantage of this provision would be required to provide the State the same kinds of detailed records regarding chemical additions and water quality at those entry points that are monitored, as well as documentation showing that those points are in fact representative of water quality throughout the system. EPA proposes to add the corresponding reporting requirement in a new § 141.90(a)(5).[6]

The Agency also proposes to revise the summary table at the end of § 141.87 to reflect this change as well as the current and proposed provisions in § 141.87(e) allowing reduced monitoring for water quality parameters at the tap to occur on an annual or triennial frequency.

8. Other Changes Pertaining to Tap Water Monitoring for Lead and Copper

(a) First Draw Certifications. Sections 141.90(a)(1) (ii) and (iii) currently contain requirements for water systems to provide a certification that each sample collected by the system pursuant to § 141.86(d) meets the first-draw specifications in § 141.86(b) and that each tap sample collected by residents was taken after the water system informed them of the proper sampling procedures. EPA included these requirements to help ensure use of the proper sampling protocol contained in § 141.86. Most water systems have now completed at least two rounds of monitoring for lead and copper at the tap and have experience collecting first drawn samples. The Agency believes the continued requirement to provide these certifications every monitoring period imposes a burden that can no longer be justified. EPA therefore proposes to eliminate this requirement by deleting these paragraphs.[7]

(b) State Approval for Reduced Monitoring. Section 141.86(d)(4) (ii) contains provisions for any water system that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the State under § 141.82(f) during each of two consecutive six-month monitoring periods to request State approval to reduce the frequency of monitoring for lead and copper at the tap to once per year and to reduce the number of samples in accordance with § 141.86(c). Section 141.86(d)(4)(iii) contains similar provisions for such water systems to request approval from the State to further reduce the frequency of lead and copper tap water monitoring to once every three years after

[5] EPA is proposing to eliminate the current reporting requirement at § 141.90(a)(3). See preamble discussion in section B.5(c).

[6] EPA is proposing to eliminate the current reporting requirement at § 141.90(a)(5). See preamble discussion at B.8(b).

[7] As discussed in section B.3 above, EPA proposes to replace paragraph 141.90(a)(1)(ii) with a new requirement pertaining to sample invalidation requests. EPA proposes to reserve paragraph 141.90(a)(1)(ii).

demonstrating they have maintained optimal corrosion control during three consecutive years of monitoring. The Agency believes State approval is appropriate in these instances because of the number of factors that must be considered when determining eligibility for reduced monitoring.

Based on conversations with States since the rule became effective, EPA believes the requirement for systems to explicitly request such approval is redundant. States routinely review system eligibility for reduced monitoring as part of their regular compliance determination and notify those systems that are eligible to begin reduced monitoring. Under these circumstances, the Agency believes that asking systems to request such a determination adds unnecessary transaction costs. EPA therefore is proposing to revise §§ 141.86(d)(4)(ii) and (iii) to remove the requirement that systems explicitly request State approval for reduced monitoring and to delete the corresponding system reporting requirement at § 141.90(a)(5).

This revision reduces system burden but would not change the State's role. The revised §§ 141.86(d)(4) (ii) and (iii) will continue to require States to review monitoring records and notify the system in writing of its determination and to review the determination, as appropriate, as new data become available.

(c) Sampling for Water Systems That Do Not Operate Year Round. Water systems sampling once per year or less must take samples in June, July, August, or September. This requirement causes problems for some NTNCWSs, such as schools and ski resorts, that may not be open, and therefore do not serve water, during these months. The intent of the rule is that the sampling be done during the warmest months of the year. EPA did not intend, however, that seasonal systems sample during months when the system is not in operation as the results of such sampling would not be representative of the water used for drinking. EPA proposes to revise the current § 141.86(d)(4)(iv) to require water systems that do not operate between June and September to monitor at times most likely to represent their warmest months of operation.

(d) Holding Time for Acidified Lead and Copper Samples. EPA proposes to change § 141.86(b)(2) by decreasing the holding time for acidified lead or copper samples from 28 to 16 hours. EPA originally required 28 hours for acid to redissolve metals in water samples. The Agency has since obtained data[8] to show that 16 hours is sufficient to solubilize all metals including lead and copper. In a recent methods update rule (59 FR 62456, December 5, 1994) EPA changed the holding time for acidified samples to 16 hours but neglected to correct the rule at § 141.86(b)(2) to reflect this change. This change would reduce the burden on utilities and laboratories to have separate acidification holding times for lead and copper, and it increases the number of samples that can be analyzed in a day. This proposed change does not affect the accuracy or reliability of lead or copper determinations.

9. Public Education

(a) Public Education Language. The regulations prescribe specific language that systems must include in the text of all written materials they distribute as a part of their lead public education program. Delivery of educational materials by systems that have exceeded the lead action level has done much to educate the public on lead in drinking water. Some EPA Regions and States have raised concern, however, that the required public education material, while appropriate for CWSs that serve water to residential customers, may not be appropriate for NTNCWSs and even some small CWSs such as prisons and hospitals. To address these concerns, EPA is proposing alternative language that is more appropriate for such systems.

EPA proposes to make numbering changes to § 141.85. Paragraph (a) will continue to contain the public education language; however, in order to add language specific to NTNCWSs, EPA proposes to split paragraph (a) into two paragraphs. Paragraph (a)(1) will contain public education material for CWSs; paragraph (a)(2) will contain public education material for NTNCWSs. The numbers inside paragraphs (a)(1) and (a)(2) will be changed accordingly and conforming changes will be made in § 141.85(c).

The new NTNCWS language in paragraph (a)(2) provides more relevant and helpful information for persons consuming water in such a system than the existing public education language. EPA proposes to replace phrases such as ''some homes in the community'' with ''some drinking water samples [taken from this facility]'' because a NTNCWS typically does not serve water to homes. EPA proposes to delete the reference to having water tested for lead because customers of a NTNCWS are unlikely to have water tested for lead as they tend to consume the water for only a short period of time and have little or no control over the water in the distribution system. For similar reasons, EPA proposes deleting references to having a plumber check pipes for solder and having an electrician check for possible improper grounding. Additionally, EPA proposes to replace references to home treatment devices with a recommendation that bottled water be consumed if lead levels at the tap cannot be reduced. EPA also proposes to change the language for flushing taps for NTNCWSs. Persons using taps at such water systems likely will not know the nature of the plumbing system as would homeowners. For example, reference to lead service lines in the CWS notice does not have any added health benefit for NTNCWSs where the consumer is unlikely to be aware of the existence of such lines. EPA therefore proposes to limit the discussion of flushing to suggesting a 15–30 second flush, which should clear any water with high lead levels that come from the faucet.

EPA believes that the public education language in § 141.85(a)(1) is not appropriate for some types of CWSs, such as prisons and hospitals. The notice for CWSs in these institutions is inappropriate. Inmates and patients who are not capable of installing home treatment devices or having their water tested should not be given the CWS public education language. References to ''your home'' and ''your family's health'' also are inappropriate. Therefore, EPA proposes to add § 141.85(c)(7) to allow a CWS to request that the State allow it to issue public education materials as if it were an NTNCWS if the system is a facility where the population served is not capable of, or is prevented from, making improvements to plumbing or installing point of use treatment devices and the system provides water as part of the covered services and does not directly bill for water consumption. EPA believes this is appropriate for certain institutions and should be allowed where the State believes it better protects public health. The Agency also invites comment on an alternative whereby a community water system for which the NTNCWS public education would be appropriate would not require up-front approval from the State before issuing the public education materials. The system would still have to submit certification that it completed its public

[8] These data are discussed in conjunction with EPA Methods 200.8 and 200.9 in the manual, *Methods for the Determination of Metals in Environmental Samples—Supplement 1.* [EPA, 1994]

education requirements, including the NTNCWS material that it used.

EPA recognizes that many public water systems, especially CWSs with large populations, have had public education material printed and that making changes would be costly. The Agency believes, however, that none of the changes to the public education language will be applicable for most CWSs and expects them to continue to be able to use already printed materials.

(b) Mailing and Timing of Notices. Water systems that exceed the lead action level must perform public education tasks within 60 days of the initial exceedance. As part of this activity, CWSs are required to include the required materials with the water bill and print an alert on the billing statement. EPA's intent in establishing these requirements was to provide customers timely notification that the system had exceeded the lead action level, information about health risks, sources of exposure, and steps the consumer can take to reduce exposure. While the Agency believes there is value in requiring notice in the water bill and that such an approach saves the cost of a separate mailing, the EPA Regions and States responsible for implementing the regulations have found that these requirements pose unintended problems for many water systems.

Many water utilities do not bill frequently enough to meet the 60-day requirement; ninety days is more the norm. Also, many systems use postcards or computer-generated self-mailers. These formats do not allow the enclosure of additional materials nor do they have sufficient space to include the required alert on the bill itself. Systems exceeding the action level that have one, or both, of these problems face difficulty complying with the current requirements unless they change their billing system. This is not the Agency's intent. EPA therefore proposes to revise § 141.85(c)(2)(i) to allow community water systems more flexibility in the mailing of public education materials.

First, EPA proposes, in a new paragraph (c)(2)(i)(A), to allow such systems to mail these materials on the same schedule as the system's billing cycle, as long as the mailing occurs within 6 months of the exceedance. EPA also proposes to revise the language of § 141.85(c)(2) by adding the phrase, ''Except as provided in paragraph (c)(2)(i)(A) of this section, * * *'' to be consistent with this new provision.

Second, EPA proposes to add a new paragraph (c)(2)(i)(B) to allow systems that do not bill using envelopes, or that will not bill within 6 months of exceeding the lead action level, the option of distributing the lead public education materials to billing units through a separate mailing as long as the mailing is completed within 6 months of exceeding the lead action level and achieves at least equal coverage. Systems using an alternative delivery of lead public education would be required to include an alert with the public education materials to minimize the risk that the materials would be discarded as ''junk mail.''

(c) Systems Serving 500 or Fewer People. In addition to mailing notices to billing units, CWSs must submit notices to the major daily and weekly newspapers circulated throughout the community, provide lead information to facilities and organizations visited frequently by children and pregnant women, and submit public service announcements to radio and television stations with the largest audiences that broadcast to the community served by the water system. The preamble to the final rule (56 FR 26500–26503) explains why the Agency believes these steps are necessary and appropriate.

For some small systems, particularly those that provide water only to a small number of people in a larger urban or suburban area, these requirements have created unintended consequences. The rule requires systems to include their telephone number so consumers can call with questions about lead in their drinking water. In some cases, small systems that serve only a small portion of a larger metropolitan area have been flooded with calls from individuals not served by the system who heard or read these announcements. Such systems are ill-equipped to respond appropriately to a large-scale public response. The requirement to distribute materials to locations visited frequently by pregnant women and children similarly imposes a significant burden on these systems since it may involve a large number of locations if the system is near an urban or suburban area.

EPA does not believe it is appropriate to impose such burdens on systems serving few people. EPA considered the option of allowing CWSs serving 500 or fewer people to use the same method of delivery as NTNCWSs. Non-transient non-community systems are required to post informational posters on lead in drinking water in a public place or common area in each of the buildings served by the system and to distribute information pamphlets and/or brochures to each person served by the system. EPA believes the requirement to post in every building served by the system could be a problem for a community system since it would require access to residences and other buildings not controlled by the system in order to post notices in appropriate locations.

The Agency therefore proposes to add provisions, in a new § 141.85(c)(8), to allow CWSs serving 500 or fewer people to limit or omit some of the required tasks. Section 141.85(c)(8) will allow such systems to omit tasks requiring submission of information to newspapers and radio and television stations. In place of these tasks, EPA proposes to require these systems to mail or hand deliver the same lead public education materials the system is required to mail to billing units to all other regular consumers (e.g., tenants of multi-family residences whose water is included in their rent). EPA also proposes to allow such systems to limit the number of locations to which they must furnish informational pamphlets. EPA proposes that such systems be required to provide these materials to locations frequented by pregnant women or children within the system's service area and only those locations outside the system's service area that are regularly visited by the system's consumers. Finally, EPA proposes that a system performing public education in accordance with the provisions of § 141.85(c)(8) repeat the tasks every 12 months for as long as the system continues to exceed the lead action level. The Agency believes this proposed approach will significantly reduce the burden imposed on these systems without jeopardizing the effectiveness of their lead public education programs.

In addition to eliminating the requirement for CWSs serving 500 or fewer people to provide public service announcements to radio and television stations every six months for as long as the system exceeds the lead action level, EPA solicits comment regarding the option of also eliminating this requirement for CWSs serving between 501 and 3,300 people. Since the ''local'' radio and televisions stations for communities served by small-sized water systems frequently belong to larger listening and viewing areas, this option should reduce small-sized system burden by reducing the need for the system to respond to a large number of inquiries from those not served by the system. In addition, since radio and television stations often do not air public service announcements that affect only a small subset of their audience, omitting this task may not affect the effectiveness of the system's public education program. On the other hand, the use of multiple media to deliver lead public education to as many people as possible and the use of

public service announcements have been found to be very effective. Omitting the public service announcement requirement may reduce the effectiveness of the lead public education program for the larger small-sized systems (i.e., those serving between 501 and 3,300 people) because these systems are more likely to have consumers who cannot be reached effectively through other approaches (i.e., direct mailing to billing units, newspaper notices, and brochures distributed to locations visited frequently by pregnant women and children). Commenters should address the effect this option would have on the lead public education program for CWS serving 501 to 3,300 people, what, if any, tasks should be required in lieu of public service announcements for these systems, and the burden implications of this option.

(d) Schedule for Reporting Completion of Public Education Tasks. Section 141.90(f) requires that each water system subject to the public education requirements submit a letter to the State by December 31st of each year demonstrating that the system has delivered the required public education program. The letter must be accompanied by a list of all newspapers, radio and television stations, and facilities and organization to which the system delivered the public education materials during the previous year.

The Agency believes the current reporting requirement fails to provide the States and EPA with information in a manner timely enough to oversee systems' compliance with the public education program mandated in the final rule. In some cases, the current provision in § 141.90(f) gives a public water system as much as ten months before it submits a letter to the State certifying that it has delivered the public education materials to its customers in accordance with § 141.85(c). For example, under the current provision a system that initially exceeds the lead action level in the monitoring period ending January 1 is required to deliver the public education program within 60 days of the exceedance (e.g., by March 1), but does not have to submit the certification letter to the State until December 31. If the system fails to deliver the public education program in a timely manner, the State would have difficulty knowing of a violation until months after it has occurred.

In place of the current requirement for a letter submitted by December 31st, EPA is proposing to require that each water system subject to the public education requirements submit a letter demonstrating compliance with the public education requirements within ten days after the end of each period[9] in which it is required to perform public education tasks. The ten days allows systems to assemble records and notify the State. Such a requirement is consistent with the time frame allowed in other reporting requirements, which allow ten days after an action or the end of a reporting period for a system to report to the State. The letter would have to be accompanied by a list of all newspapers, radio and television stations, and facilities and organization to which the system delivered the public education materials during the most recent period during which the system was required to perform public education tasks.

EPA recognizes that this proposed revision will require community water systems that must deliver public service announcements to radio and television stations every six months to submit two letters to the State during a calendar year instead of the single letter that is now required. EPA believes, however, that accelerating the public education reporting requirement will improve compliance because, in addition to making the requirements easier to enforce, it also will encourage water systems that exceed the lead action level to deliver the public education program to their customers.

10. Control of Lead Service Lines

In the June 7, 1991, regulations, EPA promulgated a broad definition of ''control'' as it applies to lead service lines in the distribution system that included: (1) Authority to set standards for construction, repair or maintenance of the line; (2) authority to replace, repair or maintain the service line; or (3) ownership of the service line. As discussed above, AWWA challenged this definition, arguing that systems should not be required to replace lead service lines they do not own and that EPA had substantially changed the definition of control from that which had been proposed without providing opportunity for public comment. The Court agreed with AWWA that the Agency had failed to give adequate public notice that it was considering requiring systems to replace portions of service lines that the system does not own. The Court remanded and vacated the definition of control as it applies to portions of line beyond a water system's ownership. (*AWWA* v. *EPA*, 40 F.3d 1266 (D.C. Cir. 1994)) Because the Court vacated the rule on this procedural ground, it did not address AWWA's substantive argument that EPA was without statutory authority to require replacement of privately owned portions of service lines.

After further consideration, EPA has decided to propose a revised definition of ''control'' of lead service lines (LSLs) that would obligate water systems to replace the portion of the line that they own, as well as any additional portion which the system has the authority to replace, in order to protect the quality of water delivered to the user. EPA is concerned that the LSL replacement requirements in the original rule, which required systems to also replace the privately owned portion of the line where the system had standard setting authority or other forms of authority, could result in confusion and delay in implementation of the rule. Confusion could have resulted from different perceptions of the precise scope of the system's legal authority, and resolution of such disputes would have required the intervention of the State, a potentially time consuming process.

To accommodate the revised definition of LSL control and to further streamline the LSL replacement requirements, the Agency proposes that the rule would not include the rebuttable presumption contained in the original rule. Rather, the rule's provision would be ''self-implementing'' and not require affirmative demonstrations by the systems or *a priori* review by the State. For this reason, EPA proposes to eliminate the reporting requirement at § 141.90(e)(4) for any system seeking to rebut the presumption that it controls the entire service line to send a letter to the State. EPA solicits comment specifically regarding the degree to which systems may have the authority to replace the privately owned portions of lead service lines.

EPA also solicits comment regarding the option of only requiring replacement of the portion of the line owned by the water system. Such an approach would further simplify implementation of the rule, since the division in ownership between the system and the user should be clear to all parties.

11. Source Water Monitoring

(a) Composite Samples. Section 141.88(a)(1) requires any system that exceeds an action level to collect entry point samples to determine the contribution from source water to lead and copper tap water levels. These

[9] The regulations require a CWS to provide public service announcements to the broadcast media every six months as long as the system continues to exceed the lead action level. A water system must repeat the appropriate written public education tasks every 12 months as long as it continues to exceed the lead action level.

systems may composite source water samples in accordance with the requirements regarding sample location, number of samples, and collection methods specified for inorganic chemical sampling in § 141.23(a).

Section 141.23(a)(4) specifies that a water system may composite samples from as many as five sampling sites. When the final rule was published in June 1991, § 141.23 tied the resampling triggers for inorganic chemicals in source water to the method detection limit (MDL). These provisions were modified by the Phase V Rule (57 FR 31776, July 17, 1992). Section 141.23(a)(4)(I) now requires that follow-up samples be collected if any composited inorganic chemical sample concentration is greater than or equal to one-fifth of the maximum contaminant level (MCL). The use of one-fifth of the MCL as the resampling trigger for source water lead and copper levels is inappropriate since there are no MCLs for lead or copper.

EPA considered a resampling trigger of one-fifth the action level for lead and copper in a composite source water sample on the basis that such a resampling trigger might be analogous to a resampling trigger of one-fifth of the MCL for all other regulated inorganic compounds in drinking water. While using one-fifth of the MCL as the resampling trigger is sufficient for most inorganic chemicals, lead and copper are regulated through a slightly different means. That is, an action level at the 90th percentile as measured in tap samples does not directly correspond to any particular source water levels. Contributions to lead and copper levels at the tap can come from source water and through corrosion of the distribution system. In some cases, the contribution from the source may be significant and merits treatment. EPA believes that using one-fifth of the action level as the resampling trigger is inappropriate for lead and copper.

EPA's guidance, *Lead and Copper Rule Guidance Manual Volume II: Corrosion Control Treatment* dated September 1992 (Document number EPA 811–B–92–002), provides levels below which treatment is not an advisable option for lead and copper in source water. Below these levels, the Agency believes it would be more expedient to control lead and copper levels through corrosion control treatment of the distribution system than through source water treatment. The Agency believes source water treatment for lead is generally not advisable when lead levels in the source water are less than or equal to 0.005 mg/L. The Agency also believes that source water treatment for copper is generally not advisable when copper levels in the source water are less than or equal to 0.8 mg/L.

EPA therefore believes the water system and the State generally should be concerned when source water lead levels exceed 0.005 mg/L or source water copper levels are greater than 0.8 mg/L. As discussed above, EPA believes that the less conservative level of concern for copper is appropriate since the copper action level is the same as the copper MCLG. Since the rule allows compositing of up to 5 samples, the composite sample concentration can be as much as one-fifth the level at any of the sites included in the composite before treatment would be considered. EPA believes the resampling trigger should be set at one-fifth the level of concern to ensure that sampling sites with lead and/or copper levels greater than the level of concern are identified.

EPA proposes that water systems resample for lead and copper in source water at each of the sites from which the composite sample was taken when the composite sample concentration is greater than 0.001 mg/L for lead and/or greater than 0.160 mg/L for copper. The Agency believes these levels are appropriate because the final rule specifies that the State may require a water system to treat its source water at the lower levels and it is therefore crucial that EPA, the States, and water systems, have information at the lower levels to make informed decisions on proper treatment.

The proposed lead resampling trigger of 0.001 mg/L is the method detection limit (MDL) for lead. The Agency is aware that there is concern about using MDLs as monitoring and compositing criteria because, statistically, half the samples whose true value is at the MDL could be reported as false negatives. The Agency therefore also is soliciting comment on the option of not allowing composite source water samples.

EPA proposes to revise § 141.88(a)(1) by dropping the reference to § 141.23(a)(1) through (4) [10] and incorporating the requirements regarding sample location, number of samples, and collection methods at a new § 141.88(a)(1) (i) through (iii). The proposed new § 141.88(a)(1)(iii) will contain the provisions for compositing source water samples for lead and copper as well as the resampling triggers for lead and copper. This paragraph also clarifies that compositing of samples must be done by certified laboratory personnel and provides a cost-savings option that, if duplicates of or sufficient quantities from the original samples from each sampling point used in the composite are available, the system may use these instead of resampling, if resampling is necessary.

The revised resampling triggers for lead and copper at § 141.88(a)(1)(iii) necessitate revisions to the laboratory certification procedures at § 141.89(a)(1)(iii). Currently § 141.89(a)(1)(iii) requires that laboratories that accept composite samples be capable of achieving the MDLs that previously were the resampling triggers for lead and copper. For lead, at § 141.89(a)(1)(iii)(A), the MDL of 0.001 mg/L corresponds to the resampling trigger discussed above that is proposed to be added to § 141.88(a)(1)(iii). However, for copper, the MDL is below the resampling trigger proposed to be added at § 141.88(a)(1)(iii). The MDL for copper is 0.001 mg/L, or 0.020 mg/L if atomic absorption direct aspiration is used. EPA therefore proposes to revise § 141.89(a)(1)(iii) to delete the requirement concerning the copper MDL because the laboratory will be sufficiently tested on its capabilities under § 141.89(a)(1)(ii)(B) where it is required to achieve a quantitative acceptance limit of ±10 percent of the actual amount of the performance evaluation sample when the actual amount is greater than or equal to 0.050 mg/L.

(b) Reduced Source Water Monitoring. Systems that exceed the lead or copper action level at the tap are required to monitor for lead or copper in their source water. States are required to determine whether source water treatment is needed and, if treatment is required, to establish maximum permissible levels for lead and copper in the system's source water. The current regulations, at § 141.88(e), allow source water monitoring at a reduced frequency ultimately for water systems that meet the maximum permissible source water lead and copper levels set by the State. This reduced monitoring is not currently allowed for systems required to conduct source water monitoring but for which the State has not set maximum permissible source water levels. In these instances, the State effectively has determined that source water treatment is not necessary and that the source water does not contribute significantly to lead and

[10] Section 141.23(a)(1) through (4) contains the requirements regarding sample location, number of samples, and timing for inorganic chemicals. Since the requirements pertaining to sampling for lead and copper in source water differ somewhat from those in § 141.23(a) (1)–(4), the Agency believes it will be less confusing to specify the requirements regarding lead and copper in Subpart I, where all other lead and copper sampling is addressed.

copper levels at the tap. EPA believes it is appropriate to allow such systems to reduce the frequency of source water monitoring. Some water systems will exceed the lead or copper action level on a continuing basis with little or no contamination originating from the source. For these systems, corrosion control treatment may require a number of years to take full effect.

EPA therefore proposes to revise §§ 141.88(e)(1) and (2) to allow water systems that exceed the action level, but for which the State has not set maximum permissible source water levels, to reduce the frequency of source water monitoring for lead and copper if the system maintains source water lead levels below 0.005 mg/L and source water copper levels below 0.8 mg/L for three consecutive monitoring periods, if using an exclusively ground-water source, or three consecutive years, if using a surface water or combined surface and ground-water source. As explained above, these are the levels for lead and copper in source water below which EPA generally believes source water treatment is not necessary. The proposed monitoring protocol is consistent with current rule requirements for systems that meet State-set maximum permissible levels after installation of source water treatment. The preamble to the rule (56 FR 26529) explained that this protocol is consistent with the monitoring protocols for other inorganic chemicals.

12. System Reporting Requirements

As discussed above, EPA is proposing a number of changes to water system reporting requirements at § 141.90. The following chart summarizes these changes.

SUMMARY OF PROPOSED CHANGES TO SYSTEM REPORTING REQUIREMENTS

Paragraph	Proposed revision	Preamble discussion
141.90(a)(1)(ii)	Remove requirement for certification of first draw samples collected by the system	B.8(a)
	Replace with new requirement for documentation to accompany sample invalidation requests	B.3
141.90(a)(1)(iii)	Remove requirement for certification pertaining to first draw samples collected by residents	B.8(a)
	Reserve paragraph	
141.90(a)(2)	Remove requirement for CWSs to send letter to State demonstrating why sufficient Tier 1 sites cannot be located.	B.5(b)
	Replace with new requirement for NTNCWSs that cannot find enough first draw sampling sites to send a letter to the State.	B.5(d)
141.90(a)(3)	Remove requirement for NTNCWSs to send letter to State demonstrating why sufficient Tier 1 sites cannot be located.	B.5(b)
	Replace with new requirement for systems subject to reduced monitoring to notify the State if there are any changes in treatment or source water.	B.6
141.90(a)(4)	Remove requirement to send letter to State demonstrating why 50% of sampling sites are not served by lead service lines.	B.5(b)
	Replace with new reporting requirements associated with ''all plastic'' system monitoring requests	B.4
141.90(a)(5)	Remove reporting requirements associated with requesting reduced monitoring	B.8(b)
	Replace with new reporting requirement demonstrating representative locations for biweekly entry point water quality parameter monitoring after the installation of corrosion control treatment.	B.7
141.90(e)(4)	Remove reporting requirements associated with rebutting presumption of control of lead service lines	B.10
141.90(f)	Revise deadline for reporting completion of public education tasks	B.9(d)

13. Other Revisions Suggested by Stakeholders

As part of a broad ''Government Reinvention'' initiative, EPA has been examining ways to reduce the paperwork burden on regulated parties and States associated with environmental regulations. Through public meetings, EPA has solicited input from States, water utilities, and environmental groups regarding ways to reduce the burden associated with National Primary Drinking Water Regulations, including the lead and copper rules. Some of the suggestions made by these ''stakeholders'' were already part of the set of revisions that are being proposed for public comment in this notice. Several other suggestions are not being formally proposed at this time because the EPA has not had time to fully assess them, but the Agency believes that they are worth considering. Thus, the Agency is requesting comment, data, or other relevant information on these additional suggested revisions to the lead and copper rule, summarized below, so that it can more fully evaluate their merits for possible inclusion in the final rule, or proposal in subsequent rulemaking. Stakeholder suggestions regarding other aspects of the drinking water program are being addressed through other regulatory and programmatic pathways.

(a) Eliminate PWS Requirement to Calculate and Report 90th Percentile Values. Under § 141.90(a)(1)(i), water systems are required to submit to the State the results of all tap samples for lead and copper. Systems are also required under § 141.90(a)(1)(iv) to submit the 90th percentile lead and copper concentration measure from the tap water samples. Some States have found that many systems, especially smaller systems, submit incorrect values for the 90th percentiles. As a result, some States routinely re-calculate 90th percentile values based on the individual tap sample data. Given this problem, it has been suggested that the rule be revised to give States flexibility to eliminate the requirement that systems submit 90th percentile values provided that the State performs the calculation. The Agency has received other input that the current requirement for systems to calculate the 90th percentile values is helpful because it helps systems that do exceed an action level begin follow-up steps, especially water quality parameter monitoring. Also, 90th percentile values, especially for smaller systems, are often obvious to the trained eye reviewing the actual data and it allows States to quickly sort through many reports to focus on high priority cases. Comments on this issue are invited.

(b) Allow Monthly Monitoring of Water Quality Parameters at Entry Points. For systems required to install corrosion control treatment, the rule requires collection of one sample, at least every two-weeks (bi-weekly) for pH, and if alkalinity or a corrosion inhibitor is adjusted as part of optimal corrosion control treatment, a reading of the dosage rate of the chemical used to adjust alkalinity or the inhibitor used,

and the alkalinity concentration or concentration of orthophosphate or silica (whichever is applicable). It has been suggested that monitoring for these water quality parameters can be reduced to a once per month frequency which would significantly reduce both system and State burdens. On the other hand, monthly monitoring may not provide systems and States with frequent enough information to insure that corrosion control treatment is consistently applied so that protective films are maintained. Further, even though the requirement is for bi-weekly monitoring, systems typically conduct this monitoring on a daily basis. As such, bi-weekly measurements should not present an added burden for most systems. EPA invites comment on this issue.

(c) Allow Flushing and Bottled Water Instead of Corrosion Control in NTNCWSs. Some stakeholders recommended that the rule be revised to give States flexibility to allow non-transient non-community water systems (NTNCWSs) that exceed the lead and/or copper action level, to substitute flushing and/or the use of bottled water rather than having to install corrosion control treatment. These systems usually do not have access to trained operators who can study and properly maintain corrosion control treatment, and handle potentially hazardous chemicals, and facilities that can easily house the chemical feeders, especially in systems with wells and buried pressure tanks. Further, NTNCWSs can control the use of individual taps and many are confined to one or a few buildings that would be amenable to a flushing program. Allowing the water to run for several minutes each morning or prior to a work shift could effectively reduce elevated lead concentrations, especially if the source of lead is in the outlets (e.g., brass faucets, water coolers) or building plumbing (i.e., lead solder). Use of bottled water (certified to meet all EPA standards), combined with permanently posted notices informing customers, is another alternative that would free the system of having to install and maintain treatment. Drawbacks to such a provision include the lack of clear performance measures, short of more extensive monitoring than currently required, that States could use in monitoring the efficacy of the flushing program in reducing exposure. EPA welcomes input on this issue particularly regarding the availability and reliability of automated flushing devices, and appropriate monitoring requirements that could be used to insure compliance.

(d) Eliminate PWS Need To Justify Not Recommending Specific Corrosion Control Treatment. A PWS required to conduct a corrosion control study is also required under § 141.82(c)(6) to recommend to the State the treatment option that the study indicates will constitute optimal corrosion control for that system. The system is required to provide a rationale for its recommendation including supporting data and documentation regarding constraints on other treatment options that could have adverse effects on other water quality treatment processes. Some stakeholders have recommended eliminating the requirement for systems to explain under § 141.82(c)(4) why they did not choose a specific treatment as long as they identify a corrosion control treatment that works. The benefits of such a change would be to reduce paperwork which in some, and possibly many, cases is extraneous. In determining what constitutes optimal corrosion control, however, it is important that States know the potential adverse effects and other constraints associated with alternative treatments. Without this requirement, it could add to the burden on States in assembling the necessary data and documentation to make their decision. EPA invites comment on this issue.

(e) Allow Alternatives To Tap Samples To Assess Effectiveness of Corrosion Control. Collection of lead and copper tap water samples has presented water systems with significant challenges in terms of conducting materials surveys, identifying high risk sites, soliciting assistance from individual households, and gaining access to homes at often inconvenient hours or arranging for sample pickup. Water systems, with considerable assistance from States, have met these challenges such that compliance with the tap water monitoring requirements is almost complete. As implementation of the rule progresses, it would be useful if there were alternatives to tap water sampling to assess lead and copper levels that occur at the tap and that provide sufficient information for systems and States in tracking the efficacy of corrosion control treatment, for example. At this time, the Agency does not have data to develop alternative sampling methods that would provide information with as much certainty as direct sampling at taps. The Agency agrees with some stakeholders that information is needed on an alternative monitoring framework to evaluate corrosion control compliance, without going into customers' homes. The public is invited to submit suggestions, and especially technical data, that could be used in developing reliable monitoring methods that do not involve household tap water sampling, that could be used to measure and predict actual and/or relative exposures of the public to lead and copper, and that could measure compliance with, and the efficacy of, corrosion control treatment requirements.

C. State Reporting Requirements in 40 CFR Part 142

1. Proposed Revisions

Section 142.15(c)(4) contains State reporting requirements for lead and copper. The current reporting requirements are as follows.

- Lead and Copper Exceedances—§ 142.15(c)(4)(i).
- Systems required to conduct corrosion control studies and the date of completion—§ 142.15(c)(4)(ii).
- Systems for which the State has designated optimal corrosion control treatment, the date of the designation, and those systems that have completed installation—§ 142.15(c)(4)(iii).
- Systems for which the State has designated optimal water quality parameters and the date of the designation—§ 142.15(c)(4)(iv).
- Systems which are required to install source water treatment and those which have completed installation—§ 142.15(c)(4)(v).
- Systems for which the State has specified maximum permissible source water levels—§ 142.15(c)(4)(vi).
- Systems required to replace lead service lines, those systems for which an accelerated replacement schedule is required, and those systems in compliance with their schedules—§ 142.15(c)(4)(vii).

EPA proposes to modify these State milestone reporting requirements to eliminate redundant or unnecessary requirements and to add requirements to report other key information. EPA anticipates these changes will result in little or no cost to the States and water systems. The Agency presented most of these proposed changes in EPA's May 1992 guidance, entitled *Lead and Copper Rule, Definitions and Federal Reporting for Milestones, Violations, and SNCs,* in which EPA explained the Agency's intention to modify the regulation. In addition, as discussed below, the Agency is today proposing to eliminate one of the milestones pertaining to the installation of corrosion control treatment. The specific changes proposed are discussed below.

(a) 90th Percentile Lead Levels. Section 141.90(a) requires public water

systems to submit to the States the results of all tap water lead levels, including the 90th percentile values for lead and copper. States are required to submit only a portion of this information to the Agency. The current State reporting requirement at § 142.15(c)(4)(i) requires each State to submit the name and PWS identification number of each public water system that exceeds the lead and copper action level and the date the exceedance occurred. EPA intended this information to be reported if either the lead or the copper action level is exceeded, not just in those instances where a system exceeds both levels. EPA also believes that the term ''date upon which the exceedance occurred'' is confusing and has advised States to use the last day of the compliance period in which the exceedance occurred. EPA proposes to revise the language of § 142.15(c)(4)(i) to clarify its intent by replacing the term ''lead and copper action levels'' with the term ''lead or copper action level'' and by replacing the term ''date upon which the exceedance occurred'' with the term ''last date of the compliance period in which the exceedance occurred.''

The Agency also is proposing to broaden this reporting requirement by adding a new § 142.15(c)(4)(ii) to require that each State submit to EPA the 90th percentile lead levels reported by all large- and medium-size water systems. EPA is proposing to require reporting of these data because it believes it is essential that the Agency maintain a data base on the national distribution of tap water lead levels before and after public water systems install optimal corrosion control treatment or source water treatment. EPA believes that data collected by water systems in accordance with the monitoring protocol specified in § 141.86 will greatly assist the Agency in determining the effectiveness of treatment to reduce drinking water lead levels, and in estimating the benefits that accrue to the public as a result of systems installing treatment. Moreover, EPA believes that collection of such data will prove invaluable when the Agency reviews the lead and copper regulations in the future. While the Agency would like these data for small systems also, the Agency is not proposing to require it because EPA believes that such a requirement would impose too great a burden on the States.

The States have shown support for this effort to collect crucial data on lead levels and the effectiveness of treatment around the country by submitting 90th percentile lead levels for large- and medium-size systems. The cost of this change will be minimal. The States already have the data in question and, for most of them, the process of transferring it to the Agency involves only a minor programming change to electronically transfer the extra piece of information during the normal reporting process. States without automated data tracking systems will find it more difficult to report these data. However, these States do have the data on hand and the extra reporting steps are minimal.

(b) Treatment Technique Milestones. (i) Corrosion control study milestones. The current § 142.15(c)(4)(ii) requires States to submit the name of each water system that is required to conduct a corrosion control study and the date the study is completed. EPA is proposing to eliminate this requirement because a public water system that fails to conduct a corrosion control treatment study is in violation of the regulation and will be automatically identified for EPA in the data system. Because all violations are reported to EPA through the data system, the Agency does not believe a separate report identifying each system required to conduct a study will provide EPA with information that will be useful in assessing the status of systems' compliance with the regulations.

(ii) Optimal corrosion control treatment designation/corrosion control treatment installation milestones. Section 142.15(c)(4)(iii) requires each State to report the name of every system for which it has designated optimal corrosion control treatment, the date of that determination, and each system that completed installation of treatment as certified under § 141.90(c)(3). EPA is proposing to revise this paragraph to eliminate reporting of systems that have completed installation of corrosion control treatment. Failure of a system to complete this installation is a violation that must be reported to EPA. EPA therefore believes that separate reporting of this milestone is redundant.

(iii) Requirement for source water treatment milestones. Section 142.15(c)(4)(v) requires the State to report the name of the system for which it requires installation of source water treatment and the effective date of that requirement. EPA is not proposing to change this requirement. This paragraph also requires States to report each system that has completed installation of source water treatment. EPA proposes to move this requirement to a new paragraph, 142.15(c)(4)(vi), and to make a minor change to include the date the State receives certification from the system that the treatment was installed properly. EPA proposes to add this reporting requirement so that the Agency can use the verifiable date of installation to ensure that further monitoring proceeds as required by the rule.

The current § 142.15(c)(4)(vi) requires the State to report the name of the system for which it has specified maximum permissible source water levels for lead and copper. EPA is proposing to eliminate this reporting requirement. The Agency can determine those systems for which the State will set maximum permissible levels from the information reported for the source water treatment/source water treatment installation milestones. In addition, EPA will know if a system fails to meet its maximum permissible source water levels because the system will incur a violation which would be reported to the data system. The Agency does not see any added value from having the State separately report the date it designated maximum permissible levels.

(iv) Cost of changing treatment technique milestones. As with the change regarding reporting of 90th percentile lead levels, the cost of changing the requirement to report the date that the system certified completion of source water treatment installation will be minimal. The State will already have this information on hand and reporting it with the other required information will be a minimal increase of effort that will be more than offset by eliminating the reporting of several treatment milestones altogether.

(d) Reporting Lead Service Line Replacement Milestones. Section 142.15(c)(4)(vii) requires the State to submit three separate pieces of information on each public water system required to replace lead service lines: Each system that must begin replacing lead service lines; each system for which the State has established an accelerated replacement schedule; and each system reporting compliance with its replacement schedule. EPA proposes that instead of the current reporting requirement, the State report each water system that must replace lead service lines and the date replacement must begin. Reports identifying water systems in compliance with the replacement schedule, or with a State-specified accelerated schedule, would be redundant because systems in violation of their replacement schedule would be reported to the data system as violations. The Agency also can require this information from States, if needed. EPA proposes to revise § 142.15(c)(4)(vii) accordingly. EPA estimates there will be no costs associated with this change.

2. Other Possible Changes to State Reporting Requirements

(a) Reporting of State-Designated Optimal Water Quality Control Parameters, Maximum Permissible Source Water Levels and Accelerated Lead Service Line Replacement Schedules. Although EPA is not proposing the following reporting requirements today, EPA is considering them and seeks public comment. These requirements are the reporting of State-designated optimal water quality control parameters and maximum permissible source water levels and the retention of the requirement to report accelerated lead service line replacement schedules.

For all systems that have to install corrosion control treatment, the regulations require States to designate the range of optimal water quality control parameters within which a system must operate once it has optimized treatment. For systems with high source water levels of lead or copper, the rule also requires States to specify whether source water treatment is required, and, if so, to specify maximum permissible source water levels after treatment has been installed. Finally, the rule allows States to establish an accelerated lead service line replacement schedule.

Unlike other NPDWRs in which EPA establishes maximum contaminant levels with which PWS must comply, in the lead and copper rule, the levels with which systems must comply (i.e., the optimal water quality control parameters and maximum permissible source water levels) are set by the States. Unless the State reports those levels to EPA, EPA does not know the limits with which each system must comply. This lack of information could place the Agency in a weaker oversight position and could require EPA to rely on ad-hoc requests to the States for this information.

In the same way, when a State establishes an accelerated lead service line replacement schedule for a PWS, this schedule becomes the federal requirement. Unless this new schedule is reported or EPA contacts the State, the Agency would not know the requirement with which the PWS must comply. If a system on an accelerated lead service line replacement schedule fails to replace the number of lines in a given year required by the State, EPA would know that they are out of compliance, however, just as if the system was on the standard replacement schedule.

EPA is sensitive to the burden which additional reporting places on the States and this is one reason why the Agency is not proposing to add this requirement. EPA also recognizes that States are required to maintain this information and that if it is needed, EPA may request it from the States. It should be noted, however, that responding to ad-hoc requests for information can take the States a good deal of time and resources.

EPA requests comment on whether or not to require the reporting of optimal water quality control parameters, the maximum permissible source water levels, and to retain the requirement to report accelerated lead service line replacement schedules. EPA requests comment on requiring this reporting for:

(a) all PWSs subject to the lead and copper rule;

(b) only PWSs serving 50,000 or more persons;

(c) only PWSs serving 10,000 or more persons; and

(d) only PWSs serving 3,300 or more persons.

Commenters should address both the need for the federal government to have access to the information on a routine basis as well as the burden of providing it for each of the options listed above. EPA may decide to promulgate final requirements to report this information for all PWSs, or for a subset of PWSs, as noted above.

(b) Reduce State Reporting to EPA of Lead and Copper Action Level Exceedences and Treatment Technique Milestone Information from Quarterly to Annually. In addition to the paperwork burden suggestions described above in section B.13, EPA is considering a stakeholder suggestion to reduce the frequency of reporting data required pursuant to § 142.15(c)(4). This section requires States to report information about action level exceedences and information related to treatment technique milestones for those systems that are triggered into corrosion control, source water treatment, and lead service line replacement. This section currently requires States to report such information on a quarterly basis—e.g., when a reportable milestone is completed, the information about that milestone is to be reported to EPA in the following calendar quarter.

Some stakeholders have suggested a modification to this section to change the reporting frequency for this information from quarterly to annually. As an example, the Agency might specify a date (e.g., January 1) and require that all new 90th percentile and treatment technique milestone information resulting from activities that occurred during the previous federal fiscal year (October 1 through September 30) be reported to EPA by that date (January 1). Such a change would mean that States would need to transmit the 90th percentile and treatment technique milestone information only once a year instead of four times a year.

If such a modification were made, costs associated with transmission of data should be reduced. Also, since the States will be retaining the information for a longer period of time before reporting to EPA, this change would give the States more time to review, edit, and correct the information that they are submitting and may help to improve the quality of the data being transmitted. Reducing the reporting frequency may, on the other hand, increase State burden because States would need to distinguish between those data elements which still must be reported quarterly (violation and enforcement information under § 142.15(a)) and those which may be reported annually. States do not currently need to make such a distinction since they submit all new information on a quarterly basis. Further, reducing the reporting frequency to annually means that some of the data will be as much as 12 months old by the time EPA has access to it. As an example, a milestone completed and reported to the State in February would not be reported to EPA in May, as is currently required, but instead would not be reported to EPA until the following January. This delay could affect the Agency's ability to quickly conduct nation-wide trend analyses and to assist with follow-up actions to encourage the system to return to compliance.

EPA asks for comments on this suggestion and requests that commenters address the following: (1) Whether such a reporting frequency change would significantly reduce or increase burden; (2) whether EPA and the public needs this information in a more current fashion (i.e., quarterly or semi-annually); and (3) whether reducing the reporting frequency to annually would likely have any effect on data quality. EPA may decide to include provisions to reduce the frequency of reporting lead and copper information pursuant to § 142.15(c)(4) in the final rule.

D. Proposed Effective Dates

EPA proposes to promulgate revisions pertaining to monitoring, analytical methods, reporting and recordkeeping requirements in § 141.81, §§ 141.86 through 141.90, and § 142.15 pursuant to both sections 1445 and 1412 of the Safe Drinking Water Act (SDWA) and proposes that these revisions take effect

30 days after promulgation. Although Section 1412(b) of the SDWA provides that National Primary Drinking Water Regulations (as defined in Section 1401), and amendments thereto, shall take effect 18 months after their promulgation, under Section 1445, there is no such limitation for monitoring, reporting, and recordkeeping compliance. To allow these revisions to be effective 30 days after promulgation of these revisions, EPA proposes promulgating these provisions of the revisions under section 1445. Effective 18 months after promulgation, these revisions will also be deemed effective under section 1412.

The Agency proposes to promulgate revisions pertaining to treatment technique requirements, including public education provisions, in §§ 141.81, 141.84, and 141.85, pursuant to section 1412 of the SDWA and proposes that these revisions take effect 18 months after promulgation.

E. Request for Comments

The Agency invites all interested persons to submit comments within 90 days on all aspects of this proposal to make minor revisions to the language of 40 CFR 141 and 142. However, the Agency only solicits comment on the proposed changes and the suggestions for reducing paperwork burden discussed in this preamble, and not on provisions of the existing regulation that would not be altered by this proposal. After carefully considering all public comments pertaining to the proposed changes, EPA will promulgate final language for these provisions.

F. Impact of These Revisions

1. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(a) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(b) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(c) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(d) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

(a) Costs. At the time of promulgation, based on data from a select group of U.S. cities, the Agency estimated that the cost for water systems to comply with the various treatment requirements would total between $500 and $790 million per year. Household costs were estimated to range from less than $1 per year for large systems (serving over 50,000 people) to $2 to $20 per year per household in smaller systems. Now that water systems have collected lead samples from hundreds of thousands of household taps around the country to comply with the monitoring requirements of the rule, much more reliable predictions of costs (and benefits) can be made. It is clear that significantly fewer systems will be required to install corrosion control and, therefore, both costs and benefits associated with the rule are less than originally predicted. We would now estimate that costs associated with the rule are roughly $200 million per year, resulting in reduced lead exposure for approximately 40 million Americans. Health benefits associated with these exposure reductions would still be substantial, totaling over $1 billion per year and resulting in an estimated 200,000 young children whose blood lead levels are reduced to below the Centers for Disease Control (CDC)/EPA action level of 10 micrograms per deciliter.

To calculate the relative magnitude of the regulatory revisions proposed here, the original cost model and the same basic assumptions regarding impacts of the individual rule components were used. Regardless of the baseline used, it is clear that the projected impacts of the proposed regulatory revisions, discussed below, will be minimal compared to the total national costs associated with the lead and copper regulations. Overall, we estimate the proposed changes will result in a very minor reduction and we do not believe the percentage reduction will change substantially if costs for the entire rule were recalculated.

The estimated national impact of these proposed changes is shown in the following table. EPA estimates the total national cost of the lead and copper regulations will decrease by approximately $1.9 million per year.

SUMMARY OF COST IMPACTS OF PROPOSED REVISIONS TO LEAD AND COPPER NATIONAL PRIMARY DRINKING WATER REGULATIONS (EPA, 1996b)

[Annual cost estimates in millions of dollars]

Major rule components	6/7/91 final rule [2]	Impact of proposed revisions	Revised LCR cost estimate
Monitoring	39	−1.02	38
Corrosion Control Treatment (including Corrosion studies)	220	0	220
Source Water Treatment	90	0	90
Public Education	30	−0.54	29
Lead Service Line Replacement	80–370	−0.01	80–370
State Implementation Costs	40	−0.31	40
Total	499–789	−1.88	497–787

[1] Unless otherwise noted, the costs presented in this table represent water system costs.

[2] Costs for the 1991 final rule were estimated at the time of promulgation and do not reflect actual costs associated with implementation since then.

[3] Includes impact of proposed revisions to both the public education requirements and the deadline for system reporting completion of lead public education tasks to the State.

Overall, EPA estimates that national system costs will decrease by approximately $1.5 million annually. Although most water systems should benefit somewhat, the systems most likely to benefit are those that are able to take advantage of proposed provisions allowing less frequent monitoring and/or from the proposed changes to the public education requirements. Despite this reduction in overall national costs, EPA recognizes that a few individual water systems may incur increased costs as a result of these proposed revisions. For example, water systems affected by the changes to §§ 141.81(b)(2) and 141.81(b)(3) may incur additional costs if they are not already conducting monitoring consistent with the proposed revised requirements.

EPA estimates that the total national cost for States to implement the proposed revised regulations will decrease by approximately $300,000 annually. This decrease results primarily from revisions that will result in fewer compliance determinations (since some systems will be monitoring less frequently) and changes in State reporting to EPA.

(b) Benefits. The intent of this proposed rulemaking is to improve implementation of the lead and copper regulations by eliminating unnecessary requirements, streamlining and reducing burden, and promoting consistent national implementation. EPA does not intend these revisions to modify the level of health protection extended by the lead and copper regulations and no modification is expected. While there are no known changes in health benefits associated with these proposed changes, improved implementation should result in some health benefits being achieved sooner.

2. Regulatory Flexibility Act

The Regulatory Flexibility Act requires EPA to consider the effect of regulations on small entities (5 U.S.C. 602 et seq.) If there is a significant economic effect on a substantial number of small entities, the Agency must prepare a Regulatory Flexibility Analysis (RFA) describing alternatives that would minimize the impact. The impact on small entities resulting from the requirements of the lead and copper rule was assessed at the time the requirements were imposed. As discussed above, the impact of the revisions proposed in this action will be to reduce total national annual monitoring costs slightly and EPA anticipates many small systems will benefit from these changes. States are not considered small entities under this rulemaking for RFA purposes. Thus, there is no additional impact on small entities imposed by these regulations.

3. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 0270.36) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460 or by calling (202) 260–2740.

This proposed rule would add recordkeeping and reporting requirements for some water systems and the States in the following categories: Sampling plans; sample invalidation; ''all plastic'' system waiver requests; and notifications of changes in treatment or source water. This proposed rule also would require more frequent reporting of the completion of public education tasks for CWSs serving more than 500. This information collection is necessary to evaluate system-specific needs, including examining treatment effectiveness; to adjust monitoring frequencies and schedules to address possible public health concerns, and to determine whether the public is receiving timely notification of possible health risks associated with high levels of lead at the tap. In addition, this proposal includes requirements for States to report to EPA the 90th percentile lead values for large and medium-size systems that do not exceed the lead action level and the date associated with one of the treatment technique milestones about which States currently are required to report. This information will be used to develop national compliance trends and to help evaluate whether changes in national policy or regulations are necessary to protect public health. The information collection in this proposed rule is mandatory, is authorized under sections 1401(1)(D), 1413(a)(3) and 1445 of the 1986 Amendments to the Safe Drinking Water Act and is considered public information. The additional recordkeeping and reporting requirements in this proposal are offset by other proposed provisions that will reduce monitoring burden and eliminate some system and State reporting requirements.

The annual public reporting and recordkeeping burden for this collection of information is estimated to decrease the base Public Water System Supervision (PWSS) program burden (ICR No. 270.30 approved under OMB Control Number 2040–0090) for 78,703 respondent public water systems by an average of 1.2 hours per system annually and to decrease the burden on each of the 56 State respondents by an average of 179.0 hours annually. The frequency of response includes on occasion, biweekly, quarterly (State respondents only), every six months, annual, every 3 years and every 9 years. With one exception (the change in deadline for reporting completion of public education tasks), this proposal either leaves unchanged, or reduces, the current frequency of response. The average annual per system burden cost is estimated to decrease by approximately $20.00 ($13.45 operations and maintenance and $6.55 purchase of services). The average annual per State burden cost is estimated to decrease by approximately $5,600, all of which is operations and maintenance. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Comments are requested on the Agency's need for the information proposed to be added or eliminated, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W.; Washington, DC 20503, marked

''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after April 12, 1996, a comment to OMB is best assured of having its full effect if OMB receives it by May 13, 1996. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

4. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (''UMRA''), P.L. 104–4, which was signed into law on March 22, 1995, requires EPA to prepare a written statement with respect to rules that contain federal mandates that may result in costs to State, local, or tribal governments of an estimated $100 million or more in any one year. Also, before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan.

The UMRA generally defines a federal mandate for regulatory purposes as one that imposes an enforceable duty upon State, local, or tribal governments or the private sector. Today's rule simply addresses proposed minor revisions to the existing national primary drinking water regulations for lead and copper. These revisions, when promulgated, will reduce monitoring burden for some water systems, make it easier for many water systems to conduct lead public education, and modify the definition of ''control'' as it applies to the lead service line replacement requirements of the existing regulation. This proposed rule also provides additional flexibility to States and modifies the information that States must report to EPA. This effect of the proposed rule would make minor revisions to the enforceable duty imposed on States and other entities. The estimated impact of these proposed revisions will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of less that $100 million per year. Thus, there are no federal mandates in this rule for purposes of the UMRA. In addition, today's action does not establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, and so does not require a small government agency plan under UMRA section 203.

5. Enhancing the Intergovernmental Partnership

Executive Order 12875, Enhancing Intergovernmental Partnerships requires Federal agencies to consult with State, local, and tribal entities in the development of rules and policies that will affect them. EPA has coordinated extensively with these entities in proposing these minor revisions to the Lead and Copper Rule in the following ways.

First, the EPA distributed a strawman draft proposal to interested parties, including State program officials, the Association of State Drinking Water Administrators (ASDWA) and major trade associations (e.g., the Association of Metropolitan Water Agencies (AMWA), the American Water Works Association (AWWA)) in August 1993. The Agency took the resulting comments into consideration while developing this proposal.

Second, representatives from three States participated on the Agency work group. These States were selected in consultation with ASDWA. In addition, EPA Regional work group members consulted with the States in their Region, in some cases sharing draft work group products with their States.

Third, in November 1995, the Agency provided national, local, and tribal organizations (e.g., the National League of Cities, the National Association of Towns and Townships, the National Association of County Health Officers, the Native American Water Association, etc.) a brief article for inclusion in their newsletters announcing upcoming plans to publish the proposal. The article encouraged readers to provide EPA comment on the proposed revisions and provided information on how interested parties could obtain a copy from EPA.

Fourth, the Agency is developing generic contacts with State, Tribal, and local fiscal and program officials which will enable various programs to consult with affected parties in a coordinated fashion. Identification of appropriate contacts was not accomplished in a time frame which enabled EPA's Office of Water to have extensive consultation with affected parties before proposal. EPA is committed to expanded dialogue and collaboration with State, Tribal and local governments, however, and plans to work with these contacts to provide for the maximum input from the regulated community for the drafting of the final rule. EPA will also send copies of this proposed rule to these governmental bodies, as well as to appropriate national and local associations.

G. References

The following references are referred to in this document and are included in the public docket. The public docket is available as described at the beginning of this document.

American Water Works Association, et al. v. *EPA*, 40 F.3d 1266 D.C. Cir. 1994).

Colling, J.H., Croll, B.T., Whincup, P.A.E., and Harward, C. Plumbosolvency Effects and Control in Hard Waters. J. IWEM, 6:259–268. (June, 1992). [Colling et al., 1992]

Federal Register, Vol. 56, No. 20. National Primary Drinking Water Regulations—Synthetic Organic Chemicals and Inorganic Chemicals; Monitoring for Unregulated Contaminants; National Primary Drinking Water Regulations Implementation; National Secondary Drinking Water Regulations; Final Rule. (Wed. Jan. 30, 1991), 3526–3614. [56 FR 3526]

Federal Register, Vol 56, No. 110. Drinking Water Regulations—Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule. (Fri. Jun. 7, 1991), 26460–26564. [56 FR 26460]

Federal Register, Vol. 56, No. 135. Drinking Water Regulations; Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule; Correction. (Mon. Jul. 15, 1991), 32113. [[56 FR 32113]

Federal Register, Vol. 57, No. 138. National Primary Drinking Water Regulations; Synthetic Organic Chemicals and Inorganic Chemicals; Final Rule. (Fri. Jul. 17, 1992), 31776–31849. [57 FR 31776]

Federal Register, Vol. 57, No. 125. Drinking Water Regulations; Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule; Correcting Amendments. (Mon. Jun. 29, 1992), 28785–28789. [57 FR 28785]

Federal Register, Vol. 59, No. 125. Drinking Water; Maximum Contaminant Level Goals and National Primary Drinking Water Regulations for Lead and Copper; Final Rule; Technical corrections. (Thu. Jun. 30, 1994), 33860–33864. [59 FR 33860]

Federal Register, Vol. 59, No. 232, Analytical Methods for Regulated Drinking Water Contaminants; Final Rule. (Mon. Dec. 5, 1995), 62456–62471. [59 FR 62456]

Federal Register, Vol. 60, No. 125. National Primary and Secondary Drinking Water Regulations; Analytical Methods for Regulated Drinking Water Contaminants; Final Rule. (Thu. Jun. 29, 1995), 34084–34086. [60 FR 34084]

Fuge, Ronald, Pearce, J.G. Nicholas, and Perkins, William T. Unusual Sources of Aluminum and Heavy Metals in Potable Waters. Environmental Geochemistry and Health, 14:15–18. (April, 1992). [Fuge et al., 1992]

NSF, International Personal communication from Ann Marie Gebhart, NSF, Ann Arbor, Michigan, to Jeff Cohen, U.S. EPA, Office of Ground Water and Drinking Water, July 28, 1995. [NSF 1995]

Schock, Michael R., Wagner, Ivo, and Oliphant, Roger. The Corrosion and Solubility of Lead in Drinking Water. Ch. 4

in Internal Corrosion of Water Distribution Systems, Second Edition, AWWARF/EBI. (1995, in press). [Schock et al., 1996]

U.S. Environmental Protection Agency. Regulatory Impact Analysis of Proposed National Primary Drinking Water Regulations for Lead and Copper. Prepared by Wade Miller Associates, Inc. (April 1991). [EPA, 1991a]

U.S. Environmental Protection Agency. Lead and Copper Rule Guidance Manual; Volume I: Monitoring. Prepared by Black & Veatch, ECOS, Inc., and Malcolm Pirnie, Inc. (Sep. 1991, NTIS PB 92–112101). [EPA, 1991b]

U.S. Environmental Protection Agency. Lead and Copper Rule; Definitions and Federal Reporting for Milestones, Violations and SNCs. (May 1992, ERIC G405, NTIS PB–93–156131). [EPA, 1992a]

U.S. Environmental Protection Agency. Lead and Copper Rule Guidance Manual; Volume II: Corrosion Control Treatment. Prepared by Black & Veatch and Malcolm Pirnie, Inc. (Sep. 1992, NTIS PB–93–101583). [EPA, 1992b]

U.S. Environmental Protection Agency. Methods for Determination of Metals in Environmental Samples—Supplement 1. (May 1994, NTIS PB 94–184942). [EPA, 1994]

U.S. Environmental Protection Agency. National Primary Drinking Water Regulations for Lead and Copper; Analysis of Analysis of Occurrences of Very Low 90th Percentile Lead Levels. (Oct. 1995, EPA 812–X–95–001, NTIS PB 96–129–077). [EPA, 1995]

U.S. Environmental Protection Agency. Regulatory Impact Analysis Addendum; Proposed Changes to National Primary Drinking Water Regulations for Lead and Copper. Prepared by The Cadmus Group. (Jan. 1996, EPA 812–B–96–002, NTIS PB 96–141494). [EPA, 1996a]

U.S. Environmental Protection Agency. Information Collection Request; Proposed Changes to National Primary Drinking Water Regulations for Lead and Copper. Prepared by The Cadmus Group. (Jan. 1996, EPA 812–B–96–003, NTIS PB 96–141502). [EPA, 1996b]

List of Subjects

40 CFR Part 141

Environmental protection, Chemicals, Indians—lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 142

Administrative practice and procedure, Chemicals, Indians—lands, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: March 22, 1996.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, title 40, chapter I, parts 141 and 142 of the Code of Federal Regulations are proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

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

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4 and 300j–9.

2. Section 141.81 is proposed to be amended by revising paragraph (b)(2) introductory text and paragraph (b)(3) to read as follows:

§ 141.81 Applicability of corrosion control treatment steps to small, medium-size and large water systems.

* * * * *

(b) * * *

(2) Any water system may be deemed by the State to have optimized corrosion control treatment if the system demonstrates to the satisfaction of the State that it has conducted activities equivalent to the corrosion control steps applicable to such system under this section. If the State makes this determination, it shall provide the system with written notice explaining the basis for its decision and shall specify the water quality control parameters representing optimal corrosion control in accordance with § 141.82(f). Water systems deemed to have optimized corrosion control under this paragraph shall operate in compliance with the State-designated optimal water quality control parameters (§ 141.82(g)) and continue to conduct tap sampling (§ 141.86(d)(3) and § 141.87(d)). A system shall provide the State with the following information in order to support a determination under this paragraph:

* * * * *

(3) Any water system is deemed to have optimized corrosion control if it submits results of tap water monitoring conducted in accordance with § 141.86 and source water monitoring conducted in accordance with § 141.88 that demonstrates for two consecutive 6-month monitoring periods that the difference between the 90th percentile tap water lead level computed under § 141.80(c)(3), and the highest source water lead concentration is less than the Practical Quantitation Level for lead specified in § 141.89(a)(1)(ii). Any such water system shall continue monitoring for lead and copper at the tap no less frequently than once every three calendar years using the reduced number of sites specified in § 141.86(c) and collecting the samples at times and locations specified in § 141.86(d)(4)(iv). The first round of monitoring pursuant to § 141.86(d)(4)(iv) shall be conducted in [the year of the first May 1 after publication of the final rule in Federal Register] during the months of June–September with the exception that systems that have monitored pursuant to § 141.86(d) (3) or (4) during any of the three years prior to [30 days after publication of final rule in Federal Register] may use those results and continue monitoring every three years based on the date of that monitoring. The State may require any system deemed to have optimized corrosion control pursuant to this paragraph to conduct additional monitoring or to take other action the State deems appropriate to ensure that such systems maintain minimal levels of corrosion in the distribution system (e.g., if there is a change in treatment or a new source is added). As of [18 months after publication of final rule in Federal Register] a system is not deemed to have optimized corrosion control under this paragraph unless it meets the copper action level. Any system triggered into corrosion control because it is no longer deemed to have optimized corrosion control under this paragraph shall comply with the requirements of paragraph (e) of this section with any such large system adhering to the schedule specified in that paragraph for medium-sized systems.

* * * * *

3. Section 141.84 is proposed to be amended by removing paragraph (e), redesignating paragraphs (f), (g), and (h) as paragraphs (e), (f), and (g), respectively, and by revising paragraph (d) to read as follows:

§ 141.84 Lead service line replacement requirements.

* * * * *

(d) A water system shall replace that portion of the lead service line which the system owns as well as that portion of the line which the system has the legal authority to replace in order to protect the quality of the water delivered to the user. In cases where the system does not replace the entire lead service line, the system shall notify the user served by the line that the system will replace the portion of the service line specified in the previous sentence and shall offer to replace the building owner's portion of the line, but is not required to bear the cost of replacing the building owner's portion of the line. For buildings where only a portion of the lead service line is replaced, the water system shall inform the resident(s) that the system will collect a first flush tap water sample after partial replacement of the service line is completed if the resident(s) so desire. In cases where the resident(s) accept the offer, the system shall collect the sample and report the results to the resident(s) within 14 days

following partial lead service line replacement.

* * * * *

4. Section 141.85 is proposed to be amended by redesignating paragraphs (a)(1) through (a)(4)(v) as follows:

Old paragraph	New paragraph
(a)(1)	(a)(1)(i).
(a)(2)	(a)(1)(ii).
(a)(3)	(a)(1)(iii).
(a)(3)(i)	(a)(1)(iii)(A).
(a)(3)(ii)	(a)(1)(iii)(B).
(a)(3)(iii)	(a)(1)(iii)(C).
(a)(4)	(a)(1)(iv).
(a)(4)(i)	(a)(1)(iv)(A).
(a)(4)(ii)	(a)(1)(iv)(B).
(a)(4)(ii)(A)	(a)(1)(iv)(B)(*1*).
(a)(4)(ii)(B)	(a)(1)(iv)(B)(*2*).
(a)(4)(ii)(C)	(a)(1)(iv)(B)(*3*).
(a)(4)(ii)(D)	(a)(1)(iv)(B)(*4*).
(a)(4)(ii)(E)	(a)(1)(iv)(B)(*5*).
(a)(4)(ii)(F)	(a)(1)(iv)(B)(*6*).
(a)(4)(iii)	(a)(1)(iv)(C).
(a)(4)(iii)(A)	(a)(1)(iv)(C)(*1*).
(a)(4)(iii)(B)	(a)(1)(iv)(C)(*2*).
(a)(4)(iv)	(a)(1)(iv)(D).
(a)(4)(iv)(A)	(a)(1)(iv)(D)(*1*).
(a)(4)(iv)(B)	(a)(1)(iv)(D)(*2*).
(a)(4)(iv)(C)	(a)(1)(iv)(D)(*3*).
(a)(4)(v)	(a)(1)(iv)(E).

4a. Section 141.85 is further proposed to be amended by adding paragraph (a)(1) heading and paragraphs (a)(2), (c)(7) and (c)(8) and by revising paragraphs (c)(2) introductory text, (c)(2)(i), (c)(2)(ii), (c)(2)(iii) introductory text, and paragraph (c)(4) introductory text to read as follows:

§ 141.85 Public education and supplemental monitoring requirements.

* * * * *

(a) * * *

(1) *Content of printed public education materials for community water systems*—(i) *Introduction.* * * *

* * * * *

(2) *Content of printed public education materials for non-transient non-community water systems.*—(i) *Introduction.* The United States Environmental Protection Agency (EPA) and [insert name of water supplier] are concerned about lead in your drinking water. Some drinking water samples taken from this facility have lead levels above the EPA action level of 15 parts per billion (ppb), or 0.015 milligrams of lead per liter of water (mg/L). Under Federal law we are required to have a program in place to minimize lead in your drinking water by [insert date when corrosion control will be completed for your system]. This program includes corrosion control treatment, source water treatment, and public education. We are also required to replace any lead service line that is in place and that we control if the line contributes lead concentrations of more than 15 ppb after we have completed the comprehensive treatment program. If you have any questions about how we are carrying out the requirements of the lead regulation please give us a call at [insert water system's phone number]. This brochure explains the simple steps you can take to protect yourself by reducing your exposure to lead in drinking water.

(ii) *Health effects of lead.* Lead is found throughout the environment in lead-based paint, air, soil, household dust, food, certain types of pottery porcelain and pewter, and water. Lead can pose a significant risk to your health if too much of it enters your body. Lead builds up in the body over many years and can cause damage to the brain, red blood cells and kidneys. The greatest risk is to young children and pregnant women. Amounts of lead that won't hurt adults can slow down normal mental and physical development of growing bodies. In addition, a child at play often comes into contact with sources of lead contamination—like dirt and dust—that rarely affect an adult. It is important to wash children's hands and toys often, and to try to make sure they only put food in their mouths.

(iii) *Lead in drinking water.* (A) Lead in drinking water, although rarely the sole cause of lead poisoning, can significantly increase a person's total lead exposure, particularly the exposure of infants who drink baby formulas and concentrated juices that are mixed with water. The EPA estimates that drinking water can make up 20 percent or more of a person's total exposure to lead.

(B) Lead is unusual among drinking water contaminants in that it seldom occurs naturally in water supplies like rivers and lakes. Lead enters drinking water primarily as a result of the corrosion, or wearing away, of materials containing lead in the water distribution system and household plumbing. These materials include lead-based solder used to join copper pipe, brass and chrome-plated brass faucets, and in some cases, pipes made of lead that connect houses and buildings to water mains (service lines). In 1986, Congress banned the use of lead solder containing greater than 0.2% lead, and restricted the lead content of faucets, pipes and other plumbing materials to 8.0%.

(C) When water stands in lead pipes or plumbing systems containing lead for several hours or more, the lead may dissolve into your drinking water. This means the first water drawn from the tap in the morning, or later in the afternoon if the water has not been used all day, can contain fairly high levels of lead.

(iv) *Steps you can take to reduce exposure to lead in drinking water.* (A) Let the water run from the tap before using it for drinking or cooking any time the water in a faucet has gone unused for more than six hours. The longer water resides in plumbing the more lead it may contain. Flushing the tap means running the cold water faucet for about 15–30 seconds. Although toilet flushing or showering flushes water through a portion of the plumbing system, you still need to flush the water in each faucet before using it for drinking or cooking. Flushing tap water is a simple and inexpensive measure you can take to protect your health. It usually uses less than one gallon of water.

(B) Do not cook with, or drink water from the hot water tap. Hot water can dissolve more lead more quickly than cold water. If you need hot water, draw water from the cold tap and then heat it.

(C) The steps described above will reduce the lead concentrations in your drinking water. However, if you are still concerned, you may wish to use bottled water for drinking and cooking.

(D) You can consult a variety of sources for additional information. Your family doctor or pediatrician can perform a blood test for lead and provide you with information about the health effects of lead. State and local government agencies that can be contacted include:

(*1*) [insert the name or title of facility official if appropriate] at [insert phone number] can provide you with information about your facility's water supply; and

(*2*) [insert the name or title of the State Department of Public Health] at [insert phone number] or the [insert the name of the city or county health department] at [insert phone number] can provide you with information about the health effects of lead.

* * * * *

(c) * * *

(2) Except as provided in paragraphs (c)(2)(i)(A) or (c)(8) of this section, a community water system that fails to meet the lead action level on the basis of water samples collected in accordance with § 141.86 shall, within 60 days:

(i) Insert notices in each customer's water utility bill containing the information in paragraph (a)(1) of this section, along with the following alert on the water bill itself in large print: ''SOME HOMES IN THIS COMMUNITY HAVE ELEVATED LEAD LEVELS IN THEIR DRINKING WATER. LEAD CAN POSE A SIGNIFICANT RISK TO YOUR HEALTH. PLEASE READ THE ENCLOSED NOTICE FOR FURTHER INFORMATION.''

(A) A community water system having a billing cycle that does not include a billing within 60 days of exceeding the action level may mail the materials on the same schedule as the system's billing cycle, but in no case may the mailing occur later than six months after the exceedance.

(B) A community water system that cannot insert information in the water utility bill without making major changes to its billing system may use a separate mailing to deliver the information in paragraph (a)(1) of this section as long as the information is delivered to each customer within the time frames specified above. Such water systems shall include the following alert in the package, in large print: SOME HOMES IN THIS COMMUNITY HAVE ELEVATED LEAD LEVELS IN THEIR DRINKING WATER. LEAD CAN POSE A SIGNIFICANT RISK TO YOUR HEALTH. PLEASE READ THE ENCLOSED NOTICE FOR FURTHER INFORMATION.''

(ii) Submit the information in paragraph (a)(1) of this section to the editorial departments of the major daily and weekly newspapers circulated throughout the community.

(iii) Deliver pamphlets and/or brochures that contain the public education materials in paragraphs (a)(1)(ii) and (a)(1)(iv) of this section to facilities and organizations, including the following:

* * * * *

(4) Within 60 days after it exceeds the lead action level, a non-transient non-community water system shall deliver the public education materials contained in paragraph (a)(2) of this section as follows:

* * * * *

(7) A community water system may apply to the State, in writing, to use the text specified in paragraph (a)(2) of this section in lieu of the text in paragraph (a)(1) of this section and to perform the tasks listed in paragraphs (c)(4) and (c)(5) of this section in lieu of the tasks in paragraphs (c)(2) and (c)(3) of this section if:

(i) The system is a facility, such as a prison or a hospital, where the population served is not capable of or is prevented from making improvements to plumbing or installing point of use treatment devices; and

(ii) The system provides water as part of the cost of services provided and does not separately charge for water consumption.

(8) (i) A community water system serving 500 or fewer people shall complete the tasks contained in paragraphs (c)(2)(i) and (c)(2)(iii) of this section. Such systems may limit distribution of the public education materials required under paragraph (c)(2)(iii) of this section to facilities and organizations that are most likely to be visited regularly by pregnant women and children served by the system, including all appropriate facilities and organizations within the system's service area.

(ii) A community water system serving 500 or fewer people that delivers public education in accordance with paragraph (c)(8)(i) of this section shall repeat the tasks contained in paragraph (c)(8)(i) of this section at least once during each calendar year in which the system exceeds the lead action level.

* * * * *

5. Section 141.86 is proposed to be amended by removing paragraph (a)(8), by redesignating paragraph (a)(9) as paragraph (a)(8) and paragraph (d)(4)(v) as paragraph (d)(4)(vi), by adding a sentence to the end of paragraphs (a)(5) and (a)(7), by adding paragraphs (b)(5), (d)(4)(v), (d)(4)(vii), (f) and (g), and by revising newly designated paragraph (a)(8) and paragraphs (b)(1), (c), (d)(4)(ii) through (d)(4)(iv), and the sixth sentence of paragraph (b)(2) to read as follows:

§ 141.86 Monitoring requirements for lead and copper in tap water.

(a) * * *

(5) * * * A community water system with insufficient tier 1, tier 2, and tier 3 sampling sites shall complete its sampling pool with representative sites throughout the distribution system.

* * * * *

(7) * * * If additional sites are needed to complete the sampling pool, the non-transient non-community water system shall use representative sites throughout the distribution system.

(8) Any water system whose distribution system contains lead service lines shall draw 50 percent of the samples it collects during each monitoring period from sites that contain lead pipes, or copper pipes with lead solder, and 50 percent of the samples from sites served by a lead service line. A water system that cannot identify a sufficient number of sampling sites served by a lead service line shall collect first draw samples from all of the sites identified as being served by such lines.

(b)(1) All tap samples for lead and copper collected in accordance with this subpart, with the exception of lead service line samples collected under § 141.84(c) and samples collected under paragraph (b)(5) of this section, shall be first draw samples.

(2) * * * If the sample is not acidified immediately after collection, then after acidification to resolubilize the metals the sample must stand in the original container for the time specified in the approved EPA method. * * *

* * * * *

(5) A non-transient non-community water system that does not have enough taps that can supply first draw samples, as defined in § 141.2, may apply to the State in writing to substitute non-first draw samples. Such systems must:

(i) Collect as many first draw samples from appropriate sample taps as possible;

(ii) Identify sampling times and locations that would likely result in the longest standing time for the remaining sample sites; and

(iii) Sample at times and locations approved by the State.

(c) *Number of samples.* Water systems shall collect at least one sample during each monitoring period specified in paragraph (d) of this section from the number of sites listed in the first column (''standard monitoring'') of the table in this paragraph. A system conducting reduced monitoring under paragraph (d)(4) of this section shall collect at least one sample from the number of sites specified in the second column (''reduced monitoring'') of the table in this paragraph during each monitoring period specified in paragraph (d)(4) of this section. Such reduced monitoring sites shall be representative of the sites required for standard monitoring. States may specify sampling locations when a system is conducting reduced monitoring. The table is as follows:

System size (number of people served)	Number of sites (standard monitoring)	Number of sites (reduced monitoring)
>100,000	100	50
10,001 to 100,000	60	30
3,301 to 10,000	40	20
501 to 3,300	20	10
101 to 500	10	5
≤100	5	5

(d) * * *

(4) * * *

(ii) Any water system that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the State under § 141.82(f) during each of two consecutive six-month monitoring periods may reduce the frequency of monitoring to once per year and reduce the number of lead and copper samples in accordance with

paragraph (c) of this section if it receives written approval from the State. The State shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with § 141.90, and shall notify the system in writing when it determines the system is eligible to commence reduced monitoring pursuant to this paragraph. The State shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(iii) A small or medium-size water system that meets the lead and copper action levels during three consecutive years of monitoring may reduce the frequency of monitoring for lead and copper from annually to once every three years. Any water system that maintains the range of values for the water quality control parameters reflecting optimal corrosion control treatment specified by the State under § 141.82(f) during three consecutive years of monitoring may reduce the frequency of monitoring from annually to once every three years if it receives written approval from the State. The State shall review monitoring, treatment, and other relevant information submitted by the water system in accordance with § 141.90, and shall notify the system in writing when it determines the system is eligible to reduce the frequency of monitoring to once every three years. The State shall review, and where appropriate, revise its determination when the system submits new monitoring or treatment data, or when other data relevant to the number and frequency of tap sampling becomes available.

(iv) A water system that reduces the number and frequency of sampling shall collect these samples from sites included in the pool of targeted sampling sites identified in paragraph (a) of this section. Systems sampling annually or less frequently shall conduct the lead and copper tap sampling during the months of June, July, August or September. If a water system does not operate between June and September, the system must monitor at times representative of system operation during the applicable monitoring period. Samples for such systems must be taken during the month(s) of operation that will likely be the warmest.

(v) Any water system that demonstrates for two consecutive 6-month monitoring periods that the tap water lead level computed under § 141.80(c)(3) is less than or equal to the PQL for lead specified in § 141.89(a)(1)(ii) and the tap water copper level computed under § 141.80(c)(3) is less than or equal to one-half the copper action level specified in § 141.80(c)(2) may reduce the number of samples in accordance with paragraph (c) of this section and reduce the frequency of sampling to once every three calendar years.

* * * * *

(vii) Any water system subject to reduced monitoring that either changes its source water or changes any water treatment shall inform the State within 60 days. The State may require the system to resume sampling in accordance with paragraph (d)(3) of this section and collect the number of samples specified for standard monitoring under paragraph (d) of this section or take other appropriate steps such as increased water quality parameter monitoring or re-evaluation of its corrosion control treatment given the potentially different water quality considerations.

* * * * *

(f) *Invalidation of lead or copper tap water samples.* A sample invalidated under this paragraph does not count toward meeting the minimum monitoring requirements of this section.

(1) The State may invalidate a lead or copper tap water sample only if the conditions of paragraph (f)(1) (i), (ii), (iii) or (iv) of this section are met.

(i) The laboratory establishes that improper sample analysis caused erroneous results.

(ii) The State determines that the sample was taken from a site that did not meet the site selection criteria of this section.

(iii) The sample container was damaged in transit.

(iv) There is substantial reason to believe that the sample was subject to tampering.

(2) The system must report the results of all samples to the State and all evidence of documentation for samples the system believes should be invalidated.

(3) To invalidate a sample under paragraph (f)(1) of this section, the decision and the rationale for the decision must be documented in writing.

(4) Replacement samples for any samples invalidated under this section must be taken as soon as possible, but within 20 days of the date the State invalidates the sample or by the end of the applicable monitoring period, whichever occurs later. Replacement samples taken after the end of the applicable monitoring period shall not also be used to meet the monitoring requirements of a subsequent monitoring period. The replacement samples shall be taken at the same locations as the invalidated samples or, if that is not possible, at locations other than those already used for sampling during the monitoring period.

(g) *Monitoring waivers for ''all plastic'' systems.* (1) Any small-size system in which the system's distribution and service lines and all buildings connected to the system are free of materials containing lead and copper, including but not limited to, lead or copper service lines, lead or copper pipes, lead soldered pipe joints, and leaded brass or bronze alloy fittings and fixtures, may apply to the State for a waiver from the requirements of paragraph (d) of this section once it has completed one six-month round of standard tap water monitoring for lead and copper subsequent to becoming free of materials containing lead and copper. Such monitoring shall be completed at sites approved by the State and from the number of sites required by paragraph (c) of this section.

(2) To qualify for a waiver the system must:

(i) Provide certification to the State that the system itself and all buildings connected to the system are free of all lead-containing and copper-containing materials, as specified in paragraph (g)(1) of this section; and

(ii) Demonstrate that the 90th percentile lead level for any and all rounds of monitoring performed since the system became free of all lead-containing and copper-containing materials, as specified in paragraph (g)(1) of this section, does not exceed 0.005 mg/L and the 90th percentile copper level for any and all such rounds of monitoring does not exceed 0.65 mg/L.

(3) A State may grant a waiver to some or all of the monitoring requirements of paragraph (d) of this section after the State evaluates the information provided by the system as required by paragraph (g)(2) of this section. As a condition of the waiver, the State may require the system to perform specific activities (e.g., limited monitoring or public education) to minimize the risk of lead or copper contamination in tap water. The State shall notify the system of its determination in writing, setting forth the basis of its decision and any conditions of the waiver.

(4) A system with a waiver must conduct tap water monitoring for lead and copper at the reduced number of sampling sites identified in paragraph (c) of this section once every nine years. If the 90th percentile lead level is

greater than 0.005 mg/L and/or if the 90th percentile copper level is greater than 0.65 mg/L, the State may require the system to resume regular tap water monitoring pursuant to paragraph (d) (3) or (4) of this section, or to take other appropriate action to ensure that the system maintains minimal levels of corrosion in the distribution system.

(5) If a system with a waiver from monitoring requirements adds a new source of water or changes any water treatment, the system shall inform the State within 60 days. The State may require the system to resume regular tap water monitoring pursuant to paragraph (d) (3) or (4) of this section. Any such system may apply for an extension of the waiver by repeating the steps listed in paragraphs (g)(2) (i) and (ii) in this section. If the system continues to satisfy the requirements of paragraph (g)(2) of this section, a State may extend the waiver as described in paragraph (g)(3) of this section.

(6) If, due to new construction or repairs, a system can no longer certify that the system itself and all buildings connected to the system are free of lead-containing and copper-containing materials, the system must resume regular tap water monitoring pursuant to paragraph (d)(4) of this section.

6. Section 141.87 is proposed to be amended by redesignating paragraph (e)(2) as paragraph (e)(2)(i), by adding paragraphs (c)(3) and (e)(2)(ii), and by revising paragraph (c)(2) introductory text and the table at the end of the section to read as follows:

§ 141.87 Monitoring requirements for water quality parameters.

* * * * *

(c) * * *

(2) For surface water systems, at each entry point to the distribution system, one sample every two weeks (biweekly) for:

* * * * *

(3) Any ground water system can limit entry point sampling described in paragraph (c)(2) of this section to those entry points that are representative of water quality and corrosion control treatment conditions throughout the system. Any such system shall provide to the State by the commencement of such monitoring identification of the selected entry points and information sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

* * * * *

(e) * * *

(2) * * *

(ii) Any large water system may reduce the frequency with which it collects tap samples for applicable water quality parameters specified in paragraph (e)(1) of this section to every three years if it demonstrates during two consecutive monitoring periods that its tap water lead level at the 90th percentile is less than the PQL for lead specified in § 141.89(a)(1)(ii), that its tap water copper level at the 90th percentile is less than one-half the action level for copper in § 141.80(c)(2), and that it also has maintained the range of values for the water quality parameters reflecting optimal corrosion control treatment specified by the State under § 141.82(f).

* * * * *

SUMMARY OF MONITORING REQUIREMENTS FOR WATER QUALITY PARAMETERS [1]

Monitoring period	Parameters [2]	Location	Frequency
Initial monitoring	pH, alkalinity, orthophosphate or silica [3], calcium, conductivity, temperature.	Taps and at entry point(s) to distribution systems..	
After installation of corrosion control.	pH, alkalinity, orthophosphate or silica [3], calcium [4].	Taps	Every 6 months
	pH, alkalinity, dosage rate and concentration (if alkalinity adjusted as part of corrosion control), inhibitor dosage rate and inhibitor residual [5].	Entry point(s) to distribution system [6].	Biweekly.
After state specifies parameter values for optimal corrosion control.	pH, alkalinity, orthophosphate or silica [3], calcium [4].	Taps	Every 6 months.
	pH, alkalinity dosage rate and concentration (if alkalinity adjusted as part of corrosion control), inhibitor dosage rate and inhibitor residual [5].	Entry point(s) to distribution system [6].	Biweekly.
Reduced monitoring	pH, alkalinity, orthophosphate or silica [3], calcium [4].	Taps	Every 6 months, annually [7] or every 3 years [8]; reduced number of sites.
	pH, alkalinity dosage rate and concentration (if alkalinity adjusted as part of corrosion control), inhibitor dosage rate and inhibitor residual [5].	Entry point(s) to distribution system [6].	Biweekly.

[1] Table is for illustrative purposes; consult the text of this section for precise regulatory requirements.

[2] Small and medium-size systems have to monitor for water quality parameters only during monitoring periods in which the system exceeds the lead or copper action level.

[3] Orthophosphate must be measured only when an inhibitor containing a phosphate compound is used. Silica must be measured only when an inhibitor containing silicate compound is used.

[4] Calcium must be measured only when calcium carbonate stabilization is sued as part of corrosion control.

[5] Inhibitor dosage rates and inhibitor residual concentrations (orthophosphate or silica) must be measured only when an inhibitor is used.

[6] Ground water systems may limit monitoring to representative locations throughout the system.

[7] Water systems may reduce frequency of monitoring for water quality parameters at the tap from every six months to annually if they have maintained the range of values for water quality parameters reflecting optimal corrosion control during 3 consecutive years of monitoring.

[8] Water systems may further reduce the frequency of monitoring for water quality parameters at the tap from annually to once every 3 years if they have maintained the range of values for water quality parameters reflecting optimum control during 3 consecutive years of annual monitoring.

7. Section 141.88 is proposed to be amended by revising paragraphs (a)(1), (e)(1), and (e)(2) to read as follows:

§ 141.88 Monitoring requirements for lead and copper in source water.

(a) * * *

(1) A water system that fails to meet the lead or copper action level on the basis of tap samples collected in accordance with § 141.86 shall collect lead and copper source water samples in accordance with the following requirements regarding sample location, number of samples, and collection methods:

(i) A water system shall take a minimum of one sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point which is representative of each source after treatment (hereafter called a sampling point).

(ii) If a system draws water from more than one source and the sources are combined before distribution, the system must sample at an entry point to the distribution system during periods of normal operating conditions (i.e., when water is representative of all sources being used).

(iii) The State may reduce the total number of samples which must be analyzed by allowing the use of compositing. Compositing of samples must be done by certified laboratory personnel. Composite samples from a maximum of five samples are allowed, provided that if the lead concentration in the composite sample is greater than 0.001 mg/L or the copper concentration is greater than 0.160 mg/L, then either:

(A) A follow-up sample shall be taken and analyzed within 14 days at each sampling site included in the composite; or

(B) If duplicates of or sufficient quantities from the original samples from each sampling point used in the composite are available, the system may use these instead of resampling.

* * * * *

(e) * * *

(1) A water system using only groundwater may reduce the monitoring frequency for lead and/or copper to once during each nine-year compliance cycle (as that term is defined in § 141.2) if the system meets one of the following criteria:

(i) The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the State in § 141.83(b)(4) during at least three consecutive compliance periods under paragraph (d)(1) of this section; or

(ii) The State has determined that source water treatment is not needed and the system demonstrates that, during at least three consecutive compliance periods in which sampling was conducted under paragraph (d)(1) of this section, the concentration of lead in source water was less than 0.005 mg/L and the concentration of copper in source water was less than 0.8 mg/L.

(2) A water system using surface water (or a combination of surface and groundwater) may reduce the monitoring frequency in paragraph (d)(1) of this section to once during each nine-year compliance cycle (as that term is defined in § 141.2) if the system meets one of the following criteria:

(i) The system demonstrates that finished drinking water entering the distribution system has been maintained below the maximum permissible lead and copper concentrations specified by the State in § 141.83(b)(4) for at least three consecutive years; or

(ii) The State has determined that source water treatment is not needed and the system demonstrates that, during at least three consecutive years, the concentration of lead in source water was less than 0.005 mg/L and the concentration of copper in source water was less than 0.8 mg/L.

* * * * *

8. Section 141.89 is proposed to be amended by revising paragraph (a)(1)(iii) to read as follows:

§ 141.89 Analytical methods.

(a) * * *

(1) * * *

(iii) Achieve the method detection limit for lead of 0.001 mg/L according to the procedures in appendix B of part 136 of this title. This need only be accomplished if the laboratory will be processing source water composite samples under § 141.88(a)(1)(iii).

* * * * *

9. Section 141.90 is proposed to be amended by removing and reserving paragraph (a)(1)(iii) and removing paragraph (e)(4), by revising all references to ''§ 141.84(f)'' in paragraph (e)(2) to read ''§ 141.84(e)'', and by revising paragraphs (a)(1) introductory text, (a)(1)(ii), (a)(2) through (a)(5) and (f) to read as follows:

§ 141.90 Reporting requirements.

* * * * *

(a) * * *

(1) A water system shall report the following information specified all tap water samples within the first 10 days following the end of each applicable monitoring period specified in § 141.86 and § 141.87 and § 141.88 (i.e., every six-months, annually, every 3 years, or every 9 years):

* * * * *

(ii) Documentation for each tap water lead or copper sample for which the water system requests invalidation pursuant to § 141.86(f)(1);

(iii) [Reserved];

* * * * *

(2) By the start of the first applicable monitoring period in § 141.86(d) that commences after [30 days following publication of final rule in Federal Register], each non-transient non-community water system that does not have enough taps that can supply first draw samples, as defined in § 141.2, shall send a letter to the State identifying sampling times and locations for enough non-first draw samples to make up its sampling pool under § 141.86(b)(5).

(3) By 60 days after any change in source water or water treatment, a water system subject to reduced monitoring pursuant to § 141.86(d), or subject to a monitoring waiver pursuant to § 141.86(g), shall send a letter to the State describing the change along with any appropriate monitoring results.

(4) By the start of the first applicable monitoring period in § 141.86(d) that commences after [30 days following publication of final rule in Federal Register], each small-size water system that requests a monitoring waiver, or any extension of a monitoring waiver, shall send a letter to the State providing the information listed under § 141.86(g)(2).

(5) Each ground water system that limits water quality parameter monitoring to a subset of entry points under § 141.87 (c)(3) shall provide to the State by the commencement of such monitoring identification of the selected entry points and information sufficient to demonstrate that the sites are representative of water quality and treatment conditions throughout the system.

* * * * *

(f) *Public education program reporting requirements.* Any water system that is subject to the public education requirements in § 141.85 shall submit a letter to the State within ten days after the end of each period in which the system is required to perform public education tasks in accordance with § 141.85(c) demonstrating that the system has delivered the public education materials that meet the content requirements in § 141.85(a) and (b) and the delivery requirements in § 141.85(c). This information shall include a list of all the newspapers, radio stations, television stations, and

facilities and organizations to which the system delivered public education materials during the most recent period during which the system was required to perform public education tasks.

* * * * *

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

10. The authority citation for part 142 continues to read as follows:

Authority: 42 U.S.C. 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4 and 300j–9.

11. Section 142.15 is proposed to be amended by revising paragraphs (c)(4)(i) through (c)(4)(iii) and (c)(4)(v) through (c)(4)(vii) to read as follows:

§ 142.15 Reports by States.

* * * * *

(c) * * *

(4) * * *

(i) Each public water system which exceeded the lead or copper action level and the last day of the compliance period in which the exceedance occurred;

(ii) For each large and medium-size public water system, all 90th percentile lead levels calculated during each monitoring period in § 141.86, and the first and last day of the compliance period for which the 90th percentile lead level was calculated;

(iii) Each public water system for which the State has designated optimal corrosion control treatment under § 141.82(d) and the date of the determination;

* * * * *

(v) Each public water system which the State has required to install source water treatment under § 141.83(b)(2) and the date of the determination;

(vi) Each public water system that completed installation of source water treatment as certified under § 141.90(d)(2) and the date the State received such certification; and

(vii) Each public water system required to begin replacing lead service lines as specified in § 141.84 and the date each system must begin replacement.

* * * * *

[FR Doc. 96–7738 Filed 4–11–96; 8:45 am]

BILLING CODE 6560–50–P

federal register

Friday
April 12, 1996

Part V

Department of Justice

Bureau of Prisons

28 CFR Part 547
Special Food or Meals; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 547

[BOP–1044–F]

RIN 1120–AA37

Special Food or Meals

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is revising its regulations on the introduction into institutions of special food or meals from outside sources. The revised provisions state more clearly that the Bureau is responsible for procuring and preparing any food or food ingredients served to the institution's inmate population. Special food or meals which may be served to specific groups of inmates rather than to the entire inmate population are identified as commissary food items, religious dietary practices, and medical diet foods. This amendment is intended to provide for the secure and orderly operation of the institution.

EFFECTIVE DATE: May 13, 1996.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on special foods (28 CFR 547.20). A proposed rule on this subject was published in the Federal Register September 13, 1995 (60 FR 47648). No comment was received on this proposed rule, and the Bureau is therefore adopting the proposed rule as final. In adopting the proposed rule as final, the Bureau is modifying one provision for the purpose of clarification. As proposed, paragraph (b) of § 547.20 referred to religious diet or ceremonial meals and included a cross reference to the pertinent regulations on religious beliefs and practices. Interim regulations on religious beliefs and practices were published in the Federal Register on September 6, 1995 (60 FR 46485). The wording in paragraph (b) and the cross reference have been adjusted accordingly.

Members of the public may submit comment concerning this rule by writing the previously cited address. These comments will be considered but will receive no response in the Federal Register.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 547

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 547 in subchapter C of 28 CFR, chapter V is amended as set forth below.

Subchapter C—Institutional Management

PART 547—FOOD SERVICE

1. The authority citation for 28 CFR part 547 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. Subpart C, consisting of § 547.20, is revised to read as follows:

Subpart C—Special Food or Meals

§ 547.20 Policy.

The Bureau of Prisons is responsible for procuring and preparing any food or food ingredients to be served to the institution's inmate population. Except as allowed for in paragraphs (a) through (c) of this section, the Bureau requires that special food or meals prepared for and/or served to any group(s) of inmates also be served to the institution's entire inmate population. Special food or meals, as identified in paragraphs (a) through (c) of this section, may be prepared and/or served to a specific group of inmates rather than to the entire inmate population of the institution.

(a) Food items sold in the institution's commissary.

(b) Religious dietary practices as authorized in accordance with 28 CFR 548.20.

(c) Medical diet foods.

[FR Doc. 96–9169 Filed 4–11–96; 8:45 am]

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